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Contents

Federal Register

Vol. 67, No. 3

Friday, January 4, 2002

Agricultural Marketing Service
PROPOSED RULES
Regulatory Flexibility Act:
Periodic review of regulations; plan, 525–526

Agriculture Department
See Agricultural Marketing Service
See Commodity Credit Corporation
See Food and Nutrition Service
See Forest Service
See Rural Utilities Service

Army Department
See Engineers Corps

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Bonneville Power Administration
NOTICES
Environmental statements; notice of intent:
COB Energy Facility, OR, 576–577

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
Proposed collection; comment request, 600–602

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
District of Columbia, Maryland and Virginia, 557

Coast Guard
RULES
Ports and waterways safety:
Long Island Sound—
Long Island Sound Marine Inspection and Captain of Port Zone; safety and security zone, 517–520

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 556–557

Commodity Credit Corporation
RULES
Loan and purchase programs:
Tobacco, 481–484
PROPOSED RULES
Loan and purchase programs:
Tobacco, 526–530

Defense Department
See Engineers Corps
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Hazardous material safety data, 631–634

Education Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 570–571
Elementary and secondary education:
Elementary and Secondary Education Act; implementation—
Consolidated State application and annual report, 571–574

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 610–612

Energy Department
See Bonneville Power Administration
See Federal Energy Regulatory Commission
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
National Energy Technology Laboratory, 574–576

Engineers Corps
NOTICES
Environmental statements; notice of intent:
Allegheny and Ohio Rivers, PA; sand and gravel dredging, 569–570

Environmental Protection Agency
NOTICES
Agency information collection activities:
Proposed collection; comment request, 585–586
Committees; establishment, renewal, termination, etc.:
Environmental Laboratory Advisory Board; correction, 586
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 587
Weekly receipts, 586–587
Pesticide registration, cancellation, etc.:
Diazinon, 587–592
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Fenamidone, 592–597
Superfund; response and remedial actions, proposed settlements, etc.:
Valley Chemical Site, MI, 597
Toxic and hazardous substances control:
Lead-based paint activities in target housing and child-occupied facilities; State and Indian Tribe authorized applications—
Cherokee Nation, 597–598

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Airbus, 491–494, 507–508
BAE Systems (Operations) Ltd., 494–495
Boeing, 489–491
Bombardier, 495–497
Dornier, 502–503, 509–510
McDonnell Douglas, 497–500, 503–507
Saab, 500–501
Airworthiness standards:
Special conditions—
Dassault Aviation Model Mystere-Falcon 200, 20-C5, 20-D5, 10-E5, and 20-F5 airplanes, 487–489
Class E airspace, 510–517
PROPOSED RULES
Airworthiness directives:
Airbus, 530–534
Boeing, 541–542, 544–550
McDonnell Douglas, 534–540, 542–544, 550–552
Class E airspace, 552–553
NOTICES
Aeronautical land-use assurance; waivers:
Henry Tift Myers Airport, GA, 624–625
Airport noise compatibility program:
Seattle-Tacoma International Airport, WA, 625–626
Meetings:
Aging Transport Systems Rulemaking Advisory Committee, 626

Federal Communications Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 598

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Madison Gas & Electric Co., et al., 580–583
Electric rate and corporate regulations filings:
TXU Generation Co. LP, et al., 583–585
Environmental statements; availability, etc.:
Rhinelander Paper Co. et al., 585
Applications, hearings, determinations, etc.:
Entergy Arkansas, Inc., 577
Indeck Maine Energy, L.L.C. et al., 577–578
Iroquois Gas Transmission System, L.P., 578–579
National Fuel Gas Supply Corp. et al., 579–580

Federal Maritime Commission
NOTICES
Agreements filed, etc., 598–599

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 605–607

Food and Drug Administration
NOTICES
Meetings:
Medical Devices Advisory Committee, 602
Reports and guidance documents; availability, etc.:
Veterinary Medicinal Products; International Cooperation on Harmonisation of Technical Requirements for Registration—
Veterinary drug residues in human food; safety evaluation studies; genotoxicity testing, 602–603
Veterinary Medicinal Products, International Cooperation on Harmonisation of Technical Requirements for Registration—
Veterinary drug residues in human food; safety evaluation studies; reproduction toxicity testing, 603–605

Food and Nutrition Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 554
Child nutrition programs:
Summer food service program—
Reimbursement rates (2002 CY), 554–556

Forest Service
NOTICES
Meetings:
Idaho Panhandle Resource Advisory Committee, 556

General Services Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Hazardous material safety data, 631–634

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
NOTICES
Secretary's Advisory Committee on Regulatory Reform; comment request, 599–600

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 605

Immigration and Naturalization Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 609

Indian Affairs Bureau
NOTICES
Indian tribes acknowledgment of existence determinations, etc.:
Cowlitz Indian Tribe, 607–608

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See National Indian Gaming Commission

International Trade Administration
NOTICES
Antidumping:
Brake rotors from—
China, 557–562
Mushrooms (preserved) from—
Chile, 562–565
Natural bristle paint brushes and brush heads from—
China, 566
Welded large diameter line pipe from—
Mexico, 566–568

Justice Department
See Immigration and Naturalization Service

See Justice Programs Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 608–609

Justice Programs Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 609–610

Labor Department
See Employment Standards Administration

National Aeronautics and Space Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Hazardous material safety data, 631–634

National Indian Gaming Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 612

National Oceanic and Atmospheric Administration
NOTICES
Environmental statements; availability, etc.:
National Estuarine Research Reserve System—
Tijuana National Estuarine Research Reserve, CA; Goat Canyon Creek Watershed, 568–569
Meetings:
Pacific Fishery Management Council, 569
Fishery conservation and management:
Atlantic highly migratory species—
Recreational landings monitoring; correction, 629

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Cogema Mining Inc., 612–613
Exelon Generation Co., LLC, 613–615
Molycorp, Inc., 615
Quivira Mining Co., 615–616

Patent and Trademark Office
RULES
Patent cases:
Prior-filed applications; benefit claim requirements under eighteen-month publication of patent applications, 520–524

Presidential Documents
PROCLAMATIONS
China; Normal Trade Relations (Proc. 7516), 479–480
ADMINISTRATIVE ORDERS
Libya; state of emergency, (Notice of January 3, 2002), 635–637

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration

Rural Utilities Service
RULES
Electric loans:
Principal and interest; payment extensions, 484–487

Securities and Exchange Commission
NOTICES
Investment Company Act of 1940:
Deregistration applications—
Somerset Exchange Fund et al., 616–619
Options Price Reporting Authority:
Foreign currency options; exclusion from calculation of capacity allocation provided in OPRA plan; amendment, 619
Self-regulatory organizations; proposed rule changes:
Municipal Securities Rulemaking Board, 619–621
National Association of Securities Dealers, Inc., 621–622
Philadelphia Stock Exchange, Inc., 622
Securities Exchange Act:
Broker-dealer exemption from sending financial information to customers—
Securities Industry Assoc.; correction, 629

State Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 623
Privacy Act:
Systems of records, 623–624

Surface Transportation Board
NOTICES
Railroad services abandonment:
Norfolk Southern Railway Co., 626–627

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Surface Transportation Board
RULES
Organization, functions, and authority delegations:
Security, Transportation Security Administration; Under Secretary
Correction, 629

Treasury Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 627–628
Boycotts; international:
Countries requiring cooperation; list, 628

Veterans Affairs Department
NOTICES
Grant and cooperative agreement awards:
Veterans Affairs Medical Center, Batavia, NY, 628

Separate Parts In This Issue

Part II
Department of Defense, General Services Administration, National Aeronautics and Space Administration, 631–634

Part III
The President, 635–637

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:
7516.....479

Executive Orders:
12543 (See Notice of January 3, 2002).....637
12544 (See Notice of January 3, 2002).....637

Administrative Orders:

Notices:
January 3, 2002.....637

7 CFR
1464.....481
1721.....484

Proposed Rules:
Ch. I.....525
Ch. IX.....525
Ch. X.....525
Ch. XI.....525
1464.....526

14 CFR
25.....487
39 (13 documents).....489, 491, 492, 494, 495, 497, 499, 500, 502, 503, 505, 507, 509
71 (10 documents).....510, 511, 512, 513, 514, 515, 516, 517

Proposed Rules:
39 (9 documents).....530, 534, 537, 538, 541, 542, 544, 547, 550
71.....552

33 CFR
165.....517

37 CFR
1.....520

48 CFR

Proposed Rules:
23.....631
52.....631

49 CFR
1.....629

50 CFR

Proposed Rules:
635.....629

Federal Register
Vol. 67, No. 3
Friday, January 4, 2002

Presidential Documents

Title 3—

The President

Proclamation 7516 of December 27, 2001

To Extend Nondiscriminatory Treatment (Normal Trade Relations Treatment) to the Products of the People's Republic of China

By the President of the United States of America

A Proclamation

1. The United States and the People's Republic of China (China) opened trade relations in 1980. Since that time, the products of China have received nondiscriminatory treatment pursuant to annual waivers of the requirements of section 402 of the Trade Act of 1974 (the ''Trade Act'') (19 U.S.C. 2432). Trade between the United States and China has expanded significantly even though China has maintained restrictions on market access for U.S. exports and investment.

2. On November 15, 1999, the United States and China agreed on certain terms and conditions for China's accession to the World Trade Organization (WTO) that when implemented will eliminate or greatly reduce the principal barriers to trade and investment in China.

3. On November 9, 2001, pursuant to section 101(b) of Public Law 106–286, 114 Stat. 881, I transmitted a report to the Congress certifying that the terms and conditions for the accession of China to the WTO are at least equivalent to those agreed between the United States and China on November 15, 1999. On November 10, 2001, the Ministerial Conference of the WTO approved the terms and conditions for China's accession and invited China to become a member of the WTO. China has accepted these terms and conditions and became a WTO member on December 11, 2001.

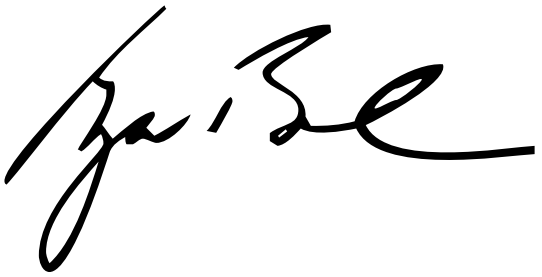
4. Pursuant to section 101(a)(1) of Public Law 106–286, 114 Stat. 881, I hereby determine that chapter 1 of title IV of the Trade Act should no longer apply to China.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to sections 101(a)(2) and 102(a) of Public Law 106–286, 114 Stat. 881, do hereby proclaim that:

(1) Nondiscriminatory treatment (normal trade relations treatment) shall be extended to the products of China; and

(2) The extension of nondiscriminatory treatment to the products of China shall be effective as of January 1, 2002.

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



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Federal Register
Vol. 67, No. 3
Friday, January 4, 2002

Presidential Documents

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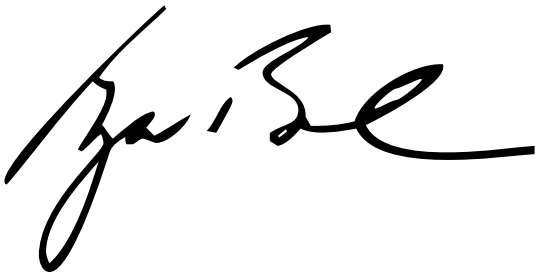

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Rules and Regulations

Federal Register
Vol. 67, No. 3
Friday, January 4, 2002

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AG51

Tobacco Marketing Quotas, Acreage Allotments and Production Adjustment

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Direct final rule.

SUMMARY: This rule will amend the Commodity Credit Corporation's tobacco marketing quota regulations at 7 CFR part 1464 to require burley tobacco producers to designate where they will sell their tobacco in order to qualify for price support and marketing cards. Currently only flue-cured tobacco producers, as a condition of price-support, must designate where they will market their tobacco. This ''Grower Designation Program'' is necessary because an increasing percentage of the burley tobacco being grown in the United States is being marketed directly to manufacturers or outside of traditional auction warehouses monitored by the Agency. These amendments will provide warehouse operators, the USDA, Agriculture Marketing Service (AMS) and others more complete and accurate information when planning for a tobacco auction marketing year.

DATES: This rule is effective February 4, 2002 without further action, unless adverse comment is received by January 22, 2002. If adverse comment is received, FSA will publish a timely withdrawal of the rule in the **Federal Register**. Comments concerning the information collection must be submitted by March 5, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to Director, Tobacco and Peanuts Division, FSA, USDA, 1400 Independence Avenue, SW, room 5750–S, STOP 0514, Washington, DC 20250–0514; Fax: (202) 690–2298. All comments will be made available for public inspection in the Office of the Director during regular business hours.

FOR FURTHER INFORMATION CONTACT: Misty Jones, Agricultural Program Specialist, Tobacco and Peanuts Division, United States Department of Agriculture (USDA), 1400 Independence Avenue, SW, STOP 0514, Washington, DC 20250–0514, telephone (202) 720–0200.

SUPPLEMENTARY INFORMATION:

Basis for Direct Final Rule

The burley tobacco market location intention information is necessary to promote, foster, and maintain an orderly marketing of burley tobacco in a swiftly changing market environment. Historically, 99 percent of all burley tobacco has been marketed at auction warehouses where the tobacco has been graded by AMS personnel where price-support has been offered.

However, between the 2000 marketing season and the current, 2001 marketing season, FSA predicts that as much as 80 percent of the 2001 crop of burley tobacco will not be sold at auction warehouses, based on the amount of flue-cured tobacco (the second major cigarette-producing tobacco) that was sold in this manner in 2001.

In the 2000 marketing year, only one major buying company offered direct contracts through a pilot program to burley tobacco producers. In late spring of 2001, it became known that all the major buying companies were intending to offer direct contracts to burley tobacco producers for the 2001 marketing year. In May 2001, FSA received designation numbers for flue-cured tobacco, which has had a designation program in place since 1974, that showed 79 percent of the crop would be sold through non-auction contracts and bypass the traditional auction market system; therefore, we believe a comparable percentage of burley tobacco will be sold non-auction.

Without the collection of designation information for burley tobacco, FSA will not know where the tobacco will be sold or how many pounds will be sold outside the traditional auction market system. Warehouse operators who, in the past, have handled almost all of any year's crop, will not have the information needed to keep their businesses open, and AMS will not know how to schedule the grading of burley tobacco. Farmers who wish to remain with the auction system will need to know which warehouses will still be open for auction marketing of their tobacco.

Currently, AMS policy bases sales time for burley warehouses on the previous 3 years volume of sales at individual warehouses. Due to the increase in direct contracting for 2001, AMS needs to know how this will change the volume of tobacco that will be available at the various warehouses.

Because of the recent high volume of direct contract purchases, the current manner of determining sales time no longer appears to be feasible. Thus, it is necessary to collect marketing intention information on burley tobacco farms. This is not a major departure from past policy since marketing-intention information has been collected on flue-cured tobacco farms for over twenty years. USDA is concerned that large quantities of ''direct sales'' could be disruptive to the orderly process of marketing burley tobacco. The ''Grower Designation Program'' will sustain orderly marketing of the 2001 burley tobacco crop. The Grower Designation Program'' will track market volumes and thereby enable AMS to adjust its workforce and provide information to warehouse operators, receiving station officials and dealers for the 2001 marketing season.

This rule contains no controversial provisions and based on discussions with tobacco producers and industry representatives FSA anticipates no adverse comments. Accordingly, this rule will be effective as a final rule 30 days after filing for public inspection with the Office of the Federal Register unless there are adverse comments. If adverse comments are received, this rule will be withdrawn and will not become effective. In that case, this program will be implemented with a proposed and final rule. To expedite rulemaking in case this direct final rule is withdrawn, a separate proposed rule is being published in this issue of the **Federal Register** and will become the operative document for a regular final rule. Adverse comments received for this direct final rule will be considered

with the comments received in response to the proposed rule.

Executive Order 12866

This rule is issued in conformance with Executive Order 12866, has been determined to be significant, and was reviewed by OMB.

Regulatory Flexibility Act

FSA certifies that this rule will not have a significant economic impact on a substantial number of small entities. The basis for this is that, through its extensive contacts with burley tobacco growers and warehouses, FSA found no significant objections to this action.

Federal Assistance Programs

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.0514.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) established requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments or the private sector. This rule contains no Federal mandates, as defined in Title II of the UMRA, for State, local and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

FSA has received emergency approval of the information collections associated with this rule. It has been assigned OMB Control Number 0560–0217. The Agency intends to publish a notice requesting comments on these collections and will submit a regular request for approval to OMB.

Background

Currently, AMS, working with local trade boards or with tobacco warehouse associations, schedules the days on which auction sales are to take place at designated auction markets, equitably distributing sales opportunity among the warehouses based on floor space, performance, or both.

Because of the recent high volume of direct contract purchases, the current manner of determining sales time no longer appears to be feasible. It is necessary to collect marketing-intention information on burley tobacco in the same manner that marketing-intention information has been collected on flue-cured tobacco since 1974. Therefore, in order to implement a successful burley tobacco designation program, producers were allowed to designate pounds to specific warehouses beginning June 1, 2001, as recommended by the Burley Tobacco Advisory Committee (Committee).

The 39-member Committee was established by the Secretary in 1990 to provide information essential to the orderly marketing of burley tobacco. At a meeting in June 2000, the Committee passed a motion that would affect the method of determining the number of days on which auction sales would be allowed to take place at each tobacco auction warehouse. The Committee's motion, to establish a Grower Designation Program for burley tobacco similar to the long standing Flue-cured Tobacco Warehouse Designation Program followed an announcement in early 2000 by a major cigarette manufacturer that it would contract with burley tobacco growers to buy tobacco directly from them at central buying points known as receiving stations, essentially acting as a dealer and bypassing the traditional auction market system.

The Flue-cured Tobacco Warehouse Designation Program requires that each flue-cured farm operator designate the warehouse(s) to which that farm's tobacco will be presented for sale and the number of pounds of tobacco that will be marketed at each designated location. Such designations provide information vital to the equitable scheduling among warehouses of the day(s) on which each location can hold an auction sale and the number of pounds that can be sold on each of those scheduled days. This information also allows AMS to schedule personnel to grade such tobacco when it is presented for sale. Designation is a condition of price support eligibility for flue-cured tobacco growers.

For the 2000 marketing year FSA had no advance information regarding the volume of burley tobacco that individual burley growers had placed under private contract with the buying company because such information was contained in individual and private contracts between grower and company. Thus, FSA did not know how much tobacco would bypass the traditional auction warehouse market system.

The buying company announced early in 2001 that it would dramatically expand its direct purchase program. It would contract to purchase both burley and flue-cured tobacco rather than just burley; and it would purchase these kinds of tobacco from receiving stations in Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee and Virginia rather than just Kentucky and Tennessee.

Seven other leaf-buying companies followed this announcement with announcements of their own. They, too, would contract with individual burley and flue-cured tobacco growers to buy their crops direct. Currently, there are eight companies with stated intentions of buying both burley and flue-cured tobacco at 72 established receiving stations in seven states.

On May 7, 2001, following the close of the flue-cured initial designation period, FSA received a report that predicted a need for a major information collection effort regarding burley tobacco: seventy-nine percent of the 2001 flue-cured tobacco available for sale has been designated to receiving stations.

FSA judges that a comparable percentage of burley will be sold during 2001 at receiving stations. However, with no designation program in place there is no way to collect the information that is vital to the industry, to the warehouses where burley tobacco has historically been marketed, and to USDA. In particular, AMS will be immediately adversely impacted by the lack of such data. From the historic 1 percent of sales that occurred outside the auction market system, much of the 2001 burley tobacco crop is likely to be sold in this manner. This is a sudden change in only one market season. FSA discerned the breadth of this change after the designation figures were collected from 2001 crop flue-cured growers and determined that this rule was immediately necessary for burley.

All eligible burley tobacco growers may avail themselves of the auction market system. However, only the growers/sellers and buyers involved in non-auction sale and purchase transactions know the amount of tobacco that will be involved in these

private transactions. Without a burley designation program in place neither the buying companies, AMS, nor the warehouses will have any information concerning how much tobacco will be available for sale by auction because they will not have information about what tobacco won't be available for sale by auction.

USDA is concerned with the effects that large quantities of direct sales could have on the orderly process of marketing burley tobacco. The burley tobacco Grower Designation Program will track market volumes and thereby enable AMS to target its workforce.

FSA began collecting data through burley designations from growers voluntarily on June 1, 2001 in order to have data for planning the warehouse system needs prior to September 1, 2001. Although burley farmers may wait until the effective date of this rule to submit their information, they are encouraged to report now to facilitate the marketing of their crops. They may make changes during scheduled redesignation periods.

List of Subjects in 7 CFR Part 1464

Imports, Tobacco.

Accordingly, 7 CFR part 1464 is amended as follows:

PART 1464—TOBACCO

1. The authority citation for part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1; 1445–2; 15 U.S.C. 714b, 714c; Pub. L. 106–78, Pub. L. 106–113, Stat. 1135 and Pub. L. 106–224.

2. Revise § 1464.2 (b)(2) introductory text, (b)(2)(ii), (b)(2)(iii), (b)(2)(iv), (b)(2)(v) and (b)(2)(vii) to read as follows:

§ 1464.2 Availability of price support.

* * * * *

(b) * * *

(2) *Special requirements for flue-cured and burley tobacco.* Price support will be available only on flue-cured and burley tobacco that has been designated for sale at specific warehouses by the producer under the following conditions:

* * * * *

(ii) *Producer designation of warehouses.* Producers will be required, as a condition of price support, to designate the warehouses at which they will market their tobacco.

(A) For flue-cured tobacco such designations may be at any warehouse or warehouses in any market within a radius of 100 miles from the county seat of the county in which the farm is located, or if such farm is physically within two counties, then from the county seat of the county in which the county FSA office administering that farm is located. To the extent there are less than eight markets within such radius, any warehouse or warehouses in any of the eight markets nearest to the county seat may be designated. A producer may obtain price support only in a warehouse which the producer has designated, and at each such warehouse only with respect to the quantity of tobacco designated for sale at such warehouse.

(B) For burley tobacco such designations may be at any warehouse or warehouses in any burley market.

(iii) *When producer designations shall be made.* Producers must designate the warehouse(s) at which they will market their tobacco during a period that shall be announced beforehand by the local county FSA office. Unless extended by the Deputy Administrator, the period for making designations shall be before May 31 each year for flue-cured tobacco and August 31 each year for burley tobacco. Producers who lease quota or whose farm is reconstituted (the combining or dividing of a farm due to a change in operation) after such period may designate the warehouse(s) at which their tobacco will be marketed according to procedures to be established by the Deputy Administrator, Farm Programs, FSA. Producers who have designated warehouses that cease to operate or cease to have tobacco inspection or price support available may change their designations at any time after such occurrences. Producers who have designated warehouses whose inspection services have been temporarily suspended for any reason for the equivalent of at least one sales day may change their designation at any time after such occurrences. Redesignation (changes in warehouse(s) designated or in pounds designated to a warehouse) or designations for farms that have not previously designated tobacco may be made by producers during the five business days ending on the first Friday of each month during the flue-cured or burley, as applicable, tobacco marketing season. Such redesignation or initial designation shall be made on any one day of each redesignation period. Such redesignation or initial designation shall be effective on the second Monday following the Friday on which the redesignation period ends.

(iv) *Form and content of designations.* For flue-cured tobacco a designation shall be made for each warehouse at which a producer desires to market tobacco by executing a form provided by the county FSA office. The producer will be required to indicate on such form the name of the warehouse or warehouses designated by the producer and the pounds of flue-cured tobacco the producer desires to sell at such warehouse as well as any other information required to be stated on such form. For burley tobacco a designation shall be made for each warehouse, receiving station or dealer at which a producer desires to market tobacco by executing a form provided by the county FSA office. The producer will be required to indicate on such form the name of the warehouse(s), receiving station(s) or dealer(s) designated by the producer and the pounds of burley tobacco the producer desires to sell at such warehouse, receiving station or dealer as well as any other information required to be stated on such form.

(v) *Entering designation information.* For flue-cured tobacco, the warehouse code number of the warehouse the producer has designated will be indicated on the farm marketing card. For burley tobacco, the warehouse, receiving station, or dealer code number of the warehouse, receiving station or dealer the producer has designated will be indicated on the farm marketing card. If an effective date is determined in accordance with paragraph (b)(2)(iii) of this section, such effective date will be shown on the farm marketing card. For flue-cured tobacco, if the producer has not designated a warehouse, a warehouse code will not be shown on the marketing card. Changes in designation by the producer shall be accomplished by the producer returning the marketing card to the county FSA office and requesting the transfer of any unmarketed pounds of flue-cured or burley tobacco shown on any marketing card to another eligible warehouse, receiving station or dealer, if applicable.

* * * * *

(vii) *Availability of designation information.* Each county FSA office shall send designations received to the Flue-Cured Tobacco Cooperative Stabilization Corporation, Raleigh, North Carolina for flue-cured tobacco, Burley Tobacco Growers Cooperative Association, Lexington, Kentucky and Burley Stabilization Corporation, Knoxville, Tennessee for burley tobacco, following each designation period and each period for changing designations. That association(s) shall inform the Flue-Cured Tobacco Advisory Committee or the Burley Tobacco Advisory Committee, as applicable, of the pounds designated to each

warehouse and the pounds of any undesignated or non-auction tobacco that, for the purpose of recommending opening dates and selling schedules in accordance with part 29 of this title, is available for apportioning for sale at each warehouse. That association also shall furnish each warehouse the name and address of the producers who designated the warehouse, the pounds each designated and the pounds that represent 103 percent of the marketing quota of each such producer. The Director, Tobacco and Peanuts Division, shall furnish each receiving station the name and address of the producers who designated the receiving station, the pounds each designated and the pounds that represent 103 percent of the marketing quota of each such producer.

* * * * *

3. Revise § 1464.7(d) to read as follows:

§ 1464.7 Eligible producer.

* * * * *

(d) In addition to meeting all other requirements that apply elsewhere, including (but not limited to) the warehouse designation provisions of § 1464.2, must not be ineligible, in accordance with part 1400 of this title, to receive price support payments, loans and benefits.

* * * * *

4. Revise § 1464.10(i)(1)(i), (i)(2) and (i)(3)(i) to read as follows:

§ 1464.10 No-net-cost tobacco fund or account.

* * * * *

(i) * * *

(1) * * *

(i) From any dealer, receiving station official or warehouse operator who acquired the tobacco involved from the producer; or

* * * * *

(2) A dealer, receiving station official or warehouse operator may deduct the amount of any producer contribution or assessment from the price paid to the producer for such tobacco.

(3) * * *

(i) From the dealer, receiving station official or warehouse operator who acquired the tobacco involved from the producer; or

* * * * *

Signed at Washington, DC, on December 21, 2001.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02–185 Filed 1–3–02; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1721

RIN 0572–AB60

Extensions of Payments of Principal and Interest

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is adding procedures and conditions under which Borrowers may request extensions of the payment of principal and interest. These procedures and conditions are stated in RUS Bulletin 20–5:320–2, Extensions of Payments of Principal and Interest, dated May 10, 1972, and RUS Bulletin 20–23, Section 12 Extensions for Energy Resources Conservation Loans, dated December 8, 1980; however, these procedures and conditions were not codified in the Code of Federal Regulations. This regulation will set forth procedures and conditions under which Borrowers may request extensions of principal and interest. RUS will rescind upon the effective date of this regulation RUS Bulletin 20–5:320–2, and RUS Bulletin 20–23.

DATES: This rule will become effective on February 4, 2002.

FOR FURTHER INFORMATION CONTACT: Gail P. Salgado, Management Analyst, U.S. Department of Agriculture, Rural Utilities Service, Electric Program, Room 4023 South Building, Stop 1560, 1400 Independence Avenue, SW., Washington, DC 20250–1560. Telephone: 202–205–3660.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, (1) all State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeals procedures, if any are required, must be exhausted prior to initiating an action against the Department or its agencies.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS electric program provides loans and loan guarantees to Borrowers at interest rates and on terms that are more favorable than those generally available from the private sector. RUS Borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in this rule have been approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0572–0123.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provisions of title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under number 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372,

Intergovernmental Consultation, which may require consultation with state and local officials. See the final rule related notice entitled ''Department Programs and Activities Excluded from Executive Order 12372'' (50 FR 47034) advising that RUS loans and loan guarantees are not covered by Executive Order 12372.

Background

On January 9, 2001, at 66 FR 1604, the Rural Utilities Service (RUS) published a proposed rule, 7 CFR part 1721—Extensions of Payments of Principal and Interest, which proposed adding procedures and conditions under which Borrowers may request extensions of the payment of principal and interest. These procedures and conditions are stated in RUS Bulletin 20–5:320–2, Extensions of Payments of Principal and Interest, dated May 10, 1972, and RUS Bulletin 20–23, Section 12 Extensions for Energy Resources Conservation Loans, dated December 8, 1980; however, these procedures and conditions were not codified in the Code of Federal Regulations. This final rule will set forth procedures and conditions under which Borrowers may request extensions of principal and interest. RUS will rescind upon the effective date of this regulation RUS Bulletin 20–5:320–2, and RUS Bulletin 20–23.

Written comments on the proposed rule were received and they are summarized as follows:

RUS received comments dated March 8, 2001, from the National Rural Electric Cooperative Association (NRECA), Oregon Rural Electric Cooperative Association (ORECA), and Harney Electric Cooperative, Inc. (HEC). The three cooperatives suggested that the language in § 1721.104(a)(2) be revised to reflect that the factors for determining qualifications for deferment of RUS loan payments listed not be inclusive, but only examples of the kinds of factors RUS should consider. RUS agrees with this comment and has made the change to the final rule wording under § 1721.104(a)(2).

In addition, NRECA commented on:

Section 1721.104(a)(2)(iv) Need to substantially upgrade a Borrower's system to bring it into compliance with the National Electric Safety Code (NESC).

NRECA states it is unclear as to the appropriateness of this factor since it is inconsistent with other RUS practices. Current RUS practices require annual certifications and assurances at loan application that systems are being properly maintained. RUS is in agreement with NRECA's comment. RUS requires and borrowers conform to annual certifications and assurances that systems are being properly operated and maintained, and these assurances include conformance to NESC provisions. RUS has removed § 1721.104(a)(2) from this final rule.

Section 1721.104(b) Deferments for energy resource conservation (ERC) loans.

NRECA states it is unclear to what extent this proposal is significantly different from the existing RUS Bulletin 20–23, dated December 8, 1980, which is being amended and codified through this regulation. As codified, the terms for ERC deferments contain fewer restrictions and limitations on the terms for the corresponding ERC loans between the Borrower and its members. Generally speaking, the terms of such loans will now be left to the discretion of the Borrower's management. RUS Bulletin 20–23, section 12, Extensions for Energy Resource Conservation Loans, dated December 8, 1980, will be rescinded upon publication of this final rule.

Section 1721.104(d)(2) Deferments for contributions-in-aid of construction.

NRECA states that it is unclear whether the calculation methodology of construction costs would be made without regard to contribution-in-aid of construction (CIAC). Should construction costs be calculated net of CIAC, a Borrower's line extension policy would have a significant impact on the eligible amount available for deferments. RUS agrees and the final rule wording has been changed to clarify the calculation methodology.

Other—Deferments for distributed generation projects. NRECA recommends RUS consider allowing a Borrower to defer principal payments to finance properly coordinated distributed generation projects. RUS has taken this comment under advisement and will consider whether to publish a proposed rule which would include deferments for certain distributed generation projects.

Additionally, under § 1721.103(d) RUS is clarifying that the maturity date of any such loan does not extend to a date beyond forty (40) years from the date of the note (not the date of the loan as indicated in the proposed rule).

List of Subjects in 7 CFR Part 1721

Electric power, Loan programs—energy, Rural areas.

For the reasons set forth in the preamble, RUS amends 7 CFR chapter XVII, part 1721 as follows:

PART 1721—POST LOAN POLICIES AND PROCEDURES FOR INSURED ELECTRIC LOANS

1. The authority citation for part 1721 continues to read:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, and 6941 *et seq.*

2. Add subpart B to read as follows:

Subpart B—Extensions of Payments of Principal and Interest

Sec.

1721.100 Purpose.
1721.101 General.
1721.102 Definitions.
1721.103 Policy.
1721.104 Eligible purposes.
1721.105 Application documents.
1721.106 Repayment of deferred payments.
1721.107 Agreement.
1721.108 Commencement of the deferment.
1721.109 OMB Control Number.

Subpart B—Extensions of Payments of Principal and Interest

§ 1721.100 Purpose.

This subpart contains RUS procedures and conditions under which Borrowers of loans made by RUS may request RUS approval for extensions for the payment of principal and interest.

§ 1721.101 General.

(a) The procedures in this subpart are intended to provide Borrowers with the flexibility to request an extension of principal and interest as authorized under section 12(a) of the RE Act and section 236 of the Disaster Relief Act of 1970 (Public Law 91–606).

(b) The total amount of principal and interest that has been deferred, including interest on deferred principal, will be added to the principal balance, and the total amount of principal and interest that has been deferred will be reamortized, through level payment, over the remaining life of the applicable note beginning in the first year the deferral period ends.

(c) Payment of principal and interest will not be extended more than 5 years after such payment is due as originally scheduled. However, in cases where the extension is being granted because, at the sole discretion of the Administrator, a severe hardship has been experienced, the Administrator may grant a longer extension provided that the maturity date of any such loan does not extend to a date beyond forty (40) years from the date of the note.

§ 1721.102 Definitions.

The definitions contained in 7 CFR 1710.2 are applicable to this subpart unless otherwise stated.

§ 1721.103 Policy.

(a) In reviewing requests for extension of payment of principal and interest, consideration shall be given to the effect of such extensions on the security of the Government's loans, and on the ability of the Borrower to achieve program objectives. It is the policy of RUS to extend the time for payment of principal and interest on the basis of findings that such extension does not impair the security and feasibility of the Government's loans and:

(1) Is essential to the effectiveness of the Borrower's operations in achieving RUS program objectives which include providing reliable, affordable electricity to RE Act beneficiaries;

(2) Is necessary to help a Borrower place its operations on a more stable financial basis and thereby provide assurance of repayment of loans within the time when payments of such loans are due under the terms of the note or notes as extended; or

(3) Is otherwise in the best interest of the Government.

(b) Extensions will be given in the minimum amount to achieve the purpose of the extension.

§ 1721.104 Eligible purposes.

(a) *Deferments for financial hardship.* (1) In cases of financial hardship, a Borrower may request that RUS defer principal or interest or both. RUS will consider whether the deferral will help a Borrower place its operations on a more stable financial basis and thereby provide assurance of repayment of loans within the time when payment of such loans are due under the terms of the note or notes as extended.

(2) RUS will determine whether a Borrower qualifies for the deferment on a case-by-case basis, considering such factors as the following:

(i) Substantial unreimbursed or uninsured expenses relating to storm damage;

(ii) Loss of large power load (as defined in § 1710.7(c)(6)(ii) of this chapter, Large retail power contracts); or

(iii) Substantial loss of consumers or load due to hostile annexations and condemnations, without adequate compensation.

(b) *Deferments for energy resource conservation (ERC) loans.*

(1) A Borrower may request that RUS defer principal payments to make funds available to the Borrower's consumers to conserve energy. Amounts deferred under this program can be used to cover the cost of labor and materials for the following energy conservation measures:

(i) Caulking;

(ii) Weather-stripping;

(iii) Heat pump systems (including water source heat pumps);

(iv) Heat pumps, water heaters, and central heating or central air conditioning system replacements or modifications, which reduce energy consumption;

(v) Ceiling insulation;

(vi) Wall insulation;

(vii) Floor insulation;

(viii) Duct insulation;

(ix) Pipe insulation;

(x) Water heater insulation;

(xi) Storm windows;

(xii) Thermal windows;

(xiii) Storm or thermal doors;

(xiv) Electric system coordinated customer-owned devices that reduce the maximum kilowatt demand on the electric system;

(xv) Clock thermostats; or

(xvi) Attic ventilation fans.

(2) ERC loans will be amortized over not more than 84 months, without penalty for prepayment of principal.

(c) *Deferments for renewable energy projects.* (1) A Borrower may request that RUS defer principal payments to enable the Borrower to finance renewable energy projects. Amounts deferred under this program can be used to cover costs to install all or part of a renewable energy system including, without limitation:

(i) Energy conversion technology;

(ii) Electric system interface;

(iii) Delivery equipment;

(iv) Control equipment; and

(v) Energy consuming devices.

(2) A Borrower may request that RUS defer principal payments for the purpose of enabling the Borrower to provide its consumers with loans to install all or part of customer-owned renewable energy systems up to 5kW.

(3) A renewable energy system is defined in § 1710.2 of this chapter.

(4) For the purpose of this subpart, a renewable energy project consists of one or more renewable energy systems.

(d) *Deferments for contributions-in-aid of construction.*

(1) A Borrower may request RUS to defer principal payments to enable the Borrower to make funds available to new full time residential consumers to assist them in paying their share of the construction costs (contribution-in-aid of construction) needed to connect them to the Borrower's system.

(2) Amounts available for this purpose will be limited to the amount of the construction costs that are in excess of the average cost per residential consumer incurred by the Borrower to connect new full time residential consumers during the last calendar year for which data are available. The average cost per residential consumer is the total cost incurred by the Borrower and will not be reduced by the amounts received as a contribution-in-aid of construction.

§ 1721.105 Application documents.

(a) *Deferments for financial hardship.* A Borrower requesting a section 12 deferment because of financial hardship must submit the following:

(1) A summary of the financial position of the Borrower, based on the latest information available (usually less than 60 days old).

(2) A copy of the board resolution requesting an extension due to financial hardship.

(3) A 10-year financial forecast of revenues and expenses on a cash basis, by year, for the period of the extension and 5 years beyond to establish that the remaining payments can be made as rescheduled.

(4) A listing of notes or portions of notes to be extended, the effective date for the beginning of the extension, and the length of the extension.

(5) A narrative description of the nature and cause of the hardship and the strategy that will be instituted to mitigate or eliminate the effects of the hardship.

(b) *Deferments for energy resource conservation loans.* A Borrower requesting principal deferments for an ERC loan program must submit the following information:

(1) A letter from the Borrower's General Manager requesting an extension of principal payments for the purpose of offering an ERC loan program to its members and describing the details of the program.

(2) A copy of the board resolution establishing the ERC loan program.

(c) *Deferments for renewable energy projects.* A Borrower requesting principal deferments for its renewable energy project must submit the following information:

(1) A letter from the Borrower's General Manager requesting an extension of principal payments for the purpose of financing a renewable energy project and describing the details of the project.

(2) A copy of the board resolution establishing the renewable energy project.

(d) *Deferments for contribution-in-aid of construction.* A Borrower requesting principal deferments for contribution-in-aid of construction must submit the following information:

(1) A letter from the Borrower's General Manager requesting an extension of principal payments for the purpose of offering a contribution-in-aid of construction program and describing the details of the program.

(2) A copy of the board resolution establishing the contribution-in-aid of construction program.

(3) A summary of the calculations used to determine the average cost per residential consumer. (See § 1721.104 (e)(2)).

§ 1721.106 Repayment of deferred payments.

(a) *Deferments relating to financial hardship.* The total amount of principal and interest that has been deferred, including interest on deferred principal, will be added to the principal balance, and the total amount of principal and interest that has been deferred will be reamortized over the life of the applicable note beginning in the first year the deferral period ends. For example: the amount of interest deferred in years 2001, 2002, 2003, 2004, and 2005, will be added to the principal balance and reamortized over the life of the applicable note for repayment starting in year 2006.

(b) *Deferments relating to the ERC loan program, renewable energy project, and the contribution-in-aid of construction.* An extension agreement is for a term of two (2) years. The installment will be recalculated each time the Borrower defers the payment of principal and recognition of the deferred amount will begin with the next payment. For example: the amount deferred in the October payment will be reamortized over a 84 month period starting with the next payment (November if paying on a monthly basis). When a Borrower defers principal under any of these programs the scheduled payment on the account will increase by an amount sufficient to pay off the deferred amount, with interest, by the date specified in the agreement (usually 84 months (28 quarters)).

§ 1721.107 Agreement.

After approval of the Borrower's request for a deferment of principal and interest, an extension agreement, containing the terms of the extension, together with associated materials, will be prepared and forwarded to the Borrower by RUS. The extension agreement will then be executed and returned to RUS by the Borrower.

§ 1721.108 Commencement of the deferment.

The deferment of principal and interest will not begin until the extension agreement and other supporting materials, in form and substance satisfactory to RUS, have been executed by the Borrower and returned to RUS. Examples of other supporting materials are items such as approving legal opinions from the Borrower's attorney and approvals from the relevant regulatory body for extending the maturity of existing debt and for the additional debt service payment incurred.

§ 1721.109 OMB control number.

The information collection requirements in this part are approved by the Office of Management and Budget and assigned OMB control number 0572–0123.

Dated: December 18, 2001.

Hilda Gay Legg,

Administrator, Rural Utilities Service.

[FR Doc. 02–234 Filed 1–3–02; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM204; Special Conditions No. 25–194–SC]

Special Conditions: Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics. These modified airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of dual Electronic Primary Flight Display systems that perform critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity-radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is December 27, 2001.

Comments must be received on or before February 4, 2002.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM204, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: *Docket No. NM204.* Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Meghan Gordon, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2138; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Background

On November 9, 2001, ElectroSonics, 4391 International Gateway, Columbus, Ohio, applied for a Supplemental Type Certificate (STC) to modify Dassault Aviation Model Mystere-Falcon 200,

20–C5, 20–D5, 20–E5, and 20–F5 airplanes. The Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 are small transport category airplanes.

The Dassault Aviation Model Mystere-Falcon 200 airplanes are powered by two Garrett Turbine Engine Company ATF3–6A–4C turbine engines with a maximum takeoff weight of 32,000 pounds.

The Dassault Aviation Model Mystere-Falcon 20–C5, 20–D5, 20–E5 and 20–F5 airplanes are powered by two Garrett Engine Division Model TFE–5AR–2C engines with a maximum takeoff weight of 29,000 pounds. These airplanes operate with a 2-pilot crew and can hold up to 10 passengers.

The modification of these airplanes incorporates the installation of a Universal Avionics Electronic Flight Instrument System (EFI–550). The EFI–550 is a replacement for the existing Analog Flight Instrumentation, while also providing additional functional capability and redundancy in the system. The avionics/electronics and electrical systems installed in this airplane have the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR 21.101, ElectroSonics must show that the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A7EU, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations included in the certification basis for the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes include Civil Air Regulations 4b, effective December 1953, through Amendment 4b–12; Special Regulation 422B; and 14 CFR part 25, as amended to incorporate Amendments 25–1 through 25–43.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, these Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes must comply with the fuel vent and exhaust emission requirements of part 34 and the noise certification requirements of part 36.

Special conditions, as appropriate, are issued in accordance with § 11.49, after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should ElectroSonics apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

As noted earlier, the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics will incorporate dual Electronic Primary Flight Display systems that will perform critical functions. These systems may be vulnerable to high-intensity radiated fields external to the airplane. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards for the protection of this equipment from the adverse effects of HIRF. Accordingly, this system is considered to be a novel or unusual design feature.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electronics and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved that is equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics.

These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications coupled with electronic command and control of the airplane, the immunity of critical avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown in accordance with either paragraph 1 OR 2 below:

1. A minimum threat of 100 volts rms (root-mean-square) per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the field strengths indicated in Table 1 for the frequency ranges indicated. Both peak and average field strength components from Table 1 are to be demonstrated.

TABLE 1

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

TABLE 1—Continued

Frequency	Field strength (volts per meter)	
	Peak	Average

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics. Should ElectroSonics apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics.

1. *Protection From Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on December 27, 2001.

Lirio Liu-Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–247 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–02–AD; Amendment 39–12514; AD 2001–23–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects information in an existing airworthiness directive (AD) that applies to certain Boeing Model 747 series airplanes. That AD currently requires repetitive detailed visual inspections to find discrepancies of the installation of the midspar fuse pins of the inboard and outboard struts, and follow-on actions, if necessary. That AD also mandates accomplishment of a terminating modification. This document corrects the omission of the phrase ''amendment 39–12514'' from the first line of the AD. This correction is necessary to ensure that the amendment number is stated at the beginning of the AD.

DATES: Effective December 31, 2001.

The incorporation by reference of Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001, as listed in the regulations, was approved previously by the Director of the Federal Register as of December 31, 2001 (66 FR 58913, November 26, 2001).

The incorporation by reference of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, as listed in the regulations, was approved previously by the Director of the Federal Register as of March 21, 2001 (66 FR 13424, March 6, 2001).

FOR FURTHER INFORMATION CONTACT: Tamara Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On November 15, 2001, the Federal Aviation Administration (FAA) issued AD 2001–23–15, amendment 39–12514 (66 FR 58913, November 26, 2001), which applies to certain Boeing Model 747 series airplanes. That AD requires repetitive detailed visual inspections to find discrepancies of the installation of the midspar fuse pins of the inboard and outboard struts, and follow-on actions, if necessary. That AD also provides for an optional terminating modification for the repetitive inspections. The actions required by that AD are intended to find and fix discrepancies of the installation of the midspar fuse pins, which could result in loss of the secondary retention capability of the fuse pins, migration of the fuse pins, and consequent loss of the strut and engine from the airplane.

Need for the Correction

The FAA has determined that a correction to AD 2001–23–15 is necessary. The correction will add the amendment number (amendment 39–12514) to the first line of the AD. That number was inadvertently omitted from the final rule, as published.

Correction of Publication

This document corrects the error and correctly adds the AD as an amendment

to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains December 31, 2001.

Since this action only corrects the inadvertent omission of the amendment number from the first line of the AD, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

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 [Corrected]

2. Section 39.13 is amended by correctly adding the following airworthiness directive (AD):

2001–23–15 Boeing: Amendment 39–12514. Docket 2001–NM–02–AD. Supersedes AD 2001–05–05, amendment 39–12141.

Applicability: Model 747 series airplanes, line numbers 1 through 1046 that have accomplished Airworthiness Directives 95–10–16, 95–13–05, 95–13–06, or 95–13–07; and line numbers 1047 through 1271 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To find and fix discrepancies of the installation of the midspar fuse pins of the inboard and outboard strut, which could result in loss of the secondary retention capability of the fuse pins, migration of the fuse pins, and consequent loss of the strut and engine from the airplane; accomplish the following:

Restatement of the Requirements of AD 2001–05–05

Inspections/Follow-On Actions

(a) At the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable: Do a detailed visual inspection to find discrepancies (*e.g.,* incorrect thread protrusion, which is less than two threads protruding from the nut between the nut and the secondary retention washer; incorrect gap between the fuse pin primary nut and secondary retention washer; cracked or broken torque stripe) of the installation of the midspar fuse pins of the inboard and outboard struts, per Figure 2 of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, or Revision 2, dated May 17, 2001.

(1) For airplanes having the production equivalent of one of the AD's listed in Table 1 of this AD: Do the inspection at the later of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Before the accumulation of 8,000 total flight hours, or within 24 months since manufacture of the airplane, whichever occurs first.

(ii) Within 90 days after March 21, 2001 (the effective date of AD 2001–05–05, amendment 39–12141).

(2) For airplanes modified per one of the AD's listed in Table 1 of this AD: Do the inspection at the later of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD. Table 1 follows:

TABLE 1

AD number	Amendment number
AD 95–10–16	39–9233
AD 95–13–05	39–9285
AD 95–13–06	39–9286
AD 95–13–07	39–9287

(i) Within 8,000 flight hours or 24 months after the modification, whichever occurs first.

(ii) Within 90 days after March 21, 2001.

Note 2: Where there are differences between the AD and the service bulletin, the AD prevails.

Note 3: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(A) If no discrepancy is found: Repeat the inspection at intervals not to exceed 8,000 flight hours or 24 months, whichever occurs first, until you do the terminating modification specified in paragraph (b) of this AD.

(B) If any discrepancy is found, and the primary nut has backed off and contacts the secondary retention washer: Before further flight, do the terminating modification specified in paragraph (b) of this AD.

(C) If any discrepancy is found, and the primary nut does not contact the secondary retention washer: Repeat the inspection at intervals not to exceed 90 days. Within 18 months after the initial finding, or before March 21, 2001, whichever occurs later, do the terminating modification specified in paragraph (b) of this AD.

Note 4: Inspections done prior to the effective date of this AD per Boeing Alert Service Bulletin 747–54A2206, dated October 19, 2000, are acceptable for compliance with the inspections required by paragraph (a) of this AD.

New Requirements of this AD

Terminating Action

(b) Within 6 years after the effective date of this AD: Do the terminating modification (replacement of the primary nut of the midspar fuse pin, installation of torque strip, a detailed visual inspection of the fuse pin threads for damage, and replacement, if necessary) per Figure 3 of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, or Figure 3 of Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001. Doing this modification ends the repetitive inspections required by this AD.

Note 5: Doing the terminating modification prior to the effective date of this AD per Boeing Alert Service Bulletin 747–54A2206, dated October 19, 2000, is acceptable for compliance with the terminating action required by paragraph (b) of this AD.

Alternative Methods of Compliance

(c)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Any alternative method of compliance which was approved previously in accordance with AD 2001–05–05 is approved for compliance with this AD.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001; or Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001.

(1) The incorporation by reference of Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001, was approved previously by the Director of the Federal Register, as of December 31, 2001 (66 FR 58913, November 26, 2001).

(2) The incorporation by reference of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, was approved previously by the Director of the Federal Register as of March 21, 2001 (66 FR 13424, March 6, 2001).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on December 31, 2001.

Issued in Renton, Washington, on December 20, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–84 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–132–AD; Amendment 39–12586; AD 2001–26–20]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A319, A320, and A321 series airplanes, that requires a one-time inspection of the forward and aft lower bogies of the left- and right-hand sliding windows of the flightcrew compartment for the presence of a lock pin. If the lock pin is missing, this amendment requires corrective action. This action is necessary to prevent the inability of the flightcrew to open the left- or right-hand sliding window for evacuation in an emergency, due to a window jamming in the closed position. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes was published in the **Federal Register** on October 26, 2001 (66 FR 54173). That action proposed to require a one-time inspection of the forward and aft lower bogies of the left- and right-hand sliding windows of the flightcrew compartment for the presence of a lock pin. If the lock pin is missing, that action also proposed to require corrective action.

Comments

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

Request To Allow Credit for Previously Accomplished Work

The manufacturer requests that the FAA give credit for the inspection and corrective actions accomplished prior to the effective date of this AD in accordance with the original issue of Airbus Service Bulletin A320–56–1007, dated January 21, 2000.

The FAA concurs. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has approved this service bulletin for the accomplishment of the inspection and corrective actions. The FAA finds that the procedures in the original issue of the service bulletin are identical to those in Revision 01 of Airbus Service Bulletin A320–56–1007, dated February 9, 2001 (which is listed as the appropriate source of service information for accomplishment of the actions in this AD). Therefore, we have added a new **Note 3** in this final rule to give credit to operators that may have accomplished the required actions prior to the effective date of this AD in accordance with the original issue of the service bulletin. We have renumbered the succeeding notes accordingly.

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 described previously. 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

The FAA estimates that 77 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 AD on U.S. operators is estimated to be $4,620, 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:

2001–26–20 Airbus Industrie: Amendment 39–12586. Docket 2001–NM–132–AD.

Applicability: Model A319, A320, and A321 series airplanes, certificated in any category, as listed in Airbus Service Bulletin A320–56–1007, Revision 01, dated February 9, 2001.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability of the flightcrew to open the left- or right-hand sliding window for evacuation in an emergency, due to a window jamming in the closed position, accomplish the following:

Inspection

(a) Within one year after the effective date of this AD: Perform a one-time detailed visual inspection of the forward and aft lower bogie of the left-hand and right-hand sliding windows to check for the presence of a lock pin, in accordance with Airbus Service Bulletin A320–56–1007, Revision 01, dated February 9, 2001.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Corrective Action

(b) If the inspection required by paragraph (a) of this AD reveals that a lock pin is missing: Prior to further flight, perform the action required by either paragraph (b)(1) or (b)(2) of this AD.

(1) Install a new bogie equipped with a lock pin, in accordance with paragraph C.(1) of the Accomplishment Instructions of Airbus Service Bulletin A320–56–1007, Revision 01, dated February 9, 2001, or

(2) Perform a temporary repair in accordance with paragraph C.(2) of the Accomplishment Instructions of Airbus Service Bulletin A320–56–1007, Revision 01, dated February 9, 2001. Within 500 flight hours of the temporary repair, install a new bogie equipped with a lock pin, in accordance with paragraph C.(1) of the Accomplishment Instructions of the service bulletin.

Note 3: Inspection and corrective actions accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A320–56–1007, dated January 21, 2000, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Airbus Service Bulletin A320–56–1007, Revision 01, including Appendix 01, dated February 9, 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in French airworthiness directive 2000–518–157(B), dated December 13, 2000.

Effective Date

(f) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 26, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–9 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–255–AD; Amendment 39–12587; AD 2001–26–21]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A319, A320, and A321 series airplanes, that requires replacement of the low-pressure solenoid valve for the crew oxygen supply with a modified valve. This action is necessary to prevent faulty operation of the low-pressure solenoid valve for the crew oxygen supply, which could prevent oxygen from being supplied to the airplane crew when needed, such as in the event of smoke in the cabin or rapid depressurization of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket,

1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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: 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 Airbus Model A319, A320, and A321 series airplanes was published in the **Federal Register** on September 25, 2001 (66 FR 48993). That action proposed to require replacement of the low-pressure solenoid valve for the crew oxygen supply with a modified valve.

Comments

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

The commenter concurs with the content of the proposed 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 as proposed.

Cost Impact

The FAA estimates that 111 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 replacement, and that the average labor rate is $60 per work hour. Required parts will be provided at no cost to the operator. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $6,660, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the 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:

2001–26–21 Airbus Industrie: Amendment 39–12587. Docket 2001–NM–255–AD.

Applicability: Model A319, A320, and A321 series airplanes; on which Modification 21946 (Airbus Service Bulletin A320–35–1003) or 21999 has not been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent faulty operation of the low-pressure solenoid valve for the oxygen supply, which could prevent oxygen from being supplied to the airplane crew when needed, such as in the event of smoke in the cabin or rapid depressurization of the airplane, accomplish the following:

Replacement

(a) Within 16 months after the effective date of this AD, replace the low-pressure solenoid valve, part number (P/N) DVE90–04, for the crew oxygen supply with a modified valve, P/N DVE90–05 or DVE90–06, as applicable. Do the replacement according to Airbus Service Bulletins A320–35–1003, Revision 1, dated January 28, 1993; or A320–35–1016, dated July 31, 1996; as applicable.

Note 2: Airbus Service Bulletin A320–35–1003, Revision 1, refers to EROS Service Bulletin DVE90–35–40, dated September 10, 1991, as the appropriate source of service information for modifying the low-pressure solenoid valve for the crew oxygen supply.

Note 3: Airbus Service Bulletin A320–35–1016 refers to EROS Service Bulletin DVE90–35–49, dated January 31, 1995, as the appropriate source of service information for modifying the low-pressure solenoid valve for the oxygen supply.

Spares

(b) As of the effective date of this AD, no person shall install a low-pressure oxygen valve, part number DVE90–04, on any airplane.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) The replacement shall be done in accordance with Airbus Service Bulletin A320–35–1003, Revision 1, dated January 28,

1993; or Airbus Service Bulletin A320–35–1016, dated July 31, 1996; as applicable. Airbus Service Bulletin A320–35–1003, Revision 1, dated January 28, 1993, contains the following effective pages:

Page No.	Revision level shown on page	Date shown on page
1–3, 5	1	Jan. 28, 1993.
4, 6	Original ..	Aug. 26, 1991.

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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in French airworthiness directive 2001–237(B) R1, dated July 25, 2001.

Effective Date

(f) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 26, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–8 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–90–AD; Amendment 39–12588; AD 2001–26–22]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain BAE Systems (Operations) Limited Model Avro 146–RJ series airplanes, that requires a one-time inspection of the S4 and S5 static pipes of the pitot static system for discrepancies, and follow-on corrective actions, if necessary. This action is necessary to prevent failure of the S4 and S5 static pipes and consequent failure of the maximum differential pressure protection for the airplane, which could lead to the fuselage of the airplane being overstressed and result in reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. 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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain BAE Systems (Operations) Limited Model Avro 146–RJ series airplanes was published in the **Federal Register** on August 23, 2001 (66 FR 44311). That action proposed to require a one-time inspection of the S4 and S5 static pipes of the pitot static system for discrepancies, and follow-on 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 single comment received.

Revised Statement of Unsafe Condition

The commenter, the airplane manufacturer, requests that the FAA revise the wording of the statement of unsafe condition as it appears in several sections of the proposed AD. The proposed AD states the unsafe condition as ''holes in the static pipes, erroneous input to the instrumentation and warning systems associated with the pilot's instruments, and consequent reduced controllability of the airplane.'' The commenter states that the consequence of holes in the static pipes is more accurately characterized as ''erroneous input into instrumentation associated with the maximum differential pressure protection for the aircraft.''

The FAA concurs. Upon further review of the detail of the design and function of the S4 and S5 static types, we agree that the primary purpose of the S4 and S5 static pipes is maintenance of the maximum differential pressure protection for the airplane. If these pipes fail, the maximum differential pressure protection will fail, which could lead to the fuselage of the airplane being overstressed and result in reduced structural integrity of the airplane. Therefore, we have revised the statement of unsafe condition in the Summary section and the body of this AD accordingly.

Explanation of Change to Applicability Statement

The applicability statement of the proposed AD reads, ''Model Avro 146–RJ series airplanes * * * on which modification HCM01080W has been performed.'' For clarity, we have revised the wording of the applicability statement in this final rule to read, ''Model Avro 146–RJ series airplanes * * * on which modification HCM01080W is installed.''

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 changes described previously. 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

The FAA estimates that 42 Model Avro 146–RJ series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $2,520, 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:

2001–26–22 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–12588. Docket 2001–NM–90–AD.

Applicability: Model Avro 146–RJ series airplanes, certificated in any category, on which modification HCM01080W is installed.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the S4 and S5 static pipes of the pitot static system and consequent failure of the maximum differential pressure protection for the airplane, which could lead to the fuselage of the airplane being overstressed and result in reduced structural integrity of the airplane, accomplish the following:

General Visual Inspection/Follow-On Corrective Actions

(a) Within 90 days after the effective date of this AD, do a general visual inspection of the S4 and S5 static pipes of the pitot static system for discrepancies (i.e., chafing, damage to pipes, inadequate clearance), per BAE Systems (Operations) Limited Inspection Service Bulletin ISB.34–338, dated February 14, 2001.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or 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 chafing is found, before further flight, do the applicable follow-on actions per the Accomplishment Instructions of the service bulletin. Where the service bulletin specifies to contact the manufacturer for disposition of certain repair conditions, the repair of those conditions is to be accomplished per a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority (or its delegated agent).

(2) If no chafing is found and the clearance between the static pipes and the adjacent avionics structure is less than 0.10 inch, before further flight, do the applicable follow-on actions per the Accomplishment Instructions of the service bulletin.

(3) If no chafing is found and a minimum clearance of 0.10 inch exists between the static pipes and the adjacent avionics structure, no further action is required by this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

(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) Except as provided by paragraph (a)(1) of this AD, the actions shall be done in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.34–338, dated February 14, 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 British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British airworthiness directive 008–02–2001.

Effective Date

(e) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 26, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–241–AD; Amendment 39–12589; AD 2001–26–23]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model DHC–8–100, –200, and –300 series airplanes, that requires replacement of the observer's seat latch assembly with a new, improved seat latch assembly. This action is necessary to prevent the observer's seat from separating from its attachment points in the event of an accident or emergency landing, due to an understrength seat latch assembly. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7512; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: 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 Bombardier Model DHC–8–100, –200, and –300 series airplanes was published in the **Federal Register** on September 25, 2001 (66 FR 48991). That action proposed to require replacement of the observer's seat latch assembly with a new, approved seat latch assembly.

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.

Explanation of Change to Applicability Statement

In the applicability statement of the proposed rule, the FAA inadvertently included Model DHC–8–314 airplanes. This model is not listed on the type certificate data sheet and has been removed from the applicability statement of this final rule.

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. 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

The FAA estimates that 35 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 replacement, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,372 per airplane. Based on these figures, the cost impact of the replacement required by this AD on U.S. operators is estimated to be $56,420, or $1,612 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:

2001–26–23 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–12589. Docket 2001–NM–241–AD.

Applicability: Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes; certificated in any category; serial numbers 408, 413, 434 through 507 inclusive; excluding serial numbers 452, 464, 490, and 506.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the observer's seat from separating from its attachment points in the event of an accident or emergency landing, accomplish the following:

Replacement

(a) Within 12 months after the effective date of this AD, replace the observer's seat latch assembly by incorporating ModSum

8Q100890 (including removing and discarding existing latch and installing serrated plate, shim, and new latch assembly), in accordance with Bombardier Service Bulletin 8–25–307, dated November 13, 2000.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(d) The replacement shall be done in accordance with Bombardier Service Bulletin 8–25–307, dated November 13, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–2001–18, dated May 4, 2001.

Effective Date

(e) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 26, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–6 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–290–AD; Amendment 39–12590; AD 2001–26–24]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; and C–9 airplanes that requires replacing the transformer ballast assembly in the pilot's console with a new, improved ballast assembly. The actions specified by this AD are intended to prevent overheating of the ballast transformers due to aging fluorescent tubes that cause a higher power demand on the ballast transformers, which could result in smoke in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 airplanes was published in the **Federal Register** on June 6, 2001 (66 FR 30345). That action proposed to require replacing the transformer ballast assembly in the first officer's console with a new, improved ballast assembly.

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.

One commenter indicates that its DC–9 airplanes will be retired from service within the proposed compliance time of the AD and that, therefore, it has no comment.

Request To Reference Latest Service Bulletin

Several commenters request that the proposed AD refer to the latest service bulletin. They state that McDonnell Douglas Alert Service Bulletin DC9–33A114, dated November 1, 1999 (which is referenced in the notice of proposed rulemaking (NPRM) as the appropriate source of service information), erroneously indicates that the ballast assembly to be replaced is located in the first officer's console rather than in the pilot's console. A revision to the service bulletin (Revision 01, dated February 15, 2000) corrects the error and, therefore, should be cited in the AD as the service bulletin to use.

The FAA concurs. Since issuance of the NPRM, the FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9–33A114, Revision 01, dated February 15, 2000. The service bulletin describes procedures for replacing the transformer ballast assembly with a new, improved ballast assembly and identifies the pilot's console as the location of the ballast assembly. For clarification purposes, we have revised this AD to refer to the ''pilot's console'' rather than the ''first officer's console'' as the location of the transformer ballast assembly to be replaced.

Request To Allow Replacement With a ''New or Serviceable'' Ballast Assembly

Another commenter asks that operators be allowed to replace the existing ballast assembly with either a serviceable ballast assembly or a new, improved ballast assembly. The commenter suggests that replacement of

a ballast assembly with a serviceable improved ballast assembly would provide an acceptable level of safety.

The FAA does not concur, because the part numbers of the old (serviceable) transformer ballast assembly are different from those of the new, improved assembly. Thus, there would be no way to tell whether ballast assemblies with the old part numbers were ''old, unimproved'' or ''old, improved'' assemblies.

Additional Change to Final Rule

The number of airplanes of U.S. registry affected by this AD has decreased since publication of the NPRM from approximately 543 to approximately 475. The estimated cost impact of the rule on U.S. operators has decreased correspondingly from between $781,377 and $1,042,560 (depending on the cost of parts) to between $683,525 and $912,000.

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 575 Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 475 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 between $1,379 and $1,860 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be between $683,525 and $912,000, or between $1,439 or $1,920 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD, 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:

2001–26–24 McDonnell Douglas: Docket 99–NM–290–AD. Amendment 39–12590

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; and C–9 airplanes; as listed in McDonnell Douglas Alert Service Bulletin DC9–33A114, Revision 01, dated February 15, 2000; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating of the ballast transformers due to aging fluorescent tubes that cause a higher power demand on the ballast transformers, which could result in smoke in the cockpit, accomplish the following:

Replacement

(a) Within 12 months after the effective date of this AD, replace the transformer ballast assembly from the pilot's console with a new, improved transformer ballast assembly, in accordance with McDonnell Douglas Alert Service Bulletin DC9–33A114, Revision 01, dated February 15, 2000.

Spares

(b) As of the effective date of this AD, no person shall install a transformer assembly, part number BA170–1, –11, –21, or –MOD.B, on any airplane.

Alternative Methods of Compliance

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

Note 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

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

Incorporation by Reference

(e) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9–33A114, Revision 01, dated February 15, 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

(f) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 26, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–5 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–104–AD; Amendment 39–12542; AD 2001–24–25]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects information in an existing airworthiness directive (AD) that applies to certain McDonnell Douglas Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes. That AD currently requires modification of the spoiler control system, and installation of protective interlock box assemblies in the spoiler circuit. This document corrects the affected models specified in the ''Applicability'' of the AD. This correction is necessary to ensure that the appropriate affected airplane models are identified correctly.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of January 16, 2002 (66 FR 64114, December 12, 2001).

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

SUPPLEMENTARY INFORMATION: On November 28, 2001, the Federal Aviation Administration (FAA) issued AD 2001–24–25, amendment 39–12542 (66 FR 64114, December 12, 2001), which applies to certain McDonnell Douglas Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes. That AD requires modification of the spoiler control system, and installation of protective interlock box assemblies in the spoiler circuit. The actions required by that AD are intended to prevent smoke/fire in the flight compartment in the event that the automatic spoiler actuator overheats, and/or loss of the spoiler control system, which could significantly reduce the braking effectiveness of the airplane. That action is intended to address the identified unsafe condition.

Need for the Correction

The FAA has determined that a correction to AD 2001–24–25 is necessary. We note that the ''Applicability'' section of the AD specifies ''Model DC–10–10, –20, –30, and –40 series airplanes and C–9 airplanes, as listed in Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001; certificated in any category.'' Although the applicability of the notice of proposed rulemaking (NPRM) was also stated incorrectly, the error was not noted until after publication of the final rule. However, all other references to the affected airplanes in the final rule are correct: ''McDonnell Douglas Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes.'' The correction will revise the ''Applicability'' section of the final rule to specify that the affected airplanes are ''Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes.''

Correction of Publication

This document corrects the error and correctly adds the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains January 16, 2002.

Since this action only corrects an inadvertent typographical error, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

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 [Corrected]

2. Section 39.13 is amended by correctly adding the following airworthiness directive (AD):

2001–24–25 McDonnell Douglas: Amendment 39–12542. Docket 2001–NM–104–AD.

Applicability: Model DC–9–10, –20, –30, and –40 series airplanes, and C–9 airplanes, as listed in Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent smoke/fire in the flight compartment in the event that the automatic spoiler actuator overheats, and/or loss of the spoiler control system, which could significantly reduce the braking effectiveness of the airplane; accomplish the following:

Modification of the Spoiler Control System

(a) Within 18 months after the effective date of this AD, modify the spoiler control system by accomplishing all actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001, per the service bulletin.

Note 2: Modification per McDonnell Douglas Service Bulletin DC9–27–147, dated January 7, 1972; Revision 1, dated July 30, 1974; or Revision 2, dated May 9, 1975; before the effective date of this AD; is considered acceptable for compliance with paragraph (a) of this AD.

Installation of Protective Interlock Box Assemblies

(b) Prior to or in conjunction with the requirements of paragraph (a) of this AD,

install protective interlock box assemblies in the spoiler circuit, per McDonnell Douglas DC–9 Service Bulletin 27–103, dated March 19, 1968.

Alternative Methods of Compliance

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

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

Special Flight Permit

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

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001, and McDonnell Douglas DC–9 Service Bulletin 27–103, dated March 19, 1968; as applicable. This incorporation by reference was approved previously by the Director of the Federal Register as of January 16, 2002 (66 FR 64114, December 12, 2001). 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

(f) The effective date of this amendment remains January 16, 2002.

Issued in Renton, Washington, on December 20, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–86 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–91–AD; Amendment 39–12576; AD 2001–23–12 R1]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document revises an existing airworthiness directive (AD) that applies to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. That AD currently requires a one-time review of records to determine whether an airplane has been repainted since its delivery from the factory; and a one-time inspection to detect damage associated with improper preparation for the repainting, and corrective action if necessary. The actions specified in that AD are intended to detect and correct damage to the aluminum skin of the airplane, which could result in a weakening of the structure of the airplane. This document corrects certain conditional requirements of the existing AD.

DATES: Effective December 31, 2001.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of December 31, 2001 (66 FR 58927, November 26, 2001).

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

SUPPLEMENTARY INFORMATION: On November 15, 2001, the FAA issued AD 2001–23–12, amendment 39–12511 (66 FR 58927, November 26, 2001), applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes, to require a one-time review of records to determine whether an airplane has been repainted since its delivery from the factory; and a one-time inspection to detect damage associated with improper preparation for the repainting, and corrective action if necessary. That action was prompted by mandatory continuing airworthiness information from a foreign civil airworthiness authority. The requirements of that AD are intended to detect and correct damage to the aluminum skin of the airplane, which could result in a weakening of the structure of the airplane.

Need for the Correction

Information obtained recently by the FAA indicates that the final rule of this AD conveyed an inaccurate interpretation of a comment submitted on the proposed AD. The commenter had requested that paragraph ''(B)(2)'' of the proposed AD be revised to include a corrective action to immediately repaint the stripped areas, and to extend the compliance time to strip and repaint the airplane. As discussed in the response to the comments in AD 2001–23–12, the FAA concurred with the request and incorporated that instruction. However, the instruction was added to subparagraph (b)(2) when it appears the commenter intended the instruction to be inserted into subparagraph (b)(2)(ii)(B)(*2*).

The FAA has determined that a correction to AD 2001–23–12 is necessary. Under the current requirements of subparagraph (b)(2) of the AD, affected airplanes are allowed to operate for an additional 4,000 flight hours or 2 years with inadequate protective coating, which could subject the airplanes to damage (or further damage). This correction removes the requested language from subparagraph (b)(2) of the AD and incorporates the instruction into subparagraph (b)(2)(ii)(B)(*2*) to specify immediate repair of damage and delay the requirement to strip and repaint the airplane.

To clarify the 4,000-flight-hour/2-year compliance time for this conditional requirement, the FAA has added the phrase, ''whichever occurs first.''

In addition, the FAA has been advised that subparagraph (b)(2)(ii)(B)(*2*) of the proposed AD inaccurately specifies that the entire airplane must be repainted if damage is detected during the inspection and if an unapproved paint system had been used. The service bulletin specifies that the entire airplane must not be stripped and repainted if damage is found in only a certain section of the airplane—except for the forward and rear fuselage, stabilizer, and wing, which must always be stripped and repainted in total if any damage is found within the respective inspection area. The FAA did not intend that this AD differ from the service bulletin in that regard. This correction revises subparagraph (b)(2)(ii)(B)(*2*) to clarify the conditional requirement by referring to the service bulletin.

Correction of Publication

This document corrects these errors and correctly adds the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13). The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains December 31, 2001.

Since this action only corrects current requirements, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

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 39–12511 (66 FR 58927, November 26, 2001), and by adding a new airworthiness directive (AD), amendment 39–12576, to read as follows:

2001–23–12 R1 Saab Aircraft AB: Amendment 39–12576. Docket 2001–NM–91–AD. Revises AD 2001–23–12, Amendment 39–12511.

Applicability: Model SAAB SF340A series airplanes having serial numbers –004 through –159 inclusive, and SAAB 340B series airplanes having serial numbers –160 through –459 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct damage to the aluminum skin of the airplane, which could result in a weakening of the structure of the airplane, accomplish the following:

Review of Records

(a) Within 2,000 flight hours or 1 year after December 31, 2001 (the effective date of AD 2001–23–12, amendment 39–12511), whichever occurs first: Perform a review of records to determine whether an airplane subject to this AD has been repainted since its delivery from the factory. If the airplane has not been repainted, no further action is needed.

Inspection and Corrective Action

(b) If an airplane has been repainted since its delivery from the factory: Within 2,000 flight hours or 1 year after December 31, 2001, whichever occurs first, perform chemical stripping of local areas of the skin and inspection to detect damage to (or removal of) the protective coat of bonding primer, in accordance with Saab Service Bulletin 340–51–020, Revision 01, dated May 16, 2001.

(1) If no damage to the protective coat of bonding primer is detected: Prior to further flight, repaint the stripped areas, in accordance with the service bulletin.

(2) If damage to (or removal of) the protective coat of bonding primer is detected: Prior to further flight, perform additional chemical stripping and inspection of the skin for pitting corrosion, in accordance with the service bulletin.

(i) If pitting corrosion is detected: Perform corrective action in a manner and within a compliance time approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the Luftfartsverket (or its designated agent).

(ii) If no pitting corrosion is detected: Prior to further flight, measure the thickness of the skin of the airplane, in accordance with the service bulletin.

(A) If a reduction in skin thickness is detected: Perform corrective action in a manner and within a compliance time approved by the Manager, International Branch, ANM–116, or the Luftfartsverket (or its designated agent).

(B) If no reduction in skin thickness is detected: Prior to further flight, check records to determine whether the airplane was repainted using an approved paint system. For purposes of this AD, criteria for an ''approved'' paint system are found in section 51–20–43 of the Saab 340 Structural Repair Manual.

(*1*) If the airplane was repainted using an approved paint system: Prior to further flight, repaint the stripped areas of the airplane, in accordance with the service bulletin.

(*2*) If the airplane was repainted using an unapproved paint system: Prior to further flight, repaint the stripped areas in accordance with the service bulletin; and within 4,000 flight hours or 2 years after detection of the damage or removed protective coating, whichever occurs first, chemically strip and repaint the airplane as specified by and in accordance with the service bulletin.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) Except as required by paragraphs (a), (b)(2)(i), and (b)(2)(ii)(A) of this AD: The actions shall be done in accordance with Saab Service Bulletin 340–51–020, Revision 01, dated May 16, 2001. This incorporation by reference was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of December 31, 2001 (66 FR 58927, November 26, 2001). Copies may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive SAD 1–161R2, dated March 13, 2001.

Effective Date

(f) The effective date of this amendment remains December 31, 2001.

Issued in Renton, Washington, on December 20, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–85 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–187–AD; Amendment 39–12580; AD 2001–26–14]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328 Series Airplanes Equipped With Honeywell GP–300 Guidance and Display Controller

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Dornier Model 328 series airplanes, that currently requires modification of certain Honeywell GP–300 guidance and display controllers. That AD was prompted by reports of smoke and fumes emitting from the Honeywell GP–300 guidance and display controller due to a defective light bulb; and a report of failure of the autopilot to disconnect manually. The actions specified by this AD are intended to prevent a defective light bulb from causing a short circuit that emits smoke and fumes into the cockpit; or causing damage to the circuit cards and various components, which may lock the autopilot into the engaged mode. Locking of the autopilot into the engaged mode could lead to the inability of the pilot to disconnect the autopilot, which could result in reduced controllability of the airplane. This amendment requires verification of proper installation of the modification, and repair, if necessary.

DATES: Effective February 8, 2002.

The incorporation by reference of Honeywell Service Bulletin 7015327–22–4, dated March 31, 1997, as listed in the regulations, is approved by the Director of the Federal Register as of February 8, 2002.

The incorporation by reference of Honeywell Service Bulletin 7015327–22–2, dated March 4, 1996, as listed in the regulations, was approved previously by the Director of the Federal Register as of June 26, 1996 (61 FR 29465, June 11, 1996).

ADDRESSES: The service information referenced in this AD may be obtained from Honeywell, Inc., Attn: Customer Support Materiel, PO Box 21111, Phoenix, Arizona 85036. 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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–12–13, amendment 39–9656 (61 FR 29465, June 11, 1996), which is applicable to certain Dornier Model 328 series airplanes, was published in the **Federal Register** on May 28, 1998 (63 FR 29148). The action proposed to continue to require modification of certain Honeywell GP–300 guidance and display controllers. The action also proposed to require verification of proper installation of the modification of Honeywell GP–300 guidance and display controller, and repair, if necessary.

Comment Received

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

One commenter, the airplane manufacturer, claims that 100 percent of Honeywell GP–300 guidance and display controllers for Dornier Model 328 series airplanes have been modified per paragraph (a) of the proposed AD. The commenter also claims that 98 percent of those controllers have been modified per paragraph (b) of the proposed AD, and that the four remaining controllers should be modified by the time the proposed AD becomes effective. Therefore, the commenter concludes that the proposed AD would pose a negative economic impact by creating unnecessary paperwork and sign-off of the proposed AD.

From this comment, the FAA infers that the commenter is requesting that the proposed AD be withdrawn. We do not agree. As stated by the airplane manufacturer, not all of the affected controllers, worldwide, have been modified; therefore, the possibility exists that an unmodified controller could be installed on a U.S. registered airplane at some future time. Issuance of this AD will ensure that only the modified controllers are installed on U.S. registered airplanes. Operators are given credit for work previously performed by means of the phrase in the ''Compliance'' section of the AD that states, ''Required as indicated, unless accomplished previously.'' Therefore, in the case of this AD, if the required modification and verification have been accomplished before the effective date of this AD, this AD does not require that those actions be repeated.

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 as proposed.

Cost Impact

There are approximately 50 Dornier Model 328–100 series airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 96–12–13, and retained in this AD, take approximately 7 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $21,000, or $420 per airplane.

The new actions that are required by this AD action will take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $12,000, or $240 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9656 (61 FR 29465, June 11, 1996), and by adding a new airworthiness directive (AD), amendment 39–12580, to read as follows:

2001–26–14 Dornier Luftfahrt GMBH: Amendment 39–12580. Docket 97–NM–187–AD. Supersedes AD 96–12–13, Amendment 39–9656.

Applicability: Model 328–100 airplanes, equipped with a Honeywell GP–300 guidance and display controller having part number (P/N) 7015327–901 or –902; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent a defective light bulb from causing a short circuit that emits smoke and fumes into the cockpit, or causing damage to the circuit cards and various components, which may lock the autopilot into the engaged mode, accomplish the following:

Restatement of Requirements of AD 96–12–13

(a) Within 60 days after June 26, 1996 (the effective date of AD 96–12–13, amendment 39–9656), modify the Honeywell GP–300 guidance and display controller, having P/N 7015327–901 or –902, in accordance with Honeywell Service Bulletin 7015327–22–2, dated March 4, 1996.

New Requirements of This AD

(b) Within 60 days after the effective date of this AD, verify that the wiring of the Honeywell GP–300 guidance and display controller is correct by conducting a re-test of the circuit card assemblies, in accordance with Honeywell Service Bulletin 7015327–22–4, dated March 31, 1997. If any discrepancy is found, prior to further flight, repair in accordance with the service bulletin.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Honeywell Service Bulletin 7015327–22–2, dated March 4, 1996; and Honeywell Service Bulletin 7015327–22–4, dated March 31, 1997.

(1) The incorporation by reference of Honeywell Service Bulletin 7015327–22–4, dated March 31, 1997, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Honeywell Service Bulletin 7015327–22–2, dated March 4, 1996, was approved previously by the Director of the Federal Register as of June 26, 1996 (61 FR 29465, June 11, 1996).

(3) Copies may be obtained from Honeywell, Inc., Attn: Customer Support Materiel, PO Box 21111, Phoenix, Arizona 85036. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German airworthiness directive 96–239/2, dated June 19, 1997.

Effective Date

(f) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 21, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–143 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–161–AD; Amendment 39–12581; AD 2001–26–15]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81, –82, –83, and –87 Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, that requires a detailed visual inspection of certain wires to detect chafing and preload; repair, if necessary; and modification of certain wire assemblies. This action is necessary to prevent insufficient clearance between wire assemblies and the ice protection airduct and airstair door interlock rod; chafing; and consequent arcing of wire assemblies. Such arcing could result in damage to electronic equipment and adjacent structures, or cause the insulation blankets to ignite, which could result in smoke and fire in the flight deck and main cabin. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes was published in the **Federal Register** on June 5, 2001 (66 FR 30099). That action proposed to require a detailed visual inspection of certain wires to detect chafing and preload; repair, if necessary; and modification of certain wire assemblies.

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 Use a Previous Revision

One commenter request that the applicability of the proposed AD be revised to exclude airplanes on which the airstairs have been removed and the doors have been bolted shut. The commenter states that it is in compliance with McDonnell Douglas Service Bulletin MD80–24–126, Revision 01, dated May 14, 1998. The commenter notes McDonnell Douglas Alert Service Bulletin MD80–24A126, Revision 02, dated September 22, 1999 (which is referenced in the proposed AD as the appropriate source of service information), requires additional work, consisting of moving the airstair door to the open and closed position to ensure clearance of wiring. Therefore, the commenter concludes that the additional work in Revision 02 of the service bulletin is not necessary for its fleet.

The FAA does not agree with this commenter. A door bolted shut would clearly not allow inspection for wire clearance with the door in the open position. However, since the inspection required by this AD is also for clearance when the door is in the full-closed position, that part of the inspection would still be applicable. Also, additional wires need to be inspected per Revision 02 of McDonnell Douglas Alert Service Bulletin MD80–24A126. The fact that airplane structure has been altered does not necessarily mean that an unsafe condition has been eliminated or does not exist. Therefore, we find no change to the final rule is necessary in this regard. However, under the provisions 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.

Request for Change of Level of Inspection

The same commenter also requests that the term ''detailed visual inspection'' be changed to ''visual inspection,'' because the Common Support Data Dictionary (CSDD) has a specific definition of ''detailed visual inspection'' and McDonnell Douglas Service Bulletin MD80–24A126, Revision 02, does not call for this level of inspection.

The FAA does not concur. The definition of the ''detailed visual inspection'' specified in **Note 2** of this AD is a standard definition that is used in all ADs that require a detailed visual inspection. We have determined that a detailed visual inspection is the appropriate level of inspection to be carried out for the unsafe condition being addressed.

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 as proposed.

Cost Impact

There are approximately 1,037 Model DC–9–81, -82, -83, and -87 series airplanes, and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 830 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 detailed visual 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 $49,800, 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:

2001–26–15 McDonnell Douglas: Amendment 39–12581. Docket 2000-NM–161-AD.

Applicability: Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD80–24A126, Revision 02, dated September 22, 1999; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent smoke and fire in the flight deck and main cabin due to insufficient clearance between wire assemblies and the ice protection airduct and airstair door interlock rod; chafing; and consequent arcing of wire assemblies, accomplish the following:

Inspection and Modification

(a) Within 6 months after the effective date of this AD, perform a detailed visual inspection of wire runs in the electrical/equipment compartment to detect chafing and preload against the airduct shroud assembly of the strake ice protection system and/or airstair door interlock rod between stations Y=148.00 and Y=160.000, in accordance with McDonnell Douglas Alert Service Bulletin MD80–24A126, Revision 02, dated September 22, 1999.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If no chafed or preloaded wire is found, prior to further flight, install spacers, sta-straps, and tie-back wire bundles, in accordance with the service bulletin.

(2) If any chafed or preloaded wire is found, prior to further flight, repair, and install spacers, sta-straps, and tie-back wire bundles, in accordance with 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 Angles ACO.

Special Flight Permit

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

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD80–24A126, Revision 02, dated September 22, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from 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 February 8, 2002.

Issued in Renton, Washington, on December 21, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–144 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–162–AD; Amendment 39–12582; AD 2001–26–16]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas DC–9–81, –82, –83, and –87 Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, that requires replacing the interface connectors of the cabin fluorescent lighting ballast in the wiring harness of the overhead stowage compartment with new connectors. In lieu of the required replacement, this AD requires adding interface seals to the existing interface connectors of the cabin fluorescent lighting ballast between certain stations and reidentifying the connector assemblies. This action is necessary to prevent electrical shorting and arcing due to the presence of water in the lighting ballast interface connectors, which could result in smoke in the main cabin. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

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: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–

130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–81, -82, -83, and -87 series airplanes, and Model MD–88 airplanes was published in the **Federal Register** on June 5, 2001 (66 FR 30097). That action proposed to require replacing the interface connectors of the cabin fluorescent lighting ballast in the wiring harness of the overhead stowage compartment with new connectors.

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.

Support for the Proposed AD

One commenter states that it does not own or operate the equipment affected by the referenced document, and therefore has no comments to offer. Another commenter notes that it does operate airplanes affected by the rule but has no comments regarding the AD as proposed.

Request for Use of Latest Revision

One commenter requests that Boeing Alert Service Bulletin MD80–33A096, Revision 03, dated August 14, 2001, be an approved method of accomplishment for the replacement required by the proposed AD. The commenter states that Boeing is currently developing Revision 03 of the subject service bulletin, and that revision will provide instructions to install an interfacial seal into the existing ballast connectors, rather than requiring complete replacement of the connectors. The commenter notes that Boeing has indicated that Boeing Alert Service Bulletin MD80–33A096, Revision 03, will provide a level of safety that is equivalent to the proposed connector replacement.

The FAA concurs. Since the issuance of the NPRM, the FAA has reviewed and approved Revision 03 of Boeing (McDonnell Douglas) Alert Service Bulletin MD80–33A096, dated August 14, 2001. Revision 03 adds an option to add interface seals to the existing interface connectors of the cabin fluorescent lighting ballast between stations Y=218.000 to Y=1338.000 and reidentify the connector assemblies. No more work is necessary on airplanes changed as shown in Revision 02 of the service bulletin (which was referenced in the NPRM as the appropriate source of service information). We have revised the final rule to reference Boeing Alert Service Bulletin MD80–33A096, Revision 03, dated August 14, 2001, as the appropriate source of service information, and to include in paragraph (a) of the final rule the option discussed above. We also have revised the Cost Impact section of the final rule to include the cost estimate associated with the new option. In addition, we have revised Note 2 of the final rule to include Revision 02 of the subject service bulletin as an acceptable method of compliance with the requirements 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 747 airplanes of the affected design in the worldwide fleet. The FAA estimates that 486 airplanes of U.S. registry will be affected by this AD.

In lieu of the required incorporation of interface seals, it will take approximately 15 work hours per airplane to accomplish the required replacement, at an average labor rate of $60 per work hour. Required parts will cost approximately $510 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,410 per airplane.

In lieu of the required replacement, it will take approximately 3 work hours per airplane to accomplish the required incorporation of interface seals, at an average labor rate of $60 per work hour. Required parts will cost approximately $300 per airplane. Based on these figures, the cost impact of the incorporation required by this AD on U.S. operators is estimated to be $480 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–26–16 McDonnell Douglas: Amendment 39–12582. Docket 2000–NM–162–AD.

Applicability: Model DC–9–81, -82, -83, and -87 series airplanes, and Model MD–88 airplanes, as listed in Boeing Alert Service Bulletin MD80–33A096, Revision 03, dated August 14, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability

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

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical shorting and arcing due to the presence of water in the lighting ballast interface connectors, which could result in smoke in the main cabin, accomplish the following:

Replacement or Incorporation of Interface Seals

(a) Within 18 months after the effective date of this AD, accomplish the actions specified in paragraph (a)(1) or (a)(2) of this AD per Boeing Alert Service Bulletin MD80–33A096, Revision 03, dated August 14, 2001.

(1) Replace the interface connectors of the cabin fluorescent lighting ballast in the wiring harness of the overhead stowage compartment with new connectors; or

(2) Add interface seals to the existing interface connectors of the cabin fluorescent lighting ballast between stations Y=218.000 to Y=1338.000 and reidentify the connector assemblies.

Note 2: Replacement of connectors prior to the effective date of this AD in accordance with McDonnell Douglas MD80 Service Bulletin 33–96, dated December 15, 1993; Revision 1, dated February 28, 1994; or Revision 02, dated November 1, 1999; is considered acceptable for compliance with the requirements of paragraph (a) of this AD.

Spares

(b) As of the effective date of this AD, no person shall install any connector, part number MB10R–6, on any airplane.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The replacement shall be done in accordance with Boeing Alert Service Bulletin MD80–33A096, Revision 03, dated August 14, 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

(f) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 21, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–145 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–28–AD; Amendment 39–12583; AD 2001–26–17]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330 series airplanes, that requires removal of the shear pins that keep the rear fixed panels on the center landing gear closed and installation of new solid shear pins. This amendment is prompted by issuance of mandatory continuing airworthiness information from a foreign airworthiness authority. This action is intended to prevent the shear pins on the rear fixed panels of the center landing gear from failing, which could result in loss of the panels during flight with consequent injury to people on the ground. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

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

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1181.

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 Airbus Model A330 series airplanes was published in the **Federal Register** on August 31, 2001 (66 FR 45951). That action proposed to require removal of the shear pins that keep the rear fixed panels on the center landing gear closed and installation of new solid shear pins.

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.

Changes Made to the Proposed AD

Since issuance of the proposed AD, Airbus has issued Service Bulletin A330–52–3058, Revision 01, dated February 8, 2001. The original issue of this service bulletin, dated April 7, 2000, was referenced in the proposed AD as the appropriate source of service information for the required replacement. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in France. The FAA finds that the procedures in Revision 01 of the service bulletin are essentially the same as those in the original issue. Therefore, we have revised paragraph (a) of the final rule to reference Revision 01 of the service bulletin, and we have included a new ''**Note 2**'' to give credit to

operators that may have accomplished the required actions prior to the effective date of this AD in accordance with the original issue of the service bulletin. Subsequent notes have been renumbered accordingly. Additionally, we have revised the applicability of the final rule to include Revision 01 of the service bulletin.

Conclusion

After careful review of the available data, 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 increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 2 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 replacement, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no charge. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $120, 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:

2001–26–17 Airbus Industrie: Amendment 39–12583. Docket 2001–NM–28–AD.

Applicability: Model A330–202, –223, –243, –301, –321, –322, –323, –341, –342, and –343 series airplanes, on which Airbus Modification 47707 has not been incorporated; or Airbus Service Bulletin A330–52–3058, dated April 7, 2000, or Revision 01, dated February 8, 2001, has not been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the shear pins on the rear fixed panels of the center landing gear from failing, which could result in loss of the panels during flight with consequent injury to people on the ground, accomplish the following:

Replacement

(a) Within 18 months after the effective date of this AD: Remove the shear pins that keep the rear fixed panels of the center landing gear closed and install solid shear pins, in accordance with Airbus Service Bulletin A330–52–3058, Revision 01, dated February 8, 2001.

Note 2: Accomplishment of the replacement in accordance with Airbus Service Bulletin A330–52–3058, dated April 7, 2000, prior to the effective date of this AD, is 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, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

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

Special Flight Permits

(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 Airbus Service Bulletin A330–52–3058, Revision 01, dated February 8, 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 2001–042(B), dated January 24, 2001.

Effective Date

(e) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 21, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–146 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–174–AD; Amendment 39–12584; AD 2001–26–18]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–300 series airplanes, that requires, for certain airplanes, a one-time torque test (inspection) of the attachment bolts of the forward engine mount vibration isolators to determine if the bolts are adequately torqued, and corrective action, if necessary. For all airplanes, this amendment prohibits installation of an attachment bolt on the forward engine mount vibration isolators, unless the attachment bolt is torqued within certain limits. These actions are necessary to prevent failure of the engine mount, which could result in separation of the engine from the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. 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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1503; 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 certain Dornier Model 328–300 series airplanes was published in the **Federal Register** on September 14, 2001 (66 FR 47901). That action proposed to require, for certain airplanes, a one-time torque test (inspection) of the attachment bolts of the forward engine mount vibration isolators to determine if the bolts are adequately torqued, and corrective action, if necessary. For all airplanes, that action also proposed to prohibit installation of an attachment bolt on the forward engine mount vibration isolators, unless the attachment bolt is torqued within certain limits.

Comments

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

Conclusion

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

Cost Impact

The FAA estimates that 36 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. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $4,320, 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:

2001–26–18 Dornier Luftfahrt GMBH: Amendment 39–12584. Docket 2001–NM–174–AD.

Applicability: Model 328–300 series airplanes, on which a forward engine mount vibration isolator has been removed or reinstalled since the date of manufacture of the airplane, certificated in any category.

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

One-Time Inspection

(a) For airplanes on which a forward engine mount vibration isolator has been removed or reinstalled prior to the effective date of this AD: Within 2,500 flight cycles after the first removal or reinstallation of a forward engine mount vibration isolator, or within 30 days after the effective date of this AD, whichever comes later, do a one-time torque test (inspection) of the attachment bolts of the forward engine mount vibration isolators on the left- and right-hand sides of the airplane to determine if the bolts are adequately torqued, according to Dornier Service Bulletin SB–328J–71–109, dated March 26, 2001, including Dornier 328JET Aircraft Maintenance Manual (AMM) Temporary Revision (TR) 71–130, dated March 8, 2001.

Replacement of Bolts

(b) During the inspection required by paragraph (a) of this AD, if the torque value of any attachment bolt is found to be outside the limits specified in Dornier Service Bulletin SB–328J–71–109, dated March 26, 2001, including Dornier 328JET AMM TR 71–130, dated March 8, 2001: Before further flight, do all actions associated with replacing all bolts on the vibration isolator on which the improperly torqued bolt was found (including performing a detailed visual inspection to determine the condition of components of the vibration isolator and replacement of any damaged components with new components, removing the existing bolts and washers that attach the forward engine mount vibration isolators to the engine, installing new bolts to reattach the forward engine mount vibration isolators to the engine, and torquing the new bolts to adequate torque values), according to the service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Torque Requirements

(c) For all airplanes: As of the effective date of this AD, no one may install an attachment bolt on the forward engine mount vibration isolators on any airplane, unless the attachment bolt is torqued within the limits specified in Dornier 328JET AMM TR 71–130, dated March 8, 2001.

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

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

Special Flight Permits

(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) The actions shall be done in accordance with Dornier Service Bulletin SB–328J–71–109, dated March 26, 2001, including Dornier 328JET Aircraft Maintenance Manual Temporary Revision 71–130, dated March 8, 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 FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in German airworthiness directive 2001–163, dated June 14, 2001.

Effective Date

(g) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 21, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–147 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ACE–7]

Amendment to Class E Airspace, Ankeny, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATE: 0901 UTC, December 27, 2001.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on September 24, 2001 (66 FR 48794). 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 December 27, 2001. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on November 7, 2001.

Herman J. Lyons,

Manager, Air Traffic Division, Central Region.

[FR Doc. 02–166 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–17]

Establishment of Class E5 Airspace, Wauchula, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E5 airspace at Wauchula, FL. A Non-Directional Beacon (NDB) Runway (RWY) 36 Standard Instrument Approach Procedure (SIAP) has been developed for Wauchula Municipal Airport, Wauchula, FL. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and other Instrument Flight Rules (IFR) operations at Wauchula Municipal Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

EFFECTIVE DATE: 0901 UTC, April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box

20636, Atlanta, Georgia 30320; telephone (404) 305–5588.

SUPPLEMENTARY INFORMATION:

History

On November 20, 2001, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E5 airspace at Wauchula, FL (66 FR 58082) to provide adequate controlled airspace to contain the NDB RWY 36 SIAP and other IFR operations at Wauchula Municipal Airport. Class E airspace designations for airspace extending upward from 700 feet or more above the surface of the earth are published in FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.7 The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E5 airspace at Wauchula, FL.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows: Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO FL E5 Wauchula, FL [New]

Wauchula Municipal Airport, FL
(Lat. 27°30′36″ N, long. 81°52′50″ W)
Wauchula NDB
(Lat. 27°30′36″ N, long. 81°53′00″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Wauchula Municipal Airport and within 4 miles east and 8 miles west of the 176° bearing from the Wauchula NDB extending from the 6.4-mile radius to 16 miles south of the airport.

* * * * *

Issued in College Park, Georgia, on December 27, 2001.

Cesar I. Perez,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–164 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–15]

Amendment of Class E5 Airspace, Andrews–Murphy, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E5 airspace at Andrews-Murphy, NC. A Area Navigation (RNAV), Global Positioning System (GPS), Runway (RWY) 8 Standard Instrument Approach Procedure (SIAP), has been developed for Andrews-Murphy, NC. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP.

DATES: 0901 UTC, April 18, 2002.

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

SUPPLEMENTARY INFORMATION:

History

On November 20, 2001, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class E5 airspace at Andrews-Murphy, NC, (66 FR 58080). This action provides adequate Class E airspace for IFR operations at Andrews-Murphy, NC. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR part 71.1. The Class E designation listed in this document will be published subsequently in the Order.

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

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class E5 airspace at Andrews-Murphy, NC.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

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

* * * * *

ASO NC E5 Andrews-Murphy, NC [Revised]

Andrews-Murphy Airport, NC
(Lat. 35°11′42″N, long. 83°51′50″W)
RUGIE Waypoint
(Lat. 35°08′57″N, long. 83°57′29″W)
Andrews-Murphy, NC, Point in Space Coordinates
(Lat. 35°11′10″N, long. 83°52′57″W)

That airspace extending upward from 700 feet or more above the surface within a 6.5-mile radius of the Andrews-Murphy Airport and within 3.2 miles each side of the 237° course from the RUGIE Waypoint, extending from the 6.5-mile radius to 8.1 miles southwest of the airport and that airspace within a 6-mile radius of the point in space (lat. 35°11′10″N, long. 83°52′57″W) serving Andrews-Murphy, NC; excluding that airspace within the Knoxville, TN, Class E airspace.

* * * * *

Issued in College Park, Georgia, on December 27, 2001.

Cesar I. Perez,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–163 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–14]

Establishment of Class E5 Airspace; Union, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E5 airspace at Union, SC. A Non-Directional Beacon (NDB) Runway (RWY) 5 Standard Instrument Approach Procedure (SIAP) has been developed for Union County, Troy Shelton Field, Union, SC. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and other Instrument Flight Rules (IFR) operations at Union County, Troy Shelton Field. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

EFFECTIVE DATE: 0901 UTC, April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

On November 20, 2001, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E5 airspace at Union, SC, (66 FR 58081) to provide adequate controlled airspace to contain the NDB RWY 5 SIAP and other IFR operations at Union County, Troy Shelton Field. Class E airspace designations for airspace extending upward from 700 feet or more above the surface of the earth are published in FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E5 airspace at Union, SC.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR Part 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6055 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO SC E5 Union, SC [New]

Union County, Troy Shelton Field, SC
(Lat. 34°41′11″ N, Long. 81°38′30″ W)
Union NDB
(Lat. 34°41′02″ N, Long. 81°38′32″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Union County, Troy Shelton Field and within 4 miles north and 8 miles south of the 241° bearing from the Union NDB

extending from the 6.3-mile radius to 16 miles southwest of the airport.

* * * * *

Issued in College Park, Georgia on December 27, 2001.

Cesar I. Perez,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–162 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ANM–31]

Establishment of Class E Airspace, Bellingham, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at the surface of Bellingham International Airport, Bellingham, WA. Class E controlled airspace, above the surface of the earth, is required to contain aircraft executing procedures in the Instrument Flight Rules (IFR). The effect of this action clarifies when two-way radio communication with Bellingham ATCT is required and to provide adequate Class E controlled airspace between the surface and the en route phase of flight for aircraft executing Instrument Flight Rules (IFR) operations at Bellingham International Airport, Bellingham, WA, when the Bellingham ATCT is closed. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. The effect of this action is to provide adequate controlled airspace for IFR operations at Bellingham International Airport, Bellingham, WA.

EFFECTIVE DATE: 0901 UTC, February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 00–ANM–31, 1601 Lind Avenue SW, Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On August 14, 2001, the FAA proposed to amend Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by establishing Class E airspace at Bellingham, WA, in order to provide a safer IFR environment at Bellingham International Airport, Bellingham, WA (66 FR 42618). This amendment established Class E2 surface area controlled airspace at Bellingham, WA, to contain IFR aircraft operating in the Bellingham terminal area during the hours when the Bellingham ATCT is closed. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. A comment was received from FAA, AVN–500. A discrepancy was found in the Airport Reference Point coordinates. This changes is reflected in the legal description. This change is considered to be an insignificant

The Rule

This amendment to Title 41 Code of Federal Regulations, part 71 (14 CFR part 71) by establishing Class E controlled airspace at Bellingham, WA. Bellingham ATCT recently changed its operating hours to less than a 24-hour-a-day operation. In the absence of the Class D airspace, Class E controlled airspace above the surface of the earth is required for aircraft executing IFR operations at Bellingham International Airport when the ATCT is closed. The FAA establishes Class E airspace where necessary to contain transitioning between the terminal and en route environments. This rule is designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under IFR at the Bellingham International Airport and between the terminal and en route transition stages.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as surface areas, are published in Paragraph 6005, of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001 and effective September 16, 2001, is amended as follows:

Paragraph 6002 Class E airspace designated as surface area for an airport.

* * * * *

ANM WA E2 Bellingham, WA [New]

Bellington International Airport
(Lat. 48°56′34″ N., long. 122°32′15″ W.)
Whatcom VORTAC/CC
(Lat. 48°56′43″ N., long. 122°34′45″ W.)

Within a 4-mile radius of Bellingham International Airport, and within the 1.8 miles each side of the Watchcom VORTAC 169° radial extending north from the 4-mile radius of the Bellington International Airport to 2.7 miles south of the VORTAC. This Class E airspace is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Seattle, Washington, on December 26, 2001.

Daniel A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 02–161 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–26]

Establishment of Class E Airspace; Kenmare, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Kenmare, ND. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway 26 has been developed for Kenmare Municipal Airport. Controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing this approach. This action creates Class E airspace for Kenmare, ND.

EFFECTIVE DATE: 0901 UTC, February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, October 19, 2000, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Kenmare, ND (65 FR 62655). The proposal was to create controlled airspace extending upward from 700 feet above the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Kenmare, ND, to accommodate aircraft executing instrument flight procedures into and out of Kenmare Municipal Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL ND E5 Kenmare, ND [New]

Kenmare Municipal Airport, ND
(Lat. 48°40′03″ N, long. 102°02′51″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Kenmare Municipal Airport, and that airspace extending upward from 1200 feet above the surface beginning at lat. 49°00′00″ N., long. 103°00′00″ W., to lat. 48°30′00″ N., long. 103°00′00″ W., to lat. 48°30′00″ N., long. 101°00′00″ W., to lat. 49°00′00″ N., long. 101°00′00″ W., thence to the point of beginning, excluding that airspace within the Minot AFB, ND, Mohall, ND, and Tioga, ND, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on December 5, 2001.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–253 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–27]

Establishment of Class E Airspace; Warren, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Warren, MN. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway 30 has been developed for Warren Municipal Airport. Controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing this approach. This action creates Class E airspace for Warren, MN.

EFFECTIVE DATE: 0901 UTC February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, October 19, 2000, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Warren, MN (65 FR 62657). The proposal was to create controlled airspace extending upward from 700 feet above the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more

above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Warren, MN, to accommodate aircraft executing instrument flight procedures into and out of Warren Municipal Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL MN E5 Warren, MN [NEW]

Warren Municipal Airport, MN
(Lat. 48° 11′ 28″ N, long. 96° 42′ 40″ W)
Point in Space Coordinates
(Lat. 48° 04′ 50″ N, long. 96° 31′ 08″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Warren Municipal Airport, and that airspace extending upward from 1200 feet above the surface within the State of North Dakota within a 30.0-mile radius of the Point In Space, excluding that airspace within the Grand Forks, ND, Class E airspace area.

* * * * *

Issued in Des Plains, Illinois on December 5, 2001.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–255 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–29]

Proposed Modification of Class E Airspace; Hillsboro, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Hillsboro, ND. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway 16, and an RNAV SIAP to Rwy 34, have been developed for Hillsboro Municipal Airport. Controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing these approaches. This action increases the radius of the existing controlled airspace for Hillsboro, ND.

EFFECTIVE DATE: 0901 UTC, February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, October 19, 2000, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Hillsboro, ND (65 FR 26823).

The proposal was to modify controlled airspace extending upward from 700 feet above the surface to contain aircraft executing instrument approach procedures and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Hillsboro, ND, to accommodate aircraft executing instrument flight procedures into and out of Hillsboro Municipal Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 7.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL ND E5 Hillsboro, ND [Revised]

Hillsboro Municipal Airport, ND
(Lat. 47°21′34″ N, long. 97°03′38″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Hillsboro Municipal Airport, and that airspace extending upward from 1200 feet above the surface within the State of North Dakota within a 45.0-mile radius of Hillsboro Municipal Airport, excluding that airspace within the Grand Forks, ND, and Fargo, ND, Class E airspace areas, and excluding all Federal Airways.

* * * * *

Issued in Des Plaines, Illinois on December 5, 2001.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–256 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–28]

Establishment of Class E Airspace; Stanley, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Stanley, ND. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway 27 has been developed for Stanley Municipal Airport. Controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing this approach. This action creates Class E airspace for Stanley, ND.

EFFECTIVE DATE: 0901 UTC February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, October 19, 2000, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Stanley, ND (65 FR 62653). The proposal was to create controlled airspace extending upward from 700 feet above the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Kenmare, ND, to accommodate aircraft executing instrument flight procedures into and out of Stanley Municipal Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL ND E5 Stanley, ND [NEW]

Stanley Municipal Airport, ND
(Lat. 48°18′03″ N, long. 102°24′23″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Stanley Municipal Airport, and that airspace extending upward from 1200 feet above the surface within a 40.0-mile radius of Stanley Municipal Airport, excluding that airspace within the Williston, ND, Tioga, ND, Minot, ND, Kenmare, ND, Hazen, ND, and New Town, ND, Class E airspace areas, and excluding all Federal Airways.

* * * * *

Issued in Des Plaines, Illinois on December 5, 2001.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–257 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–24]

Modification of Class E Airspace; Youngstown, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Youngstown, OH. An VHF Omnidirectional Range–A (VOR–A) Standard Instrument Approach Procedure (SIAP) to Runway 26 has been developed for Youngstown-Warren Regional Airport. Controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing this approach. This action increases the width of the northerly extension and increases the radius of the existing Class E airspace for Youngstown, OH.

EFFECTIVE DATE: 0901 UTC, February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, October 6, 2000, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Youngstown, OH (65 FR 59762). The proposal was to modify controlled airspace extending upward from 700 feet above the surface to contain aircraft executing instrument approach procedures.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Youngstown, OH, to accommodate aircraft executing instrument flight procedures into and out of Youngstown-Warren Regional Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1063 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL OH E5 Youngstown, OH [Revised]

Youngstown-Warren Regional Airport, OH
(Lat. 41°15′39″ N, long. 80°40′45″ W)
Youngstown, Lansdowne Airport, OH
(Lat. 41°07′50″ N, long. 80°37′10″ W)
Youngstown VORTAC
(Lat. 41°19′52″ N, long. 80°40′29″ W)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of the Youngstown-Warren Regional Airport, and within 3.6 miles each side of the Youngstown VORTAC 360° radial extending from the 7.0-mile radius to 10.0 miles north of the VORTAC, and within a 6.2-mile radius of the Lansdowne Airport.

* * * * *

Issued in Des Plaines, Illinois on December 5, 2001.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–258 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–187]

RIN 2115–AA84, 2115–AA97

Regulated Navigation Areas, Safety And Security Zones: Long Island Sound Marine Inspection and Captain of the Port Zone

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area (RNA) and two safety and security zones. The rule will regulate the circumstances under which certain vessels may enter, transit or operate within the regulated navigation area and will exclude all vessels from operating within 700 yards of the Millstone Nuclear Power Plant or 100 yards of an anchored Coast Guard vessel. This action is necessary to ensure public safety and prevent sabotage or terrorist acts.

DATES: This rule is effective from December 10, 2001 until June 15, 2002.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Group/Marine Safety Office Long Island Sound, 120 Woodward Avenue, New Haven, CT between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander P.J. Maguire, Group/Marine Safety Office Long Island Sound, Prevention Department, at (203) 468–4401.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the

Coast Guard finds that good cause exists for not publishing an NPRM. On September 11, 2001, two commercial aircraft were hijacked from Logan Airport in Boston, Massachusetts and flown into the World Trade Center in New York, New York inflicting catastrophic human casualties and property damage. A similar attack was conducted on the Pentagon with a plane launched from Newark, NJ on the same day. National security and intelligence officials warn that future terrorist attacks against civilian targets may be anticipated. This rulemaking is urgently required to prevent future terrorist strikes within and adjacent to waters within the Long Island Sound Marine Inspection and Captain of the Port Zone. The delay inherent in the NPRM process is contrary to the public interest insofar as it may render individuals, vessels and facilities within and adjacent to the Long Island Sound Marine Inspection and Captain of the Port Zone vulnerable to subversive activity, sabotage or terrorist attack.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The measures contemplated by the rule are intended to prevent future terrorist attack against individuals, vessels and waterfront facilities within or adjacent to the Long Island Sound Marine Inspection and Captain of the Port Zone. Immediate action is required to accomplish these objectives. Any delay in the effective date of this rule is impracticable and contrary to the public interest.

Background and Purpose

On September 11, 2001, terrorists launched attacks on civilian and military targets within the United States killing large numbers of people and damaging properties of national significance. Vessels operating within the Long Island Sound Marine Inspection and Captain of the Port Zone present possible targets of terrorist attack or platforms from which terrorist attacks may be launched upon other vessels, waterfront facilities and adjacent population centers. The Coast Guard has established a Regulated Navigation Area within the waters of Long Island Sound Marine Inspection and Captain of the Port Zone, as part of a comprehensive, port security regime designed to safeguard human life, vessels and waterfront facilities from sabotage or terrorist acts. The Captain of the Port will determine the threat posed by and to affected vessels within the Regulated Navigation Area and may establish conditions, under which they are allowed to enter, transit or operate within the area. Prior to the determination of whether and under what conditions a vessel may enter, transit or operate within the Regulated Navigation Area, vessels may be directed by the Captain of the Port to temporarily anchor in a specific location within the Regulated Navigation Area. In addition, the Coast Guard has established a safety and security zone that restricts movement within 700 yards of the Millstone Nuclear Power Plant in Waterford, CT. Safety and security zones are established for all waters within 100 yards of all anchored Coast Guard vessels.

Regulated Navigation Area

The rule establishes a regulated navigation area (RNA) comprised of the waters of the Long Island Sound Marine Inspection and Captain of the Port Zone extending seaward 12 nautical miles from the territorial sea baseline. Affected vessels are required to obtain authorization from the Captain of the Port before crossing the three nautical mile line from any southern or eastern approach. The three nautical mile line is measured from the territorial sea baseline. This line is depicted on National Oceanic and Atmospheric Administration (NOAA) nautical charts, including chart numbers 13205, 12353, and 12326.

In order to obtain authorization, a vessel subject to this rule may be required to undergo a port security inspection to the satisfaction of the Captain of the Port. Vessels awaiting a port security inspection or Captain of the Port authorization to enter will be directed to anchor in a specific location.

All vessels over 1,600 gross tons operating inside the line extending seaward three nautical miles from the territorial sea baseline must receive authorization from the Captain of the Port prior to any vessel movement. This requirement enables the Captain of the Port to maintain control over the movement of vessels that pose a potential threat to other vessels, waterfront facilities and adjacent population centers. The Captain of the Port may authorize a vessel subject to this rule to enter a port or place within the RNA under such circumstances and conditions as he deems appropriate to minimize the threat of injury to the vessel, the port, waterfront facilities or adjacent population centers resulting from sabotage or terrorist acts launched against or from the vessel.

Vessels 300 gross tons or greater may not transit through the Lower Thames River and the Naval Submarine Base New London Restricted Area, established in 33 CFR 334.75(a), at a speed in excess of 8 knots. This speed restriction does not apply to public vessels as defined in 33 USC 1321(a)(4).

Safety and Security Zones

The rule also establishes safety and security zones. One zone is being established within a 700-yard radius from the stack at the Millstone Power Plant. This zone is being established to protect the power plant, persons and vessels from subversive or terrorist acts. We have created additional zone defined by reference to a fixed radius around Coast Guard vessels anchored in the RNA. These zones are intended principally to protect the vessels themselves from subversive or terrorist acts.

No person or vessel may enter or remain in the prescribed safety and security zone at any time without the permission of the Captain of the Port. Each person or vessel in a safety and security zone shall obey any direction or order of the Captain of the Port. The Captain of the Port may take possession and control of any vessel in a safety and security zone and/or remove any person, vessel, article or thing from a security zone.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12886, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the relatively small area which vessels are prohibited from operating within. It is contemplated that vessels will be able to operate elsewhere within the RNA once the Captain of the Port has determined that the vessels do not pose a threat to individuals, other vessels or waterfront facilities. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting the public, vessels, and vessel crews from the further devastating consequences of the aforementioned acts of terrorism, and from potential future sabotage or other

subversive acts, accidents, or other causes of a similar nature.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard has not yet determined whether this proposal will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses and 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 is not presently able to certify under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities. However, given the continued risk and potential damage to the national security interests of the United States, in addition to the need to protect and safeguard innocent civilians within and near the port, it is necessary to implement this regulation before said analysis may be fully accomplished. Maritime advisories will be initiated by normal methods and means and will be widely available to users of the area.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please call Lieutenant Commander P.J. Maguire, Marine Safety Office Long Island Sound, at (203) 468–4401. 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 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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

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 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.

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–153 to read as follows:

§ 165.T01–153 Regulated Navigation Area: Long Island Sound Marine Inspection and Captain of the Port Zone.

(a) *Regulated navigation area location.* All waters of the Long Island Sound Marine Inspection and Captain of the Port Zone, as delineated in 33 CFR 3.05–35, extending seaward to a line 12 nautical miles from the territorial sea baseline, are established as a regulated navigation area (RNA).

(b) *Applicability.* This section applies to all vessels operating within the RNA, except the following:

(1) Recreational vessels;

(2) Vessels operating exclusively within the Marine Inspection and Captain of the Port Zone;

(3) Vessels on a single voyage which depart from and return to the same port or place within the RNA;

(4) U.S. flagged public vessels; and

(5) Primary towing vessels engaged in towing tank barges carrying petroleum oil in bulk as cargo and issuing the securité calls required under 33 CFR 165.100(d)(2).

(c) *Effective dates.* This section is effective from December 10, 2001 until June 15, 2002.

(d) *Regulations.* (1) Speed restrictions in vicinity of Naval Submarine Base New London and Lower Thames River. Vessels of 300 gross tons or more may not proceed at a speed over eight knots in the Thames River from New London Harbor channel buoys 7 and 8 (Light List numbers 21875 and 21880 respectively) north through the upper limit of the Naval Submarine Base New London Restricted Area, as specified in 33 CFR 334.75(a). All vessels less than 300 gross tons are exempt from this rule. This speed restriction does not apply to public vessels as defined in 33 U.S.C. 1321(a)(4). The U.S. Navy and other Federal, State and municipal agencies may assist the U.S. Coast Guard in the enforcement of this rule.

(2) All inbound vessels operating within the RNA must be inspected to the satisfaction of the United States Coast Guard and must obtain authorization from the Captain of the Port before crossing the line three nautical miles from the territorial sea baseline.

(3) Vessels awaiting inspection or Captain of the Port authorization to enter within the three nautical mile line will be directed to anchor in a specific location within the Regulated Navigation Area.

(4) Vessels over 1,600 gross tons operating in the RNA within the line extending seaward three nautical miles from the territorial sea baseline must receive authorization from the Captain of the Port prior to any vessel movements.

3. Add temporary § 165.T01–154 to read as follows:

§ 165.T01–154 Safety and Security Zones: Long Island Sound Marine Inspection Zone and Captain of the Port Zone.

(a) *Safety and security zones.* The following are established as safety and security zones:

(1) *Safety and Security Zone A*: The waters of Long Island Sound south, east and west of the Millstone Power Plant within a seven hundred (700) yard radius of the stack at Millstone, Lat. 41°18′34″ North, Long. 72°9′57″ West (NAD 83).

(2) *Safety and Security Zone B.* U. S. Coast Guard vessels: All waters within a 100-yard radius of any anchored U. S. Coast Guard vessel.

(b) *Effective date.* This section is effective from December 10, 2001 until June 15, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 and 165.33 apply.

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

Dated: December 10, 2001.

G. N. Naccara,

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

[FR Doc. 02–160 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 011108271–1271–01]

RIN 0651–AB44

Revision of the Time Limit for National Stage Commencement in the United States for Patent Cooperation Treaty Applications

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office) is revising the rules of practice relating to applications filed under the Patent Cooperation Treaty (PCT). This rule modifies the Office's rules of practice to comply with an amendment to the PCT. The changes in this rule specifically involve revising the rules of practice consistent with the change to the PCT to have a single time limit for national stage commencement for applications filed under the PCT, regardless of whether the applicant filed a Demand for an international preliminary examination.

DATES: *Effective Date:* April 1, 2002.

Applicability Date: The changes in this final rule apply to any international (PCT) application in which the twenty-month period from the priority date expires on or after April 1, 2002, and in which the applicant has not yet entered the national stage as defined in 37 CFR 1.491(b) by April 1, 2002.

FOR FURTHER INFORMATION CONTACT: Charles A. Pearson, Director, Office of PCT Legal Administration, by telephone at (703) 306–4145, or Boris Milef, Legal Examiner, Office of PCT Legal Administration, by telephone at (703) 308–3659, or by mail addressed to: Box PCT—Patents, Commissioner for Patents, Washington, D.C. 20231, or by facsimile to (703) 308–6459, marked to the attention of Boris Milef.

SUPPLEMENTARY INFORMATION: During a September-October 2001 meeting of the Governing Bodies of the World Intellectual Property Organization (WIPO), the PCT Assembly adopted an amendment to the PCT Article 22. Specifically, PCT Article 22 was amended to change its time limit for entering the national stage of twenty months from the priority date of the PCT application to a time limit of thirty months from the priority date of the PCT application. *See* PCT Article 47 (allows the time limits fixed in PCT Chapters I and II to be modified by a decision of the Contracting States through the PCT Assembly, subject to certain conditions). This amendment to PCT Article 22 takes effect on April 1, 2002.

With this amendment to PCT Article 22, the time limit under PCT Article 22 and the time limit under PCT Article 39 will be the same: thirty months from the priority date of the PCT application. Thus, the PCT will provide a single time period for national stage commencement for PCT applications, regardless of whether the applicant filed a Demand for an international preliminary examination. Therefore, applicants will no longer be required to file a Demand for an international preliminary examination under PCT Article 31 (and pay the international preliminary examination fees under 37 CFR 1.482) in order to delay commencement of the national stage until thirty months from the priority date. An applicant's decision whether to file a Demand under PCT Article 31 may be based upon whether the applicant wants an international preliminary examination report, and not upon whether the applicant wants to delay commencement of the national stage until thirty months from the priority date.

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, Part 1, is amended as follows:

Section 1.8: Section 1.8(a)(2)(i)(F) is amended to eliminate its reference to § 1.494 (which is removed and reserved).

Section 1.14: Section 1.14(d)(4) is amended to eliminate its reference to § 1.494 (which is removed and reserved).

Section 1.25: Section 1.25(b) is amended to eliminate its reference to § 1.494 (which is removed and reserved). Section 1.25 is also amended to place the sentence ''[a]n authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee'' at the end of the paragraph because that provision is applicable to all of the charges provided for in § 1.25(b).

Section 1.41: Section 1.41(a)(4) is amended to state that the inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, and to indicate that the inventorship set forth in the international application includes any change effected under PCT Rule 92*bis*. Section 1.41(a)(4) is also amended to refer to § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any declaration filed under PCT Rule 4.17(iv).

Section 1.48: Section 1.48(f)(1) is amended to change ''enter the national stage under 35 U.S.C. 371 and § 1.494 or § 1.495'' to ''enter the national stage under 35 U.S.C. 371'' (§ 1.494 is removed and reserved).

Section 1.103: Section 1.103(d)(1) is amended to eliminate its reference to § 1.494 (which is removed and reserved).

Section 1.417: Section 1.417 is amended to eliminate its reference to § 1.494 (which is removed and reserved).

Section 1.480: Section 1.480 is amended to remove paragraph (c) and redesignate paragraph (d) as paragraph (c). Former § 1.480(c) is now unnecessary because the provisions of § 1.495 apply regardless of whether a Demand is made prior to the expiration of the nineteenth month from the priority date.

Section 1.491: Section 1.491 is amended to define both commencement of the national stage and entry into the national stage. Because these two events (commencement of the national stage and entry into the national stage) may not take place at the same time, the Office is amending § 1.491 to clarify when each of these two events takes place. Section 1.491(a) incorporates the statutory language contained in 35 U.S.C. 371(b), thus providing that ''[s]ubject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22(1) or (2), or under PCT Article 39(1)(a).'' However, in view of the amendment to PCT Article 22, the time limit under PCT Article 22(1) or (2) is now the same as the time limit under PCT Article 39(1)(a): thirty months from the priority date of the PCT application.

Section 1.491(b) contains the provisions of former § 1.491 amended to eliminate its reference to § 1.494 (which is removed and reserved), and provides that an international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.495.

The Office previously published a temporary rule that amends § 1.491 to define both commencement of the national stage and entry into the national stage in the manner discussed above. *See Timing of National Stage Commencement in the United States for Patent Cooperation Treaty Applications,* 66 FR 45775 (Aug. 30, 2001), 1250 *Off. Gaz. Pat. Office* 147 (Sept. 25, 2001). The Office also published a notice proposing the above change to § 1.491 for public comment. *See Requirements for Claiming the Benefit of Prior-Filed Applications Under Eighteen-Month Publication of Patent Applications,* 66 FR 46409 (Sept. 5, 2001), 1251 *Off. Gaz. Pat. Office* 16 (Oct. 2, 2001). The Office received no comment on the proposed change to § 1.491.

Section 1.492: Sections 1.492(e) and (f) are amended to eliminate their reference to § 1.494 (which is removed and reserved).

Section 1.494: Section 1.494 is removed and reserved. Since the time period for commencement of the national stage in the United States of America will not depend upon whether the applicant has filed a Demand under PCT Article 31, it will no longer be necessary to provide separately in § 1.494 and § 1.495 for the time period for filing the documents and fees required by 35 U.S.C. 371(c) for: (1) Applications in which a Demand under Article 31 has not been filed within nineteen months from the priority date (§ 1.494); and (2) applications in which a Demand under Article 31 has been filed within nineteen months from the priority date (§ 1.495).

Section 1.495: Section 1.495 is amended to be applicable regardless of whether the applicant has filed a Demand under Article 31 within nineteen months from the priority date. Section 1.495 is also amended to eliminate unassociated text in § 1.495(b) and § 1.495(c).

Section 1.497: Sections 1.497(a) and 1.497(c) are amended to eliminate their reference to § 1.494 (which is removed and reserved).

Section 1.497(d) is amended to clarify that if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration that was filed in the application under PCT Rule 4.17(iv) or § 1.497, the requirements of § 1.497(d)(1) through (d)(4) apply only if the inventive entity changed pursuant to PCT Rule 92*bis* is different from the inventive entity identified in any previously filed oath or declaration application under PCT Rule 4.17(iv) or § 1.497. Section 1.497(d) is also amended such that a new oath or declaration is not required under § 1.497(d) unless a new oath or declaration is required by § 1.497(f). Section 1.497(f) is amended to provide that a new oath or declaration under § 1.497 is not required when a change in the inventive entity is effected under PCT Rule 92*bis* after the declaration was executed unless no declaration which sets forth and is executed by the inventive entity as so changed has been filed in the application. Therefore, if a declaration under PCT Rule 4.17(iv) naming and executed by a first inventive entity is followed by a change of inventive entity under PCT Rule 92*bis* and a new declaration under PCT Rule 4.17(iv) naming and executed by the new (second) inventive entity filed in the application, the applicant must comply with the requirements of § 1.497(d) to enter the national stage but a new oath or declaration under § 1.497 is not required because the application contains a declaration under PCT Rule 4.17(iv) setting forth the inventive entity as changed pursuant to PCT Rule 92*bis*.

Classification

Administrative Procedure Act

The changes in this final rule relate solely to Office practices and procedures for patent applications filed under the PCT. Accordingly, this final rule involves rules of agency practice and procedure under 5 U.S.C. 553(b)(A), and may be adopted without prior

notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d). *See Bachow Communications Inc.* v. **FCC,** 237 F.3d 683, 690 (D.C. Cir. 2001). However, the Office did provide notice and an opportunity for comment on the change to § 1.491 in order to obtain the benefit of public comment on this change.

Regulatory Flexibility Act

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. As such, the regulatory flexibility analysis is not required, and none has been provided. *See* 5 U.S.C. 603.

Executive Order 13132

This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866

This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act

This rulemaking involves information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information involved in this rulemaking have been reviewed and previously approved by OMB under the following control numbers 0651–0021, 0651–0031, and 0651–0032. The Office is not resubmitting an information collection package to OMB for its review and approval because the changes in this rulemaking do not affect the information collection requirements associated with the information collections under OMB control numbers 0651–0021, 0651–0031, or 0651–0032.

The title, description and respondent description of the information collections are shown below with an estimate of the annual reporting burdens. Included in the estimates are the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

OMB Number: 0651–0021.

Title: Patent Cooperation Treaty.

Form Numbers: PCT/RO/101, ANNEX/134/144, PTO–1382, PCT/IPEA/401, PCT/IB/328.

Type of Review: Regular submission (approved through December of 2003).

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Federal Agencies or Employees, Not-for-Profit Institutions, Small Businesses or Organizations.

Estimated Number of Respondents: 331,288.

Estimated Time Per Response: Between 15 minutes and 4 hours.

Estimated Total Annual Burden Hours: 401,083.

Needs and Uses: The information collected is required by the Patent Cooperation Treaty (PCT). The general purpose of the PCT is to simplify the filing of patent applications on the same invention in different countries. It provides for a centralized filing procedure and a standardized application format.

OMB Number: 0651–0031.

Title: Patent Processing (Updating).

Form Numbers: PTO/SB/08/21–27/30–32/35–37/42/43/61/62/63/64/67/68/91/92/ 96/97/PTO–2053/PTO–2055.

Type of Review: Regular submission (approved through October of 2002).

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Not-for-Profit Institutions and Federal Government.

Estimated Number of Respondents: 2,247,389.

Estimated Time Per Response: 0.45 hours.

Estimated Total Annual Burden Hours: 1,021,941 hours.

Needs and Uses: During the processing of an application for a patent, the applicant/agent may be required or may desire to submit additional information to the United States Patent and Trademark Office concerning the examination of a specific application. The specific information required or which may be submitted includes: Information Disclosure Statements; Terminal Disclaimers; Petitions to Revive; Express Abandonments; Appeal Notices; Petitions for Access; Powers to Inspect; Certificates of Mailing or Transmission; Statements under § 3.73(b); Amendments; Petitions and their Transmittal Letters; and Deposit Account Order Forms.

OMB Number: 0651–0032.

Title: Initial Patent Application.

Form Number: PTO/SB/01–07/13PCT/17–19/29/101–110.

Type of Review: Regular submission (approved through October of 2002).

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Not-for-Profit Institutions and Federal Government.

Estimated Number of Respondents: 319,350.

Estimated Time Per Response: 9.35 hours.

Estimated Total Annual Burden Hours: 2,984,360 hours.

Needs and Uses: The purpose of this information collection is to permit the Office to determine whether an application meets the criteria set forth in the patent statute and regulations. The standard Fee Transmittal form, New Utility Patent Application Transmittal form, New Design Patent Application Transmittal form, New Plant Patent Application Transmittal form, Declaration, and Plant Patent Application Declaration will assist applicants in complying with the requirements of the patent statute and regulations, and will further assist the Office in the processing and examination of the application.

Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to Robert J. Spar, Director, Office of Patent Legal Administration, United States Patent and Trademark Office, Washington, DC 20231, or to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503, Attention: Desk Officer for the United States Patent and Trademark Office.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

For the reasons set forth in the preamble, 37 CFR Part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Section 1.8 is amended by revising paragraph (a)(2)(i)(F) to read as follows:

§ 1.8 Certificate of mailing or transmission.

(a) * * *

(2) * * *

(i) * * *

(F) The filing of a copy of the international application and the basic national fee necessary to enter the national stage, as specified in § 1.495(b).

* * * * *

3. Section 1.14 is amended by revising paragraph (d)(4) to read as follows:

§ 1.14 Patent applications preserved in confidence.

* * * * *

(d) * * *

(4) A registered attorney or agent named in the papers accompanying the application papers filed under § 1.53 or the national stage documents filed under § 1.495, if an executed oath or declaration pursuant to § 1.63 or § 1.497 has not been filed.

* * * * *

4. Section 1.25 is amended by revising paragraph (b) to read as follows:

§ 1.25 Deposit accounts.

* * * * *

(b) Filing, issue, appeal, international-type search report, international application processing, petition, and post-issuance fees may be charged against these accounts if sufficient funds are on deposit to cover such fees. A general authorization to charge all fees, or only certain fees, set forth in §§ 1.16 to 1.18 to a deposit account containing sufficient funds may be filed in an individual application, either for the entire pendency of the application or with a particular paper filed. An authorization to charge fees under § 1.16 in an international application entering the national stage under 35 U.S.C. 371 will be treated as an authorization to charge fees under § 1.492. An authorization to charge fees set forth in § 1.18 to a deposit account is subject to the provisions of § 1.311(b). An authorization to charge to a deposit account the fee for a request for reexamination pursuant to § 1.510 or § 1.913 and any other fees required in a reexamination proceeding in a patent may also be filed with the request for reexamination. An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

5. Section 1.41 is amended by revising paragraph (a)(4) to read as follows:

§ 1.41 Applicant for patent.

(a) * * *

(4) The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92*bis.* See § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any declaration filed under PCT Rule 4.17(iv) (§ 1.48(f)(1) does not apply to an international application entering the national stage under 35 U.S.C. 371).

* * * * *

6. Section 1.48 is amended by revising paragraph (f)(1) to read as follows:

§ 1.48 Correction of inventorship in a patent application, other than a reissue application, pursuant to 35 U.S.C. 116.

* * * * *

(f)(1) *Nonprovisional application—filing executed oath/declaration corrects inventorship.* If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63 by any of the inventors, the first submission of an executed oath or declaration under § 1.63 by any of the inventors during the pendency of the application will act to correct the earlier identification of inventorship. See §§ 1.41(a)(4) and 1.497(d) and (f) for submission of an executed oath or declaration to enter the national stage under 35 U.S.C. 371 naming an inventive entity different from the inventive entity set forth in the international stage.

* * * * *

7. Section 1.103 is amended by revising paragraph (d)(1) to read as follows:

§ 1.103 Suspension of action by the Office.

* * * * *

(d) * * *

(1) The application is an original utility or plant application filed under § 1.53(b) or resulting from entry of an international application into the national stage after compliance with § 1.495;

* * * * *

8. Section 1.417 is revised to read as follows:

§ 1.417 Submission of translation of international publication.

The submission of the international publication or an English language translation of an international application pursuant to 35 U.S.C. 154(d)(4) must clearly identify the international application to which it pertains (§ 1.5(a)) and, unless it is being submitted pursuant to § 1.495, be clearly identified as a submission pursuant to 35 U.S.C. 154(d)(4). Otherwise, the submission will be treated as a filing under 35 U.S.C. 111(a). Such submissions should be marked ''Box PCT.''

9. Section 1.480 is amended by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

10. Section 1.491 is revised to read as follows:

§ 1.491. National stage commencement and entry.

(a) Subject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22 (1) or (2), or under PCT Article 39(1)(a).

(b) An international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.495.

11. Section 1.492 is amended by revising paragraphs (e) and (f) to read as follows:

§ 1.492 National stage fees.

* * * * *

(e) Surcharge for filing the oath or declaration later than thirty months from the priority date pursuant to § 1.495(c):

By a small entity (§ 1.27(a))	$65.00
By other than a small entity	130.00

(f) For filing an English translation of an international application or of any annexes to an international preliminary examination report later than thirty months after the priority date (§ 1.495(c) and (e))..... $130.00.

* * * * *

12. Section 1.494 is removed and reserved.

§ 1.494 [Removed and Reserved]

13. Section 1.495 is amended by revising the section heading and by revising paragraphs (a) through (e) and (h) to read as follows:

§ 1.495 Entering the national stage in the United States of America.

(a) The applicant in an international application must fulfill the requirements of 35 U.S.C. 371 within the time periods set forth in paragraphs (b) and (c) of this section in order to prevent the abandonment of the international application as to the United States of America. The thirty-month time period set forth in paragraphs (b), (c), (d), (e) and (h) of this section may not be extended. International applications for which those requirements are timely fulfilled will enter the national stage and obtain an examination as to the patentability of the invention in the United States of America.

(b) To avoid abandonment of the application, the applicant shall furnish to the United States Patent and Trademark Office not later than the expiration of thirty months from the priority date:

(1) A copy of the international application, unless it has been previously communicated by the International Bureau or unless it was originally filed in the United States Patent and Trademark Office; and

(2) The basic national fee (see § 1.492(a)).

(c) If applicant complies with paragraph (b) of this section before expiration of thirty months from the priority date but omits either a translation of the international application, as filed, into the English language, if it was originally filed in another language (35 U.S.C. 371(c)(2)), or the oath or declaration of the inventor (35 U.S.C. 371(c)(4) and § 1.497), if a declaration of inventorship in compliance with § 1.497 has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26*ter*.1, applicant will be so notified and given a period of time within which to file the translation and/or oath or declaration in order to prevent abandonment of the application. The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of thirty months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of thirty months after the priority date. A ''Sequence Listing'' need not be translated if the ''Sequence Listing'' complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b).

(d) A copy of any amendments to the claims made under PCT Article 19, and a translation of those amendments into English, if they were made in another language, must be furnished not later than the expiration of thirty months from the priority date. Amendments under PCT Article 19 which are not received by the expiration of thirty months from the priority date will be considered to be canceled.

(e) A translation into English of any annexes to an international preliminary examination report (if applicable), if the annexes were made in another language, must be furnished not later than the expiration of thirty months from the priority date. Translations of the annexes which are not received by the expiration of thirty months from the priority date may be submitted within any period set pursuant to paragraph (c) of this section accompanied by the processing fee set forth in § 1.492(f). Annexes for which translations are not timely received will be considered canceled.

* * * * *

(h) An international application becomes abandoned as to the United States thirty months from the priority date if the requirements of paragraph (b) of this section have not been complied with within thirty months from the priority date. If the requirements of paragraph (b) of this section are complied with within thirty months from the priority date but either of any required translation of the international application as filed or the oath or declaration are not timely filed, an international application will become abandoned as to the United States upon expiration of the time period set pursuant to paragraph (c) of this section.

14. Section 1.497 is amended by revising the introductory text of paragraph (a) and paragraphs (c), (d) and (f) to read as follows:

§ 1.497 Oath or declaration under 35 U.S.C. 371(c)(4).

(a) When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to § 1.495, and a declaration in compliance with this section has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26*ter*.1, he or she must file an oath or declaration that:

* * * * *

(c) Subject to paragraph (f) of this section, if the oath or declaration meets the requirements of paragraphs (a) and (b) of this section, the oath or declaration will be accepted as complying with 35 U.S.C. 371(c)(4) and § 1.495(c). However, if the oath or declaration does not also meet the requirements of § 1.63, a supplemental oath or declaration in compliance with § 1.63 or an application date sheet will be required in accordance with § 1.67.

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(i);

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter); and

(4) Any new oath or declaration required by paragraph (f) of this section.

* * * * *

(f) A new oath or declaration in accordance with this section must be filed to satisfy 35 U.S.C. 371(c)(4) if the declaration was filed under PCT Rule 4.17(iv), and:

(1) There was a change in the international filing date pursuant to PCT Rule 20.2 after the declaration was executed; or

(2) A change in the inventive entity was effected under PCT Rule 92*bis* after the declaration was executed and no declaration which sets forth and is executed by the inventive entity as so changed has been filed in the application.

* * * * *

Dated: December 27, 2001.

James E. Rogan,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 02–157 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–16–P

Rules and Regulations

Federal Register
Vol. 67, No. 3
Friday, January 4, 2002

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

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AG51

Tobacco Marketing Quotas, Acreage Allotments and Production Adjustment

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Direct final rule.

SUMMARY: This rule will amend the Commodity Credit Corporation's tobacco marketing quota regulations at 7 CFR part 1464 to require burley tobacco producers to designate where they will sell their tobacco in order to qualify for price support and marketing cards. Currently only flue-cured tobacco producers, as a condition of price-support, must designate where they will market their tobacco. This ''Grower Designation Program'' is necessary because an increasing percentage of the burley tobacco being grown in the United States is being marketed directly to manufacturers or outside of traditional auction warehouses monitored by the Agency. These amendments will provide warehouse operators, the USDA, Agriculture Marketing Service (AMS) and others more complete and accurate information when planning for a tobacco auction marketing year.

DATES: This rule is effective February 4, 2002 without further action, unless adverse comment is received by January 22, 2002. If adverse comment is received, FSA will publish a timely withdrawal of the rule in the **Federal Register**. Comments concerning the information collection must be submitted by March 5, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to Director, Tobacco and Peanuts Division, FSA, USDA, 1400 Independence Avenue, SW, room 5750–S, STOP 0514, Washington, DC 20250–0514; Fax: (202) 690–2298. All comments will be made available for public inspection in the Office of the Director during regular business hours.

FOR FURTHER INFORMATION CONTACT: Misty Jones, Agricultural Program Specialist, Tobacco and Peanuts Division, United States Department of Agriculture (USDA), 1400 Independence Avenue, SW, STOP 0514, Washington, DC 20250–0514, telephone (202) 720–0200.

SUPPLEMENTARY INFORMATION:

Basis for Direct Final Rule

The burley tobacco market location intention information is necessary to promote, foster, and maintain an orderly marketing of burley tobacco in a swiftly changing market environment. Historically, 99 percent of all burley tobacco has been marketed at auction warehouses where the tobacco has been graded by AMS personnel where price-support has been offered.

However, between the 2000 marketing season and the current, 2001 marketing season, FSA predicts that as much as 80 percent of the 2001 crop of burley tobacco will not be sold at auction warehouses, based on the amount of flue-cured tobacco (the second major cigarette-producing tobacco) that was sold in this manner in 2001.

In the 2000 marketing year, only one major buying company offered direct contracts through a pilot program to burley tobacco producers. In late spring of 2001, it became known that all the major buying companies were intending to offer direct contracts to burley tobacco producers for the 2001 marketing year. In May 2001, FSA received designation numbers for flue-cured tobacco, which has had a designation program in place since 1974, that showed 79 percent of the crop would be sold through non-auction contracts and bypass the traditional auction market system; therefore, we believe a comparable percentage of burley tobacco will be sold non-auction.

Without the collection of designation information for burley tobacco, FSA will not know where the tobacco will be sold or how many pounds will be sold outside the traditional auction market system. Warehouse operators who, in the past, have handled almost all of any year's crop, will not have the information needed to keep their businesses open, and AMS will not know how to schedule the grading of burley tobacco. Farmers who wish to remain with the auction system will need to know which warehouses will still be open for auction marketing of their tobacco.

Currently, AMS policy bases sales time for burley warehouses on the previous 3 years volume of sales at individual warehouses. Due to the increase in direct contracting for 2001, AMS needs to know how this will change the volume of tobacco that will be available at the various warehouses.

Because of the recent high volume of direct contract purchases, the current manner of determining sales time no longer appears to be feasible. Thus, it is necessary to collect marketing intention information on burley tobacco farms. This is not a major departure from past policy since marketing-intention information has been collected on flue-cured tobacco farms for over twenty years. USDA is concerned that large quantities of ''direct sales'' could be disruptive to the orderly process of marketing burley tobacco. The ''Grower Designation Program'' will sustain orderly marketing of the 2001 burley tobacco crop. The Grower Designation Program'' will track market volumes and thereby enable AMS to adjust its workforce and provide information to warehouse operators, receiving station officials and dealers for the 2001 marketing season.

This rule contains no controversial provisions and based on discussions with tobacco producers and industry representatives FSA anticipates no adverse comments. Accordingly, this rule will be effective as a final rule 30 days after filing for public inspection with the Office of the Federal Register unless there are adverse comments. If adverse comments are received, this rule will be withdrawn and will not become effective. In that case, this program will be implemented with a proposed and final rule. To expedite rulemaking in case this direct final rule is withdrawn, a separate proposed rule is being published in this issue of the **Federal Register** and will become the operative document for a regular final rule. Adverse comments received for this direct final rule will be considered

with the comments received in response to the proposed rule.

Executive Order 12866

This rule is issued in conformance with Executive Order 12866, has been determined to be significant, and was reviewed by OMB.

Regulatory Flexibility Act

FSA certifies that this rule will not have a significant economic impact on a substantial number of small entities. The basis for this is that, through its extensive contacts with burley tobacco growers and warehouses, FSA found no significant objections to this action.

Federal Assistance Programs

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.0514.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) established requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments or the private sector. This rule contains no Federal mandates, as defined in Title II of the UMRA, for State, local and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

FSA has received emergency approval of the information collections associated with this rule. It has been assigned OMB Control Number 0560–0217. The Agency intends to publish a notice requesting comments on these collections and will submit a regular request for approval to OMB.

Background

Currently, AMS, working with local trade boards or with tobacco warehouse associations, schedules the days on which auction sales are to take place at designated auction markets, equitably distributing sales opportunity among the warehouses based on floor space, performance, or both.

Because of the recent high volume of direct contract purchases, the current manner of determining sales time no longer appears to be feasible. It is necessary to collect marketing-intention information on burley tobacco in the same manner that marketing-intention information has been collected on flue-cured tobacco since 1974. Therefore, in order to implement a successful burley tobacco designation program, producers were allowed to designate pounds to specific warehouses beginning June 1, 2001, as recommended by the Burley Tobacco Advisory Committee (Committee).

The 39-member Committee was established by the Secretary in 1990 to provide information essential to the orderly marketing of burley tobacco. At a meeting in June 2000, the Committee passed a motion that would affect the method of determining the number of days on which auction sales would be allowed to take place at each tobacco auction warehouse. The Committee's motion, to establish a Grower Designation Program for burley tobacco similar to the long standing Flue-cured Tobacco Warehouse Designation Program followed an announcement in early 2000 by a major cigarette manufacturer that it would contract with burley tobacco growers to buy tobacco directly from them at central buying points known as receiving stations, essentially acting as a dealer and bypassing the traditional auction market system.

The Flue-cured Tobacco Warehouse Designation Program requires that each flue-cured farm operator designate the warehouse(s) to which that farm's tobacco will be presented for sale and the number of pounds of tobacco that will be marketed at each designated location. Such designations provide information vital to the equitable scheduling among warehouses of the day(s) on which each location can hold an auction sale and the number of pounds that can be sold on each of those scheduled days. This information also allows AMS to schedule personnel to grade such tobacco when it is presented for sale. Designation is a condition of price support eligibility for flue-cured tobacco growers.

For the 2000 marketing year FSA had no advance information regarding the volume of burley tobacco that individual burley growers had placed under private contract with the buying company because such information was contained in individual and private contracts between grower and company. Thus, FSA did not know how much tobacco would bypass the traditional auction warehouse market system.

The buying company announced early in 2001 that it would dramatically expand its direct purchase program. It would contract to purchase both burley and flue-cured tobacco rather than just burley; and it would purchase these kinds of tobacco from receiving stations in Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee and Virginia rather than just Kentucky and Tennessee.

Seven other leaf-buying companies followed this announcement with announcements of their own. They, too, would contract with individual burley and flue-cured tobacco growers to buy their crops direct. Currently, there are eight companies with stated intentions of buying both burley and flue-cured tobacco at 72 established receiving stations in seven states.

On May 7, 2001, following the close of the flue-cured initial designation period, FSA received a report that predicted a need for a major information collection effort regarding burley tobacco: seventy-nine percent of the 2001 flue-cured tobacco available for sale has been designated to receiving stations.

FSA judges that a comparable percentage of burley will be sold during 2001 at receiving stations. However, with no designation program in place there is no way to collect the information that is vital to the industry, to the warehouses where burley tobacco has historically been marketed, and to USDA. In particular, AMS will be immediately adversely impacted by the lack of such data. From the historic 1 percent of sales that occurred outside the auction market system, much of the 2001 burley tobacco crop is likely to be sold in this manner. This is a sudden change in only one market season. FSA discerned the breadth of this change after the designation figures were collected from 2001 crop flue-cured growers and determined that this rule was immediately necessary for burley.

All eligible burley tobacco growers may avail themselves of the auction market system. However, only the growers/sellers and buyers involved in non-auction sale and purchase transactions know the amount of tobacco that will be involved in these

private transactions. Without a burley designation program in place neither the buying companies, AMS, nor the warehouses will have any information concerning how much tobacco will be available for sale by auction because they will not have information about what tobacco won't be available for sale by auction.

USDA is concerned with the effects that large quantities of direct sales could have on the orderly process of marketing burley tobacco. The burley tobacco Grower Designation Program will track market volumes and thereby enable AMS to target its workforce.

FSA began collecting data through burley designations from growers voluntarily on June 1, 2001 in order to have data for planning the warehouse system needs prior to September 1, 2001. Although burley farmers may wait until the effective date of this rule to submit their information, they are encouraged to report now to facilitate the marketing of their crops. They may make changes during scheduled redesignation periods.

List of Subjects in 7 CFR Part 1464

Imports, Tobacco.

Accordingly, 7 CFR part 1464 is amended as follows:

PART 1464—TOBACCO

1. The authority citation for part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1; 1445–2; 15 U.S.C. 714b, 714c; Pub. L. 106–78, Pub. L. 106–113, Stat. 1135 and Pub. L. 106–224.

2. Revise § 1464.2 (b)(2) introductory text, (b)(2)(ii), (b)(2)(iii), (b)(2)(iv), (b)(2)(v) and (b)(2)(vii) to read as follows:

§ 1464.2 Availability of price support.

* * * * *

(b) * * *

(2) *Special requirements for flue-cured and burley tobacco.* Price support will be available only on flue-cured and burley tobacco that has been designated for sale at specific warehouses by the producer under the following conditions:

* * * * *

(ii) *Producer designation of warehouses.* Producers will be required, as a condition of price support, to designate the warehouses at which they will market their tobacco.

(A) For flue-cured tobacco such designations may be at any warehouse or warehouses in any market within a radius of 100 miles from the county seat of the county in which the farm is located, or if such farm is physically within two counties, then from the county seat of the county in which the county FSA office administering that farm is located. To the extent there are less than eight markets within such radius, any warehouse or warehouses in any of the eight markets nearest to the county seat may be designated. A producer may obtain price support only in a warehouse which the producer has designated, and at each such warehouse only with respect to the quantity of tobacco designated for sale at such warehouse.

(B) For burley tobacco such designations may be at any warehouse or warehouses in any burley market.

(iii) *When producer designations shall be made.* Producers must designate the warehouse(s) at which they will market their tobacco during a period that shall be announced beforehand by the local county FSA office. Unless extended by the Deputy Administrator, the period for making designations shall be before May 31 each year for flue-cured tobacco and August 31 each year for burley tobacco. Producers who lease quota or whose farm is reconstituted (the combining or dividing of a farm due to a change in operation) after such period may designate the warehouse(s) at which their tobacco will be marketed according to procedures to be established by the Deputy Administrator, Farm Programs, FSA. Producers who have designated warehouses that cease to operate or cease to have tobacco inspection or price support available may change their designations at any time after such occurrences. Producers who have designated warehouses whose inspection services have been temporarily suspended for any reason for the equivalent of at least one sales day may change their designation at any time after such occurrences. Redesignation (changes in warehouse(s) designated or in pounds designated to a warehouse) or designations for farms that have not previously designated tobacco may be made by producers during the five business days ending on the first Friday of each month during the flue-cured or burley, as applicable, tobacco marketing season. Such redesignation or initial designation shall be made on any one day of each redesignation period. Such redesignation or initial designation shall be effective on the second Monday following the Friday on which the redesignation period ends.

(iv) *Form and content of designations.* For flue-cured tobacco a designation shall be made for each warehouse at which a producer desires to market tobacco by executing a form provided by the county FSA office. The producer will be required to indicate on such form the name of the warehouse or warehouses designated by the producer and the pounds of flue-cured tobacco the producer desires to sell at such warehouse as well as any other information required to be stated on such form. For burley tobacco a designation shall be made for each warehouse, receiving station or dealer at which a producer desires to market tobacco by executing a form provided by the county FSA office. The producer will be required to indicate on such form the name of the warehouse(s), receiving station(s) or dealer(s) designated by the producer and the pounds of burley tobacco the producer desires to sell at such warehouse, receiving station or dealer as well as any other information required to be stated on such form.

(v) *Entering designation information.* For flue-cured tobacco, the warehouse code number of the warehouse the producer has designated will be indicated on the farm marketing card. For burley tobacco, the warehouse, receiving station, or dealer code number of the warehouse, receiving station or dealer the producer has designated will be indicated on the farm marketing card. If an effective date is determined in accordance with paragraph (b)(2)(iii) of this section, such effective date will be shown on the farm marketing card. For flue-cured tobacco, if the producer has not designated a warehouse, a warehouse code will not be shown on the marketing card. Changes in designation by the producer shall be accomplished by the producer returning the marketing card to the county FSA office and requesting the transfer of any unmarketed pounds of flue-cured or burley tobacco shown on any marketing card to another eligible warehouse, receiving station or dealer, if applicable.

* * * * *

(vii) *Availability of designation information.* Each county FSA office shall send designations received to the Flue-Cured Tobacco Cooperative Stabilization Corporation, Raleigh, North Carolina for flue-cured tobacco, Burley Tobacco Growers Cooperative Association, Lexington, Kentucky and Burley Stabilization Corporation, Knoxville, Tennessee for burley tobacco, following each designation period and each period for changing designations. That association(s) shall inform the Flue-Cured Tobacco Advisory Committee or the Burley Tobacco Advisory Committee, as applicable, of the pounds designated to each

warehouse and the pounds of any undesignated or non-auction tobacco that, for the purpose of recommending opening dates and selling schedules in accordance with part 29 of this title, is available for apportioning for sale at each warehouse. That association also shall furnish each warehouse the name and address of the producers who designated the warehouse, the pounds each designated and the pounds that represent 103 percent of the marketing quota of each such producer. The Director, Tobacco and Peanuts Division, shall furnish each receiving station the name and address of the producers who designated the receiving station, the pounds each designated and the pounds that represent 103 percent of the marketing quota of each such producer.

* * * * *

3. Revise § 1464.7(d) to read as follows:

§ 1464.7 Eligible producer.

* * * * *

(d) In addition to meeting all other requirements that apply elsewhere, including (but not limited to) the warehouse designation provisions of § 1464.2, must not be ineligible, in accordance with part 1400 of this title, to receive price support payments, loans and benefits.

* * * * *

4. Revise § 1464.10(i)(1)(i), (i)(2) and (i)(3)(i) to read as follows:

§ 1464.10 No-net-cost tobacco fund or account.

* * * * *

(i) * * *

(1) * * *

(i) From any dealer, receiving station official or warehouse operator who acquired the tobacco involved from the producer; or

* * * * *

(2) A dealer, receiving station official or warehouse operator may deduct the amount of any producer contribution or assessment from the price paid to the producer for such tobacco.

(3) * * *

(i) From the dealer, receiving station official or warehouse operator who acquired the tobacco involved from the producer; or

* * * * *

Signed at Washington, DC, on December 21, 2001.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02–185 Filed 1–3–02; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1721

RIN 0572–AB60

Extensions of Payments of Principal and Interest

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is adding procedures and conditions under which Borrowers may request extensions of the payment of principal and interest. These procedures and conditions are stated in RUS Bulletin 20–5:320–2, Extensions of Payments of Principal and Interest, dated May 10, 1972, and RUS Bulletin 20–23, Section 12 Extensions for Energy Resources Conservation Loans, dated December 8, 1980; however, these procedures and conditions were not codified in the Code of Federal Regulations. This regulation will set forth procedures and conditions under which Borrowers may request extensions of principal and interest. RUS will rescind upon the effective date of this regulation RUS Bulletin 20–5:320–2, and RUS Bulletin 20–23.

DATES: This rule will become effective on February 4, 2002.

FOR FURTHER INFORMATION CONTACT: Gail P. Salgado, Management Analyst, U.S. Department of Agriculture, Rural Utilities Service, Electric Program, Room 4023 South Building, Stop 1560, 1400 Independence Avenue, SW., Washington, DC 20250–1560. Telephone: 202–205–3660.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, (1) all State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeals procedures, if any are required, must be exhausted prior to initiating an action against the Department or its agencies.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS electric program provides loans and loan guarantees to Borrowers at interest rates and on terms that are more favorable than those generally available from the private sector. RUS Borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in this rule have been approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0572–0123.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provisions of title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under number 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372,

Intergovernmental Consultation, which may require consultation with state and local officials. See the final rule related notice entitled ''Department Programs and Activities Excluded from Executive Order 12372'' (50 FR 47034) advising that RUS loans and loan guarantees are not covered by Executive Order 12372.

Background

On January 9, 2001, at 66 FR 1604, the Rural Utilities Service (RUS) published a proposed rule, 7 CFR part 1721—Extensions of Payments of Principal and Interest, which proposed adding procedures and conditions under which Borrowers may request extensions of the payment of principal and interest. These procedures and conditions are stated in RUS Bulletin 20–5:320–2, Extensions of Payments of Principal and Interest, dated May 10, 1972, and RUS Bulletin 20–23, Section 12 Extensions for Energy Resources Conservation Loans, dated December 8, 1980; however, these procedures and conditions were not codified in the Code of Federal Regulations. This final rule will set forth procedures and conditions under which Borrowers may request extensions of principal and interest. RUS will rescind upon the effective date of this regulation RUS Bulletin 20–5:320–2, and RUS Bulletin 20–23.

Written comments on the proposed rule were received and they are summarized as follows:

RUS received comments dated March 8, 2001, from the National Rural Electric Cooperative Association (NRECA), Oregon Rural Electric Cooperative Association (ORECA), and Harney Electric Cooperative, Inc. (HEC). The three cooperatives suggested that the language in § 1721.104(a)(2) be revised to reflect that the factors for determining qualifications for deferment of RUS loan payments listed not be inclusive, but only examples of the kinds of factors RUS should consider. RUS agrees with this comment and has made the change to the final rule wording under § 1721.104(a)(2).

In addition, NRECA commented on:

Section 1721.104(a)(2)(iv) Need to substantially upgrade a Borrower's system to bring it into compliance with the National Electric Safety Code (NESC).

NRECA states it is unclear as to the appropriateness of this factor since it is inconsistent with other RUS practices. Current RUS practices require annual certifications and assurances at loan application that systems are being properly maintained. RUS is in agreement with NRECA's comment. RUS requires and borrowers conform to annual certifications and assurances that systems are being properly operated and maintained, and these assurances include conformance to NESC provisions. RUS has removed § 1721.104(a)(2) from this final rule.

Section 1721.104(b) Deferments for energy resource conservation (ERC) loans.

NRECA states it is unclear to what extent this proposal is significantly different from the existing RUS Bulletin 20–23, dated December 8, 1980, which is being amended and codified through this regulation. As codified, the terms for ERC deferments contain fewer restrictions and limitations on the terms for the corresponding ERC loans between the Borrower and its members. Generally speaking, the terms of such loans will now be left to the discretion of the Borrower's management. RUS Bulletin 20–23, section 12, Extensions for Energy Resource Conservation Loans, dated December 8, 1980, will be rescinded upon publication of this final rule.

Section 1721.104(d)(2) Deferments for contributions-in-aid of construction.

NRECA states that it is unclear whether the calculation methodology of construction costs would be made without regard to contribution-in-aid of construction (CIAC). Should construction costs be calculated net of CIAC, a Borrower's line extension policy would have a significant impact on the eligible amount available for deferments. RUS agrees and the final rule wording has been changed to clarify the calculation methodology.

Other—Deferments for distributed generation projects. NRECA recommends RUS consider allowing a Borrower to defer principal payments to finance properly coordinated distributed generation projects. RUS has taken this comment under advisement and will consider whether to publish a proposed rule which would include deferments for certain distributed generation projects.

Additionally, under § 1721.103(d) RUS is clarifying that the maturity date of any such loan does not extend to a date beyond forty (40) years from the date of the note (not the date of the loan as indicated in the proposed rule).

List of Subjects in 7 CFR Part 1721

Electric power, Loan programs—energy, Rural areas.

For the reasons set forth in the preamble, RUS amends 7 CFR chapter XVII, part 1721 as follows:

PART 1721—POST LOAN POLICIES AND PROCEDURES FOR INSURED ELECTRIC LOANS

1. The authority citation for part 1721 continues to read:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, and 6941 *et seq.*

2. Add subpart B to read as follows:

Subpart B—Extensions of Payments of Principal and Interest

Sec.

1721.100 Purpose.
1721.101 General.
1721.102 Definitions.
1721.103 Policy.
1721.104 Eligible purposes.
1721.105 Application documents.
1721.106 Repayment of deferred payments.
1721.107 Agreement.
1721.108 Commencement of the deferment.
1721.109 OMB Control Number.

Subpart B—Extensions of Payments of Principal and Interest

§ 1721.100 Purpose.

This subpart contains RUS procedures and conditions under which Borrowers of loans made by RUS may request RUS approval for extensions for the payment of principal and interest.

§ 1721.101 General.

(a) The procedures in this subpart are intended to provide Borrowers with the flexibility to request an extension of principal and interest as authorized under section 12(a) of the RE Act and section 236 of the Disaster Relief Act of 1970 (Public Law 91–606).

(b) The total amount of principal and interest that has been deferred, including interest on deferred principal, will be added to the principal balance, and the total amount of principal and interest that has been deferred will be reamortized, through level payment, over the remaining life of the applicable note beginning in the first year the deferral period ends.

(c) Payment of principal and interest will not be extended more than 5 years after such payment is due as originally scheduled. However, in cases where the extension is being granted because, at the sole discretion of the Administrator, a severe hardship has been experienced, the Administrator may grant a longer extension provided that the maturity date of any such loan does not extend to a date beyond forty (40) years from the date of the note.

§ 1721.102 Definitions.

The definitions contained in 7 CFR 1710.2 are applicable to this subpart unless otherwise stated.

§ 1721.103 Policy.

(a) In reviewing requests for extension of payment of principal and interest, consideration shall be given to the effect of such extensions on the security of the Government's loans, and on the ability of the Borrower to achieve program objectives. It is the policy of RUS to extend the time for payment of principal and interest on the basis of findings that such extension does not impair the security and feasibility of the Government's loans and:

(1) Is essential to the effectiveness of the Borrower's operations in achieving RUS program objectives which include providing reliable, affordable electricity to RE Act beneficiaries;

(2) Is necessary to help a Borrower place its operations on a more stable financial basis and thereby provide assurance of repayment of loans within the time when payments of such loans are due under the terms of the note or notes as extended; or

(3) Is otherwise in the best interest of the Government.

(b) Extensions will be given in the minimum amount to achieve the purpose of the extension.

§ 1721.104 Eligible purposes.

(a) *Deferments for financial hardship.* (1) In cases of financial hardship, a Borrower may request that RUS defer principal or interest or both. RUS will consider whether the deferral will help a Borrower place its operations on a more stable financial basis and thereby provide assurance of repayment of loans within the time when payment of such loans are due under the terms of the note or notes as extended.

(2) RUS will determine whether a Borrower qualifies for the deferment on a case-by-case basis, considering such factors as the following:

(i) Substantial unreimbursed or uninsured expenses relating to storm damage;

(ii) Loss of large power load (as defined in § 1710.7(c)(6)(ii) of this chapter, Large retail power contracts); or

(iii) Substantial loss of consumers or load due to hostile annexations and condemnations, without adequate compensation.

(b) *Deferments for energy resource conservation (ERC) loans.*

(1) A Borrower may request that RUS defer principal payments to make funds available to the Borrower's consumers to conserve energy. Amounts deferred under this program can be used to cover the cost of labor and materials for the following energy conservation measures:

(i) Caulking;

(ii) Weather-stripping;

(iii) Heat pump systems (including water source heat pumps);

(iv) Heat pumps, water heaters, and central heating or central air conditioning system replacements or modifications, which reduce energy consumption;

(v) Ceiling insulation;

(vi) Wall insulation;

(vii) Floor insulation;

(viii) Duct insulation;

(ix) Pipe insulation;

(x) Water heater insulation;

(xi) Storm windows;

(xii) Thermal windows;

(xiii) Storm or thermal doors;

(xiv) Electric system coordinated customer-owned devices that reduce the maximum kilowatt demand on the electric system;

(xv) Clock thermostats; or

(xvi) Attic ventilation fans.

(2) ERC loans will be amortized over not more than 84 months, without penalty for prepayment of principal.

(c) *Deferments for renewable energy projects.* (1) A Borrower may request that RUS defer principal payments to enable the Borrower to finance renewable energy projects. Amounts deferred under this program can be used to cover costs to install all or part of a renewable energy system including, without limitation:

(i) Energy conversion technology;

(ii) Electric system interface;

(iii) Delivery equipment;

(iv) Control equipment; and

(v) Energy consuming devices.

(2) A Borrower may request that RUS defer principal payments for the purpose of enabling the Borrower to provide its consumers with loans to install all or part of customer-owned renewable energy systems up to 5kW.

(3) A renewable energy system is defined in § 1710.2 of this chapter.

(4) For the purpose of this subpart, a renewable energy project consists of one or more renewable energy systems.

(d) *Deferments for contributions-in-aid of construction.*

(1) A Borrower may request RUS to defer principal payments to enable the Borrower to make funds available to new full time residential consumers to assist them in paying their share of the construction costs (contribution-in-aid of construction) needed to connect them to the Borrower's system.

(2) Amounts available for this purpose will be limited to the amount of the construction costs that are in excess of the average cost per residential consumer incurred by the Borrower to connect new full time residential consumers during the last calendar year for which data are available. The average cost per residential consumer is the total cost incurred by the Borrower and will not be reduced by the amounts received as a contribution-in-aid of construction.

§ 1721.105 Application documents.

(a) *Deferments for financial hardship.* A Borrower requesting a section 12 deferment because of financial hardship must submit the following:

(1) A summary of the financial position of the Borrower, based on the latest information available (usually less than 60 days old).

(2) A copy of the board resolution requesting an extension due to financial hardship.

(3) A 10-year financial forecast of revenues and expenses on a cash basis, by year, for the period of the extension and 5 years beyond to establish that the remaining payments can be made as rescheduled.

(4) A listing of notes or portions of notes to be extended, the effective date for the beginning of the extension, and the length of the extension.

(5) A narrative description of the nature and cause of the hardship and the strategy that will be instituted to mitigate or eliminate the effects of the hardship.

(b) *Deferments for energy resource conservation loans.* A Borrower requesting principal deferments for an ERC loan program must submit the following information:

(1) A letter from the Borrower's General Manager requesting an extension of principal payments for the purpose of offering an ERC loan program to its members and describing the details of the program.

(2) A copy of the board resolution establishing the ERC loan program.

(c) *Deferments for renewable energy projects.* A Borrower requesting principal deferments for its renewable energy project must submit the following information:

(1) A letter from the Borrower's General Manager requesting an extension of principal payments for the purpose of financing a renewable energy project and describing the details of the project.

(2) A copy of the board resolution establishing the renewable energy project.

(d) *Deferments for contribution-in-aid of construction.* A Borrower requesting principal deferments for contribution-in-aid of construction must submit the following information:

(1) A letter from the Borrower's General Manager requesting an extension of principal payments for the purpose of offering a contribution-in-aid of construction program and describing the details of the program.

(2) A copy of the board resolution establishing the contribution-in-aid of construction program.

(3) A summary of the calculations used to determine the average cost per residential consumer. (See § 1721.104 (e)(2)).

§ 1721.106 Repayment of deferred payments.

(a) *Deferments relating to financial hardship.* The total amount of principal and interest that has been deferred, including interest on deferred principal, will be added to the principal balance, and the total amount of principal and interest that has been deferred will be reamortized over the life of the applicable note beginning in the first year the deferral period ends. For example: the amount of interest deferred in years 2001, 2002, 2003, 2004, and 2005, will be added to the principal balance and reamortized over the life of the applicable note for repayment starting in year 2006.

(b) *Deferments relating to the ERC loan program, renewable energy project, and the contribution-in-aid of construction.* An extension agreement is for a term of two (2) years. The installment will be recalculated each time the Borrower defers the payment of principal and recognition of the deferred amount will begin with the next payment. For example: the amount deferred in the October payment will be reamortized over a 84 month period starting with the next payment (November if paying on a monthly basis). When a Borrower defers principal under any of these programs the scheduled payment on the account will increase by an amount sufficient to pay off the deferred amount, with interest, by the date specified in the agreement (usually 84 months (28 quarters)).

§ 1721.107 Agreement.

After approval of the Borrower's request for a deferment of principal and interest, an extension agreement, containing the terms of the extension, together with associated materials, will be prepared and forwarded to the Borrower by RUS. The extension agreement will then be executed and returned to RUS by the Borrower.

§ 1721.108 Commencement of the deferment.

The deferment of principal and interest will not begin until the extension agreement and other supporting materials, in form and substance satisfactory to RUS, have been executed by the Borrower and returned to RUS. Examples of other supporting materials are items such as approving legal opinions from the Borrower's attorney and approvals from the relevant regulatory body for extending the maturity of existing debt and for the additional debt service payment incurred.

§ 1721.109 OMB control number.

The information collection requirements in this part are approved by the Office of Management and Budget and assigned OMB control number 0572–0123.

Dated: December 18, 2001.

Hilda Gay Legg,

Administrator, Rural Utilities Service.

[FR Doc. 02–234 Filed 1–3–02; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM204; Special Conditions No. 25–194–SC]

Special Conditions: Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics. These modified airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of dual Electronic Primary Flight Display systems that perform critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity-radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is December 27, 2001.

Comments must be received on or before February 4, 2002.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM204, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: *Docket No. NM204.* Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Meghan Gordon, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2138; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Background

On November 9, 2001, ElectroSonics, 4391 International Gateway, Columbus, Ohio, applied for a Supplemental Type Certificate (STC) to modify Dassault Aviation Model Mystere-Falcon 200,

20–C5, 20–D5, 20–E5, and 20–F5 airplanes. The Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 are small transport category airplanes.

The Dassault Aviation Model Mystere-Falcon 200 airplanes are powered by two Garrett Turbine Engine Company ATF3–6A–4C turbine engines with a maximum takeoff weight of 32,000 pounds.

The Dassault Aviation Model Mystere-Falcon 20–C5, 20–D5, 20–E5 and 20–F5 airplanes are powered by two Garrett Engine Division Model TFE–5AR–2C engines with a maximum takeoff weight of 29,000 pounds. These airplanes operate with a 2-pilot crew and can hold up to 10 passengers.

The modification of these airplanes incorporates the installation of a Universal Avionics Electronic Flight Instrument System (EFI–550). The EFI–550 is a replacement for the existing Analog Flight Instrumentation, while also providing additional functional capability and redundancy in the system. The avionics/electronics and electrical systems installed in this airplane have the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR 21.101, ElectroSonics must show that the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A7EU, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations included in the certification basis for the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes include Civil Air Regulations 4b, effective December 1953, through Amendment 4b–12; Special Regulation 422B; and 14 CFR part 25, as amended to incorporate Amendments 25–1 through 25–43.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, these Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes must comply with the fuel vent and exhaust emission requirements of part 34 and the noise certification requirements of part 36.

Special conditions, as appropriate, are issued in accordance with § 11.49, after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should ElectroSonics apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

As noted earlier, the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics will incorporate dual Electronic Primary Flight Display systems that will perform critical functions. These systems may be vulnerable to high-intensity radiated fields external to the airplane. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards for the protection of this equipment from the adverse effects of HIRF. Accordingly, this system is considered to be a novel or unusual design feature.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electronics and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved that is equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics.

These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications coupled with electronic command and control of the airplane, the immunity of critical avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown in accordance with either paragraph 1 OR 2 below:

1. A minimum threat of 100 volts rms (root-mean-square) per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the field strengths indicated in Table 1 for the frequency ranges indicated. Both peak and average field strength components from Table 1 are to be demonstrated.

TABLE 1

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

TABLE 1—Continued

Frequency	Field strength (volts per meter)	
	Peak	Average

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics. Should ElectroSonics apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Dassault Aviation Model Mystere-Falcon 200, 20–C5, 20–D5, 20–E5, and 20–F5 airplanes modified by ElectroSonics.

1. *Protection From Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on December 27, 2001.

Lirio Liu-Nelson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–247 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–02–AD; Amendment 39–12514; AD 2001–23–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects information in an existing airworthiness directive (AD) that applies to certain Boeing Model 747 series airplanes. That AD currently requires repetitive detailed visual inspections to find discrepancies of the installation of the midspar fuse pins of the inboard and outboard struts, and follow-on actions, if necessary. That AD also mandates accomplishment of a terminating modification. This document corrects the omission of the phrase ''amendment 39–12514'' from the first line of the AD. This correction is necessary to ensure that the amendment number is stated at the beginning of the AD.

DATES: Effective December 31, 2001.

The incorporation by reference of Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001, as listed in the regulations, was approved previously by the Director of the Federal Register as of December 31, 2001 (66 FR 58913, November 26, 2001).

The incorporation by reference of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, as listed in the regulations, was approved previously by the Director of the Federal Register as of March 21, 2001 (66 FR 13424, March 6, 2001).

FOR FURTHER INFORMATION CONTACT: Tamara Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On November 15, 2001, the Federal Aviation Administration (FAA) issued AD 2001–23–15, amendment 39–12514 (66 FR 58913, November 26, 2001), which applies to certain Boeing Model 747 series airplanes. That AD requires repetitive detailed visual inspections to find discrepancies of the installation of the midspar fuse pins of the inboard and outboard struts, and follow-on actions, if necessary. That AD also provides for an optional terminating modification for the repetitive inspections. The actions required by that AD are intended to find and fix discrepancies of the installation of the midspar fuse pins, which could result in loss of the secondary retention capability of the fuse pins, migration of the fuse pins, and consequent loss of the strut and engine from the airplane.

Need for the Correction

The FAA has determined that a correction to AD 2001–23–15 is necessary. The correction will add the amendment number (amendment 39–12514) to the first line of the AD. That number was inadvertently omitted from the final rule, as published.

Correction of Publication

This document corrects the error and correctly adds the AD as an amendment

to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains December 31, 2001.

Since this action only corrects the inadvertent omission of the amendment number from the first line of the AD, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

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 [Corrected]

2. Section 39.13 is amended by correctly adding the following airworthiness directive (AD):

2001–23–15 Boeing: Amendment 39–12514. Docket 2001–NM–02–AD. Supersedes AD 2001–05–05, amendment 39–12141.

Applicability: Model 747 series airplanes, line numbers 1 through 1046 that have accomplished Airworthiness Directives 95–10–16, 95–13–05, 95–13–06, or 95–13–07; and line numbers 1047 through 1271 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To find and fix discrepancies of the installation of the midspar fuse pins of the inboard and outboard strut, which could result in loss of the secondary retention capability of the fuse pins, migration of the fuse pins, and consequent loss of the strut and engine from the airplane; accomplish the following:

Restatement of the Requirements of AD 2001–05–05

Inspections/Follow-On Actions

(a) At the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable: Do a detailed visual inspection to find discrepancies (*e.g.,* incorrect thread protrusion, which is less than two threads protruding from the nut between the nut and the secondary retention washer; incorrect gap between the fuse pin primary nut and secondary retention washer; cracked or broken torque stripe) of the installation of the midspar fuse pins of the inboard and outboard struts, per Figure 2 of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, or Revision 2, dated May 17, 2001.

(1) For airplanes having the production equivalent of one of the AD's listed in Table 1 of this AD: Do the inspection at the later of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Before the accumulation of 8,000 total flight hours, or within 24 months since manufacture of the airplane, whichever occurs first.

(ii) Within 90 days after March 21, 2001 (the effective date of AD 2001–05–05, amendment 39–12141).

(2) For airplanes modified per one of the AD's listed in Table 1 of this AD: Do the inspection at the later of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD. Table 1 follows:

TABLE 1

AD number	Amendment number
AD 95–10–16	39–9233
AD 95–13–05	39–9285
AD 95–13–06	39–9286
AD 95–13–07	39–9287

(i) Within 8,000 flight hours or 24 months after the modification, whichever occurs first.

(ii) Within 90 days after March 21, 2001.

Note 2: Where there are differences between the AD and the service bulletin, the AD prevails.

Note 3: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(A) If no discrepancy is found: Repeat the inspection at intervals not to exceed 8,000 flight hours or 24 months, whichever occurs first, until you do the terminating modification specified in paragraph (b) of this AD.

(B) If any discrepancy is found, and the primary nut has backed off and contacts the secondary retention washer: Before further flight, do the terminating modification specified in paragraph (b) of this AD.

(C) If any discrepancy is found, and the primary nut does not contact the secondary retention washer: Repeat the inspection at intervals not to exceed 90 days. Within 18 months after the initial finding, or before March 21, 2001, whichever occurs later, do the terminating modification specified in paragraph (b) of this AD.

Note 4: Inspections done prior to the effective date of this AD per Boeing Alert Service Bulletin 747–54A2206, dated October 19, 2000, are acceptable for compliance with the inspections required by paragraph (a) of this AD.

New Requirements of this AD

Terminating Action

(b) Within 6 years after the effective date of this AD: Do the terminating modification (replacement of the primary nut of the midspar fuse pin, installation of torque strip, a detailed visual inspection of the fuse pin threads for damage, and replacement, if necessary) per Figure 3 of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, or Figure 3 of Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001. Doing this modification ends the repetitive inspections required by this AD.

Note 5: Doing the terminating modification prior to the effective date of this AD per Boeing Alert Service Bulletin 747–54A2206, dated October 19, 2000, is acceptable for compliance with the terminating action required by paragraph (b) of this AD.

Alternative Methods of Compliance

(c)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Any alternative method of compliance which was approved previously in accordance with AD 2001–05–05 is approved for compliance with this AD.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001; or Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001.

(1) The incorporation by reference of Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001, was approved previously by the Director of the Federal Register, as of December 31, 2001 (66 FR 58913, November 26, 2001).

(2) The incorporation by reference of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, was approved previously by the Director of the Federal Register as of March 21, 2001 (66 FR 13424, March 6, 2001).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on December 31, 2001.

Issued in Renton, Washington, on December 20, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–84 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–132–AD; Amendment 39–12586; AD 2001–26–20]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A319, A320, and A321 series airplanes, that requires a one-time inspection of the forward and aft lower bogies of the left- and right-hand sliding windows of the flightcrew compartment for the presence of a lock pin. If the lock pin is missing, this amendment requires corrective action. This action is necessary to prevent the inability of the flightcrew to open the left- or right-hand sliding window for evacuation in an emergency, due to a window jamming in the closed position. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes was published in the **Federal Register** on October 26, 2001 (66 FR 54173). That action proposed to require a one-time inspection of the forward and aft lower bogies of the left- and right-hand sliding windows of the flightcrew compartment for the presence of a lock pin. If the lock pin is missing, that action also proposed to require corrective action.

Comments

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

Request To Allow Credit for Previously Accomplished Work

The manufacturer requests that the FAA give credit for the inspection and corrective actions accomplished prior to the effective date of this AD in accordance with the original issue of Airbus Service Bulletin A320–56–1007, dated January 21, 2000.

The FAA concurs. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has approved this service bulletin for the accomplishment of the inspection and corrective actions. The FAA finds that the procedures in the original issue of the service bulletin are identical to those in Revision 01 of Airbus Service Bulletin A320–56–1007, dated February 9, 2001 (which is listed as the appropriate source of service information for accomplishment of the actions in this AD). Therefore, we have added a new **Note 3** in this final rule to give credit to operators that may have accomplished the required actions prior to the effective date of this AD in accordance with the original issue of the service bulletin. We have renumbered the succeeding notes accordingly.

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 described previously. 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

The FAA estimates that 77 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 AD on U.S. operators is estimated to be $4,620, 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:

2001–26–20 Airbus Industrie: Amendment 39–12586. Docket 2001–NM–132–AD.

Applicability: Model A319, A320, and A321 series airplanes, certificated in any category, as listed in Airbus Service Bulletin A320–56–1007, Revision 01, dated February 9, 2001.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability of the flightcrew to open the left- or right-hand sliding window for evacuation in an emergency, due to a window jamming in the closed position, accomplish the following:

Inspection

(a) Within one year after the effective date of this AD: Perform a one-time detailed visual inspection of the forward and aft lower bogie of the left-hand and right-hand sliding windows to check for the presence of a lock pin, in accordance with Airbus Service Bulletin A320–56–1007, Revision 01, dated February 9, 2001.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Corrective Action

(b) If the inspection required by paragraph (a) of this AD reveals that a lock pin is missing: Prior to further flight, perform the action required by either paragraph (b)(1) or (b)(2) of this AD.

(1) Install a new bogie equipped with a lock pin, in accordance with paragraph C.(1) of the Accomplishment Instructions of Airbus Service Bulletin A320–56–1007, Revision 01, dated February 9, 2001, or

(2) Perform a temporary repair in accordance with paragraph C.(2) of the Accomplishment Instructions of Airbus Service Bulletin A320–56–1007, Revision 01, dated February 9, 2001. Within 500 flight hours of the temporary repair, install a new bogie equipped with a lock pin, in accordance with paragraph C.(1) of the Accomplishment Instructions of the service bulletin.

Note 3: Inspection and corrective actions accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A320–56–1007, dated January 21, 2000, is considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Airbus Service Bulletin A320–56–1007, Revision 01, including Appendix 01, dated February 9, 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in French airworthiness directive 2000–518–157(B), dated December 13, 2000.

Effective Date

(f) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 26, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–9 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–255–AD; Amendment 39–12587; AD 2001–26–21]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A319, A320, and A321 series airplanes, that requires replacement of the low-pressure solenoid valve for the crew oxygen supply with a modified valve. This action is necessary to prevent faulty operation of the low-pressure solenoid valve for the crew oxygen supply, which could prevent oxygen from being supplied to the airplane crew when needed, such as in the event of smoke in the cabin or rapid depressurization of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket,

1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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: 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 Airbus Model A319, A320, and A321 series airplanes was published in the **Federal Register** on September 25, 2001 (66 FR 48993). That action proposed to require replacement of the low-pressure solenoid valve for the crew oxygen supply with a modified valve.

Comments

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

The commenter concurs with the content of the proposed 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 as proposed.

Cost Impact

The FAA estimates that 111 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 replacement, and that the average labor rate is $60 per work hour. Required parts will be provided at no cost to the operator. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $6,660, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the 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:

2001–26–21 Airbus Industrie: Amendment 39–12587. Docket 2001–NM–255–AD.

Applicability: Model A319, A320, and A321 series airplanes; on which Modification 21946 (Airbus Service Bulletin A320–35–1003) or 21999 has not been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent faulty operation of the low-pressure solenoid valve for the oxygen supply, which could prevent oxygen from being supplied to the airplane crew when needed, such as in the event of smoke in the cabin or rapid depressurization of the airplane, accomplish the following:

Replacement

(a) Within 16 months after the effective date of this AD, replace the low-pressure solenoid valve, part number (P/N) DVE90–04, for the crew oxygen supply with a modified valve, P/N DVE90–05 or DVE90–06, as applicable. Do the replacement according to Airbus Service Bulletins A320–35–1003, Revision 1, dated January 28, 1993; or A320–35–1016, dated July 31, 1996; as applicable.

Note 2: Airbus Service Bulletin A320–35–1003, Revision 1, refers to EROS Service Bulletin DVE90–35–40, dated September 10, 1991, as the appropriate source of service information for modifying the low-pressure solenoid valve for the crew oxygen supply.

Note 3: Airbus Service Bulletin A320–35–1016 refers to EROS Service Bulletin DVE90–35–49, dated January 31, 1995, as the appropriate source of service information for modifying the low-pressure solenoid valve for the oxygen supply.

Spares

(b) As of the effective date of this AD, no person shall install a low-pressure oxygen valve, part number DVE90–04, on any airplane.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) The replacement shall be done in accordance with Airbus Service Bulletin A320–35–1003, Revision 1, dated January 28,

1993; or Airbus Service Bulletin A320–35–1016, dated July 31, 1996; as applicable. Airbus Service Bulletin A320–35–1003, Revision 1, dated January 28, 1993, contains the following effective pages:

Page No.	Revision level shown on page	Date shown on page
1–3, 5	1	Jan. 28, 1993.
4, 6	Original ..	Aug. 26, 1991.

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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in French airworthiness directive 2001–237(B) R1, dated July 25, 2001.

Effective Date

(f) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 26, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–8 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–90–AD; Amendment 39–12588; AD 2001–26–22]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain BAE Systems (Operations) Limited Model Avro 146–RJ series airplanes, that requires a one-time inspection of the S4 and S5 static pipes of the pitot static system for discrepancies, and follow-on corrective actions, if necessary. This action is necessary to prevent failure of the S4 and S5 static pipes and consequent failure of the maximum differential pressure protection for the airplane, which could lead to the fuselage of the airplane being overstressed and result in reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. 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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain BAE Systems (Operations) Limited Model Avro 146–RJ series airplanes was published in the **Federal Register** on August 23, 2001 (66 FR 44311). That action proposed to require a one-time inspection of the S4 and S5 static pipes of the pitot static system for discrepancies, and follow-on 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 single comment received.

Revised Statement of Unsafe Condition

The commenter, the airplane manufacturer, requests that the FAA revise the wording of the statement of unsafe condition as it appears in several sections of the proposed AD. The proposed AD states the unsafe condition as ''holes in the static pipes, erroneous input to the instrumentation and warning systems associated with the pilot's instruments, and consequent reduced controllability of the airplane.'' The commenter states that the consequence of holes in the static pipes is more accurately characterized as ''erroneous input into instrumentation associated with the maximum differential pressure protection for the aircraft.''

The FAA concurs. Upon further review of the detail of the design and function of the S4 and S5 static types, we agree that the primary purpose of the S4 and S5 static pipes is maintenance of the maximum differential pressure protection for the airplane. If these pipes fail, the maximum differential pressure protection will fail, which could lead to the fuselage of the airplane being overstressed and result in reduced structural integrity of the airplane. Therefore, we have revised the statement of unsafe condition in the Summary section and the body of this AD accordingly.

Explanation of Change to Applicability Statement

The applicability statement of the proposed AD reads, ''Model Avro 146–RJ series airplanes * * * on which modification HCM01080W has been performed.'' For clarity, we have revised the wording of the applicability statement in this final rule to read, ''Model Avro 146–RJ series airplanes * * * on which modification HCM01080W is installed.''

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 changes described previously. 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

The FAA estimates that 42 Model Avro 146–RJ series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $2,520, 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:

2001–26–22 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–12588. Docket 2001–NM–90–AD.

Applicability: Model Avro 146–RJ series airplanes, certificated in any category, on which modification HCM01080W is installed.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the S4 and S5 static pipes of the pitot static system and consequent failure of the maximum differential pressure protection for the airplane, which could lead to the fuselage of the airplane being overstressed and result in reduced structural integrity of the airplane, accomplish the following:

General Visual Inspection/Follow-On Corrective Actions

(a) Within 90 days after the effective date of this AD, do a general visual inspection of the S4 and S5 static pipes of the pitot static system for discrepancies (i.e., chafing, damage to pipes, inadequate clearance), per BAE Systems (Operations) Limited Inspection Service Bulletin ISB.34–338, dated February 14, 2001.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or 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 chafing is found, before further flight, do the applicable follow-on actions per the Accomplishment Instructions of the service bulletin. Where the service bulletin specifies to contact the manufacturer for disposition of certain repair conditions, the repair of those conditions is to be accomplished per a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority (or its delegated agent).

(2) If no chafing is found and the clearance between the static pipes and the adjacent avionics structure is less than 0.10 inch, before further flight, do the applicable follow-on actions per the Accomplishment Instructions of the service bulletin.

(3) If no chafing is found and a minimum clearance of 0.10 inch exists between the static pipes and the adjacent avionics structure, no further action is required by this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

(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) Except as provided by paragraph (a)(1) of this AD, the actions shall be done in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.34–338, dated February 14, 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 British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British airworthiness directive 008–02–2001.

Effective Date

(e) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 26, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–241–AD; Amendment 39–12589; AD 2001–26–23]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model DHC–8–100, –200, and –300 series airplanes, that requires replacement of the observer's seat latch assembly with a new, improved seat latch assembly. This action is necessary to prevent the observer's seat from separating from its attachment points in the event of an accident or emergency landing, due to an understrength seat latch assembly. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7512; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: 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 Bombardier Model DHC–8–100, –200, and –300 series airplanes was published in the **Federal Register** on September 25, 2001 (66 FR 48991). That action proposed to require replacement of the observer's seat latch assembly with a new, approved seat latch assembly.

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.

Explanation of Change to Applicability Statement

In the applicability statement of the proposed rule, the FAA inadvertently included Model DHC–8–314 airplanes. This model is not listed on the type certificate data sheet and has been removed from the applicability statement of this final rule.

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. 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

The FAA estimates that 35 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 replacement, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,372 per airplane. Based on these figures, the cost impact of the replacement required by this AD on U.S. operators is estimated to be $56,420, or $1,612 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:

2001–26–23 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–12589. Docket 2001–NM–241–AD.

Applicability: Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes; certificated in any category; serial numbers 408, 413, 434 through 507 inclusive; excluding serial numbers 452, 464, 490, and 506.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the observer's seat from separating from its attachment points in the event of an accident or emergency landing, accomplish the following:

Replacement

(a) Within 12 months after the effective date of this AD, replace the observer's seat latch assembly by incorporating ModSum

8Q100890 (including removing and discarding existing latch and installing serrated plate, shim, and new latch assembly), in accordance with Bombardier Service Bulletin 8–25–307, dated November 13, 2000.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(d) The replacement shall be done in accordance with Bombardier Service Bulletin 8–25–307, dated November 13, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–2001–18, dated May 4, 2001.

Effective Date

(e) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 26, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–6 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–290–AD; Amendment 39–12590; AD 2001–26–24]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes; and C–9 airplanes that requires replacing the transformer ballast assembly in the pilot's console with a new, improved ballast assembly. The actions specified by this AD are intended to prevent overheating of the ballast transformers due to aging fluorescent tubes that cause a higher power demand on the ballast transformers, which could result in smoke in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 airplanes was published in the **Federal Register** on June 6, 2001 (66 FR 30345). That action proposed to require replacing the transformer ballast assembly in the first officer's console with a new, improved ballast assembly.

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.

One commenter indicates that its DC–9 airplanes will be retired from service within the proposed compliance time of the AD and that, therefore, it has no comment.

Request To Reference Latest Service Bulletin

Several commenters request that the proposed AD refer to the latest service bulletin. They state that McDonnell Douglas Alert Service Bulletin DC9–33A114, dated November 1, 1999 (which is referenced in the notice of proposed rulemaking (NPRM) as the appropriate source of service information), erroneously indicates that the ballast assembly to be replaced is located in the first officer's console rather than in the pilot's console. A revision to the service bulletin (Revision 01, dated February 15, 2000) corrects the error and, therefore, should be cited in the AD as the service bulletin to use.

The FAA concurs. Since issuance of the NPRM, the FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9–33A114, Revision 01, dated February 15, 2000. The service bulletin describes procedures for replacing the transformer ballast assembly with a new, improved ballast assembly and identifies the pilot's console as the location of the ballast assembly. For clarification purposes, we have revised this AD to refer to the ''pilot's console'' rather than the ''first officer's console'' as the location of the transformer ballast assembly to be replaced.

Request To Allow Replacement With a ''New or Serviceable'' Ballast Assembly

Another commenter asks that operators be allowed to replace the existing ballast assembly with either a serviceable ballast assembly or a new, improved ballast assembly. The commenter suggests that replacement of

a ballast assembly with a serviceable improved ballast assembly would provide an acceptable level of safety.

The FAA does not concur, because the part numbers of the old (serviceable) transformer ballast assembly are different from those of the new, improved assembly. Thus, there would be no way to tell whether ballast assemblies with the old part numbers were ''old, unimproved'' or ''old, improved'' assemblies.

Additional Change to Final Rule

The number of airplanes of U.S. registry affected by this AD has decreased since publication of the NPRM from approximately 543 to approximately 475. The estimated cost impact of the rule on U.S. operators has decreased correspondingly from between $781,377 and $1,042,560 (depending on the cost of parts) to between $683,525 and $912,000.

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 575 Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 475 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 between $1,379 and $1,860 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be between $683,525 and $912,000, or between $1,439 or $1,920 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD, 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:

2001–26–24 McDonnell Douglas: Docket 99–NM–290–AD. Amendment 39–12590

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; and C–9 airplanes; as listed in McDonnell Douglas Alert Service Bulletin DC9–33A114, Revision 01, dated February 15, 2000; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating of the ballast transformers due to aging fluorescent tubes that cause a higher power demand on the ballast transformers, which could result in smoke in the cockpit, accomplish the following:

Replacement

(a) Within 12 months after the effective date of this AD, replace the transformer ballast assembly from the pilot's console with a new, improved transformer ballast assembly, in accordance with McDonnell Douglas Alert Service Bulletin DC9–33A114, Revision 01, dated February 15, 2000.

Spares

(b) As of the effective date of this AD, no person shall install a transformer assembly, part number BA170–1, –11, –21, or –MOD.B, on any airplane.

Alternative Methods of Compliance

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

Note 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

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

Incorporation by Reference

(e) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9–33A114, Revision 01, dated February 15, 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

(f) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 26, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–5 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–104–AD; Amendment 39–12542; AD 2001–24–25]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects information in an existing airworthiness directive (AD) that applies to certain McDonnell Douglas Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes. That AD currently requires modification of the spoiler control system, and installation of protective interlock box assemblies in the spoiler circuit. This document corrects the affected models specified in the ''Applicability'' of the AD. This correction is necessary to ensure that the appropriate affected airplane models are identified correctly.

DATES: Effective January 16, 2002.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of January 16, 2002 (66 FR 64114, December 12, 2001).

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

SUPPLEMENTARY INFORMATION: On November 28, 2001, the Federal Aviation Administration (FAA) issued AD 2001–24–25, amendment 39–12542 (66 FR 64114, December 12, 2001), which applies to certain McDonnell Douglas Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes. That AD requires modification of the spoiler control system, and installation of protective interlock box assemblies in the spoiler circuit. The actions required by that AD are intended to prevent smoke/fire in the flight compartment in the event that the automatic spoiler actuator overheats, and/or loss of the spoiler control system, which could significantly reduce the braking effectiveness of the airplane. That action is intended to address the identified unsafe condition.

Need for the Correction

The FAA has determined that a correction to AD 2001–24–25 is necessary. We note that the ''Applicability'' section of the AD specifies ''Model DC–10–10, –20, –30, and –40 series airplanes and C–9 airplanes, as listed in Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001; certificated in any category.'' Although the applicability of the notice of proposed rulemaking (NPRM) was also stated incorrectly, the error was not noted until after publication of the final rule. However, all other references to the affected airplanes in the final rule are correct: ''McDonnell Douglas Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes.'' The correction will revise the ''Applicability'' section of the final rule to specify that the affected airplanes are ''Model DC–9–10, –20, –30, and –40 series airplanes and C–9 airplanes.''

Correction of Publication

This document corrects the error and correctly adds the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains January 16, 2002.

Since this action only corrects an inadvertent typographical error, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

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 [Corrected]

2. Section 39.13 is amended by correctly adding the following airworthiness directive (AD):

2001–24–25 McDonnell Douglas: Amendment 39–12542. Docket 2001–NM–104–AD.

Applicability: Model DC–9–10, –20, –30, and –40 series airplanes, and C–9 airplanes, as listed in Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent smoke/fire in the flight compartment in the event that the automatic spoiler actuator overheats, and/or loss of the spoiler control system, which could significantly reduce the braking effectiveness of the airplane; accomplish the following:

Modification of the Spoiler Control System

(a) Within 18 months after the effective date of this AD, modify the spoiler control system by accomplishing all actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001, per the service bulletin.

Note 2: Modification per McDonnell Douglas Service Bulletin DC9–27–147, dated January 7, 1972; Revision 1, dated July 30, 1974; or Revision 2, dated May 9, 1975; before the effective date of this AD; is considered acceptable for compliance with paragraph (a) of this AD.

Installation of Protective Interlock Box Assemblies

(b) Prior to or in conjunction with the requirements of paragraph (a) of this AD,

install protective interlock box assemblies in the spoiler circuit, per McDonnell Douglas DC–9 Service Bulletin 27–103, dated March 19, 1968.

Alternative Methods of Compliance

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

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

Special Flight Permit

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

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin DC9–27A147, Revision 03, dated May 8, 2001, and McDonnell Douglas DC–9 Service Bulletin 27–103, dated March 19, 1968; as applicable. This incorporation by reference was approved previously by the Director of the Federal Register as of January 16, 2002 (66 FR 64114, December 12, 2001). 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

(f) The effective date of this amendment remains January 16, 2002.

Issued in Renton, Washington, on December 20, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–86 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–91–AD; Amendment 39–12576; AD 2001–23–12 R1]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document revises an existing airworthiness directive (AD) that applies to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. That AD currently requires a one-time review of records to determine whether an airplane has been repainted since its delivery from the factory; and a one-time inspection to detect damage associated with improper preparation for the repainting, and corrective action if necessary. The actions specified in that AD are intended to detect and correct damage to the aluminum skin of the airplane, which could result in a weakening of the structure of the airplane. This document corrects certain conditional requirements of the existing AD.

DATES: Effective December 31, 2001.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of December 31, 2001 (66 FR 58927, November 26, 2001).

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

SUPPLEMENTARY INFORMATION: On November 15, 2001, the FAA issued AD 2001–23–12, amendment 39–12511 (66 FR 58927, November 26, 2001), applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes, to require a one-time review of records to determine whether an airplane has been repainted since its delivery from the factory; and a one-time inspection to detect damage associated with improper preparation for the repainting, and corrective action if necessary. That action was prompted by mandatory continuing airworthiness information from a foreign civil airworthiness authority. The requirements of that AD are intended to detect and correct damage to the aluminum skin of the airplane, which could result in a weakening of the structure of the airplane.

Need for the Correction

Information obtained recently by the FAA indicates that the final rule of this AD conveyed an inaccurate interpretation of a comment submitted on the proposed AD. The commenter had requested that paragraph ''(B)(2)'' of the proposed AD be revised to include a corrective action to immediately repaint the stripped areas, and to extend the compliance time to strip and repaint the airplane. As discussed in the response to the comments in AD 2001–23–12, the FAA concurred with the request and incorporated that instruction. However, the instruction was added to subparagraph (b)(2) when it appears the commenter intended the instruction to be inserted into subparagraph (b)(2)(ii)(B)(*2*).

The FAA has determined that a correction to AD 2001–23–12 is necessary. Under the current requirements of subparagraph (b)(2) of the AD, affected airplanes are allowed to operate for an additional 4,000 flight hours or 2 years with inadequate protective coating, which could subject the airplanes to damage (or further damage). This correction removes the requested language from subparagraph (b)(2) of the AD and incorporates the instruction into subparagraph (b)(2)(ii)(B)(*2*) to specify immediate repair of damage and delay the requirement to strip and repaint the airplane.

To clarify the 4,000-flight-hour/2-year compliance time for this conditional requirement, the FAA has added the phrase, ''whichever occurs first.''

In addition, the FAA has been advised that subparagraph (b)(2)(ii)(B)(*2*) of the proposed AD inaccurately specifies that the entire airplane must be repainted if damage is detected during the inspection and if an unapproved paint system had been used. The service bulletin specifies that the entire airplane must not be stripped and repainted if damage is found in only a certain section of the airplane—except for the forward and rear fuselage, stabilizer, and wing, which must always be stripped and repainted in total if any damage is found within the respective inspection area. The FAA did not intend that this AD differ from the service bulletin in that regard. This correction revises subparagraph (b)(2)(ii)(B)(*2*) to clarify the conditional requirement by referring to the service bulletin.

Correction of Publication

This document corrects these errors and correctly adds the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13). The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains December 31, 2001.

Since this action only corrects current requirements, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

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 39–12511 (66 FR 58927, November 26, 2001), and by adding a new airworthiness directive (AD), amendment 39–12576, to read as follows:

2001–23–12 R1 Saab Aircraft AB: Amendment 39–12576. Docket 2001–NM–91–AD. Revises AD 2001–23–12, Amendment 39–12511.

Applicability: Model SAAB SF340A series airplanes having serial numbers –004 through –159 inclusive, and SAAB 340B series airplanes having serial numbers –160 through –459 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct damage to the aluminum skin of the airplane, which could result in a weakening of the structure of the airplane, accomplish the following:

Review of Records

(a) Within 2,000 flight hours or 1 year after December 31, 2001 (the effective date of AD 2001–23–12, amendment 39–12511), whichever occurs first: Perform a review of records to determine whether an airplane subject to this AD has been repainted since its delivery from the factory. If the airplane has not been repainted, no further action is needed.

Inspection and Corrective Action

(b) If an airplane has been repainted since its delivery from the factory: Within 2,000 flight hours or 1 year after December 31, 2001, whichever occurs first, perform chemical stripping of local areas of the skin and inspection to detect damage to (or removal of) the protective coat of bonding primer, in accordance with Saab Service Bulletin 340–51–020, Revision 01, dated May 16, 2001.

(1) If no damage to the protective coat of bonding primer is detected: Prior to further flight, repaint the stripped areas, in accordance with the service bulletin.

(2) If damage to (or removal of) the protective coat of bonding primer is detected: Prior to further flight, perform additional chemical stripping and inspection of the skin for pitting corrosion, in accordance with the service bulletin.

(i) If pitting corrosion is detected: Perform corrective action in a manner and within a compliance time approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the Luftfartsverket (or its designated agent).

(ii) If no pitting corrosion is detected: Prior to further flight, measure the thickness of the skin of the airplane, in accordance with the service bulletin.

(A) If a reduction in skin thickness is detected: Perform corrective action in a manner and within a compliance time approved by the Manager, International Branch, ANM–116, or the Luftfartsverket (or its designated agent).

(B) If no reduction in skin thickness is detected: Prior to further flight, check records to determine whether the airplane was repainted using an approved paint system. For purposes of this AD, criteria for an ''approved'' paint system are found in section 51–20–43 of the Saab 340 Structural Repair Manual.

(*1*) If the airplane was repainted using an approved paint system: Prior to further flight, repaint the stripped areas of the airplane, in accordance with the service bulletin.

(*2*) If the airplane was repainted using an unapproved paint system: Prior to further flight, repaint the stripped areas in accordance with the service bulletin; and within 4,000 flight hours or 2 years after detection of the damage or removed protective coating, whichever occurs first, chemically strip and repaint the airplane as specified by and in accordance with the service bulletin.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) Except as required by paragraphs (a), (b)(2)(i), and (b)(2)(ii)(A) of this AD: The actions shall be done in accordance with Saab Service Bulletin 340–51–020, Revision 01, dated May 16, 2001. This incorporation by reference was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of December 31, 2001 (66 FR 58927, November 26, 2001). Copies may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive SAD 1–161R2, dated March 13, 2001.

Effective Date

(f) The effective date of this amendment remains December 31, 2001.

Issued in Renton, Washington, on December 20, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–85 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–187–AD; Amendment 39–12580; AD 2001–26–14]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328 Series Airplanes Equipped With Honeywell GP–300 Guidance and Display Controller

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Dornier Model 328 series airplanes, that currently requires modification of certain Honeywell GP–300 guidance and display controllers. That AD was prompted by reports of smoke and fumes emitting from the Honeywell GP–300 guidance and display controller due to a defective light bulb; and a report of failure of the autopilot to disconnect manually. The actions specified by this AD are intended to prevent a defective light bulb from causing a short circuit that emits smoke and fumes into the cockpit; or causing damage to the circuit cards and various components, which may lock the autopilot into the engaged mode. Locking of the autopilot into the engaged mode could lead to the inability of the pilot to disconnect the autopilot, which could result in reduced controllability of the airplane. This amendment requires verification of proper installation of the modification, and repair, if necessary.

DATES: Effective February 8, 2002.

The incorporation by reference of Honeywell Service Bulletin 7015327–22–4, dated March 31, 1997, as listed in the regulations, is approved by the Director of the Federal Register as of February 8, 2002.

The incorporation by reference of Honeywell Service Bulletin 7015327–22–2, dated March 4, 1996, as listed in the regulations, was approved previously by the Director of the Federal Register as of June 26, 1996 (61 FR 29465, June 11, 1996).

ADDRESSES: The service information referenced in this AD may be obtained from Honeywell, Inc., Attn: Customer Support Materiel, PO Box 21111, Phoenix, Arizona 85036. 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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–12–13, amendment 39–9656 (61 FR 29465, June 11, 1996), which is applicable to certain Dornier Model 328 series airplanes, was published in the **Federal Register** on May 28, 1998 (63 FR 29148). The action proposed to continue to require modification of certain Honeywell GP–300 guidance and display controllers. The action also proposed to require verification of proper installation of the modification of Honeywell GP–300 guidance and display controller, and repair, if necessary.

Comment Received

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

One commenter, the airplane manufacturer, claims that 100 percent of Honeywell GP–300 guidance and display controllers for Dornier Model 328 series airplanes have been modified per paragraph (a) of the proposed AD. The commenter also claims that 98 percent of those controllers have been modified per paragraph (b) of the proposed AD, and that the four remaining controllers should be modified by the time the proposed AD becomes effective. Therefore, the commenter concludes that the proposed AD would pose a negative economic impact by creating unnecessary paperwork and sign-off of the proposed AD.

From this comment, the FAA infers that the commenter is requesting that the proposed AD be withdrawn. We do not agree. As stated by the airplane manufacturer, not all of the affected controllers, worldwide, have been modified; therefore, the possibility exists that an unmodified controller could be installed on a U.S. registered airplane at some future time. Issuance of this AD will ensure that only the modified controllers are installed on U.S. registered airplanes. Operators are given credit for work previously performed by means of the phrase in the ''Compliance'' section of the AD that states, ''Required as indicated, unless accomplished previously.'' Therefore, in the case of this AD, if the required modification and verification have been accomplished before the effective date of this AD, this AD does not require that those actions be repeated.

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 as proposed.

Cost Impact

There are approximately 50 Dornier Model 328–100 series airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 96–12–13, and retained in this AD, take approximately 7 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $21,000, or $420 per airplane.

The new actions that are required by this AD action will take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $12,000, or $240 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9656 (61 FR 29465, June 11, 1996), and by adding a new airworthiness directive (AD), amendment 39–12580, to read as follows:

2001–26–14 Dornier Luftfahrt GMBH: Amendment 39–12580. Docket 97–NM–187–AD. Supersedes AD 96–12–13, Amendment 39–9656.

Applicability: Model 328–100 airplanes, equipped with a Honeywell GP–300 guidance and display controller having part number (P/N) 7015327–901 or –902; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent a defective light bulb from causing a short circuit that emits smoke and fumes into the cockpit, or causing damage to the circuit cards and various components, which may lock the autopilot into the engaged mode, accomplish the following:

Restatement of Requirements of AD 96–12–13

(a) Within 60 days after June 26, 1996 (the effective date of AD 96–12–13, amendment 39–9656), modify the Honeywell GP–300 guidance and display controller, having P/N 7015327–901 or –902, in accordance with Honeywell Service Bulletin 7015327–22–2, dated March 4, 1996.

New Requirements of This AD

(b) Within 60 days after the effective date of this AD, verify that the wiring of the Honeywell GP–300 guidance and display controller is correct by conducting a re-test of the circuit card assemblies, in accordance with Honeywell Service Bulletin 7015327–22–4, dated March 31, 1997. If any discrepancy is found, prior to further flight, repair in accordance with the service bulletin.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Honeywell Service Bulletin 7015327–22–2, dated March 4, 1996; and Honeywell Service Bulletin 7015327–22–4, dated March 31, 1997.

(1) The incorporation by reference of Honeywell Service Bulletin 7015327–22–4, dated March 31, 1997, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Honeywell Service Bulletin 7015327–22–2, dated March 4, 1996, was approved previously by the Director of the Federal Register as of June 26, 1996 (61 FR 29465, June 11, 1996).

(3) Copies may be obtained from Honeywell, Inc., Attn: Customer Support Materiel, PO Box 21111, Phoenix, Arizona 85036. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German airworthiness directive 96–239/2, dated June 19, 1997.

Effective Date

(f) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 21, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–143 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–161–AD; Amendment 39–12581; AD 2001–26–15]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81, –82, –83, and –87 Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, that requires a detailed visual inspection of certain wires to detect chafing and preload; repair, if necessary; and modification of certain wire assemblies. This action is necessary to prevent insufficient clearance between wire assemblies and the ice protection airduct and airstair door interlock rod; chafing; and consequent arcing of wire assemblies. Such arcing could result in damage to electronic equipment and adjacent structures, or cause the insulation blankets to ignite, which could result in smoke and fire in the flight deck and main cabin. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes was published in the **Federal Register** on June 5, 2001 (66 FR 30099). That action proposed to require a detailed visual inspection of certain wires to detect chafing and preload; repair, if necessary; and modification of certain wire assemblies.

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 Use a Previous Revision

One commenter request that the applicability of the proposed AD be revised to exclude airplanes on which the airstairs have been removed and the doors have been bolted shut. The commenter states that it is in compliance with McDonnell Douglas Service Bulletin MD80–24–126, Revision 01, dated May 14, 1998. The commenter notes McDonnell Douglas Alert Service Bulletin MD80–24A126, Revision 02, dated September 22, 1999 (which is referenced in the proposed AD as the appropriate source of service information), requires additional work, consisting of moving the airstair door to the open and closed position to ensure clearance of wiring. Therefore, the commenter concludes that the additional work in Revision 02 of the service bulletin is not necessary for its fleet.

The FAA does not agree with this commenter. A door bolted shut would clearly not allow inspection for wire clearance with the door in the open position. However, since the inspection required by this AD is also for clearance when the door is in the full-closed position, that part of the inspection would still be applicable. Also, additional wires need to be inspected per Revision 02 of McDonnell Douglas Alert Service Bulletin MD80–24A126. The fact that airplane structure has been altered does not necessarily mean that an unsafe condition has been eliminated or does not exist. Therefore, we find no change to the final rule is necessary in this regard. However, under the provisions 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.

Request for Change of Level of Inspection

The same commenter also requests that the term ''detailed visual inspection'' be changed to ''visual inspection,'' because the Common Support Data Dictionary (CSDD) has a specific definition of ''detailed visual inspection'' and McDonnell Douglas Service Bulletin MD80–24A126, Revision 02, does not call for this level of inspection.

The FAA does not concur. The definition of the ''detailed visual inspection'' specified in **Note 2** of this AD is a standard definition that is used in all ADs that require a detailed visual inspection. We have determined that a detailed visual inspection is the appropriate level of inspection to be carried out for the unsafe condition being addressed.

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 as proposed.

Cost Impact

There are approximately 1,037 Model DC–9–81, -82, -83, and -87 series airplanes, and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 830 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 detailed visual 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 $49,800, 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:

2001–26–15 McDonnell Douglas: Amendment 39–12581. Docket 2000-NM–161-AD.

Applicability: Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD80–24A126, Revision 02, dated September 22, 1999; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent smoke and fire in the flight deck and main cabin due to insufficient clearance between wire assemblies and the ice protection airduct and airstair door interlock rod; chafing; and consequent arcing of wire assemblies, accomplish the following:

Inspection and Modification

(a) Within 6 months after the effective date of this AD, perform a detailed visual inspection of wire runs in the electrical/equipment compartment to detect chafing and preload against the airduct shroud assembly of the strake ice protection system and/or airstair door interlock rod between stations Y=148.00 and Y=160.000, in accordance with McDonnell Douglas Alert Service Bulletin MD80–24A126, Revision 02, dated September 22, 1999.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If no chafed or preloaded wire is found, prior to further flight, install spacers, sta-straps, and tie-back wire bundles, in accordance with the service bulletin.

(2) If any chafed or preloaded wire is found, prior to further flight, repair, and install spacers, sta-straps, and tie-back wire bundles, in accordance with 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 Angles ACO.

Special Flight Permit

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

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD80–24A126, Revision 02, dated September 22, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from 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 February 8, 2002.

Issued in Renton, Washington, on December 21, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–144 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–162–AD; Amendment 39–12582; AD 2001–26–16]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas DC–9–81, –82, –83, and –87 Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, that requires replacing the interface connectors of the cabin fluorescent lighting ballast in the wiring harness of the overhead stowage compartment with new connectors. In lieu of the required replacement, this AD requires adding interface seals to the existing interface connectors of the cabin fluorescent lighting ballast between certain stations and reidentifying the connector assemblies. This action is necessary to prevent electrical shorting and arcing due to the presence of water in the lighting ballast interface connectors, which could result in smoke in the main cabin. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

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: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–

130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–81, -82, -83, and -87 series airplanes, and Model MD–88 airplanes was published in the **Federal Register** on June 5, 2001 (66 FR 30097). That action proposed to require replacing the interface connectors of the cabin fluorescent lighting ballast in the wiring harness of the overhead stowage compartment with new connectors.

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.

Support for the Proposed AD

One commenter states that it does not own or operate the equipment affected by the referenced document, and therefore has no comments to offer. Another commenter notes that it does operate airplanes affected by the rule but has no comments regarding the AD as proposed.

Request for Use of Latest Revision

One commenter requests that Boeing Alert Service Bulletin MD80–33A096, Revision 03, dated August 14, 2001, be an approved method of accomplishment for the replacement required by the proposed AD. The commenter states that Boeing is currently developing Revision 03 of the subject service bulletin, and that revision will provide instructions to install an interfacial seal into the existing ballast connectors, rather than requiring complete replacement of the connectors. The commenter notes that Boeing has indicated that Boeing Alert Service Bulletin MD80–33A096, Revision 03, will provide a level of safety that is equivalent to the proposed connector replacement.

The FAA concurs. Since the issuance of the NPRM, the FAA has reviewed and approved Revision 03 of Boeing (McDonnell Douglas) Alert Service Bulletin MD80–33A096, dated August 14, 2001. Revision 03 adds an option to add interface seals to the existing interface connectors of the cabin fluorescent lighting ballast between stations Y=218.000 to Y=1338.000 and reidentify the connector assemblies. No more work is necessary on airplanes changed as shown in Revision 02 of the service bulletin (which was referenced in the NPRM as the appropriate source of service information). We have revised the final rule to reference Boeing Alert Service Bulletin MD80–33A096, Revision 03, dated August 14, 2001, as the appropriate source of service information, and to include in paragraph (a) of the final rule the option discussed above. We also have revised the Cost Impact section of the final rule to include the cost estimate associated with the new option. In addition, we have revised Note 2 of the final rule to include Revision 02 of the subject service bulletin as an acceptable method of compliance with the requirements 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 747 airplanes of the affected design in the worldwide fleet. The FAA estimates that 486 airplanes of U.S. registry will be affected by this AD.

In lieu of the required incorporation of interface seals, it will take approximately 15 work hours per airplane to accomplish the required replacement, at an average labor rate of $60 per work hour. Required parts will cost approximately $510 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,410 per airplane.

In lieu of the required replacement, it will take approximately 3 work hours per airplane to accomplish the required incorporation of interface seals, at an average labor rate of $60 per work hour. Required parts will cost approximately $300 per airplane. Based on these figures, the cost impact of the incorporation required by this AD on U.S. operators is estimated to be $480 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–26–16 McDonnell Douglas: Amendment 39–12582. Docket 2000–NM–162–AD.

Applicability: Model DC–9–81, -82, -83, and -87 series airplanes, and Model MD–88 airplanes, as listed in Boeing Alert Service Bulletin MD80–33A096, Revision 03, dated August 14, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability

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

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical shorting and arcing due to the presence of water in the lighting ballast interface connectors, which could result in smoke in the main cabin, accomplish the following:

Replacement or Incorporation of Interface Seals

(a) Within 18 months after the effective date of this AD, accomplish the actions specified in paragraph (a)(1) or (a)(2) of this AD per Boeing Alert Service Bulletin MD80–33A096, Revision 03, dated August 14, 2001.

(1) Replace the interface connectors of the cabin fluorescent lighting ballast in the wiring harness of the overhead stowage compartment with new connectors; or

(2) Add interface seals to the existing interface connectors of the cabin fluorescent lighting ballast between stations Y=218.000 to Y=1338.000 and reidentify the connector assemblies.

Note 2: Replacement of connectors prior to the effective date of this AD in accordance with McDonnell Douglas MD80 Service Bulletin 33–96, dated December 15, 1993; Revision 1, dated February 28, 1994; or Revision 02, dated November 1, 1999; is considered acceptable for compliance with the requirements of paragraph (a) of this AD.

Spares

(b) As of the effective date of this AD, no person shall install any connector, part number MB10R–6, on any airplane.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The replacement shall be done in accordance with Boeing Alert Service Bulletin MD80–33A096, Revision 03, dated August 14, 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

(f) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 21, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–145 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–28–AD; Amendment 39–12583; AD 2001–26–17]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330 series airplanes, that requires removal of the shear pins that keep the rear fixed panels on the center landing gear closed and installation of new solid shear pins. This amendment is prompted by issuance of mandatory continuing airworthiness information from a foreign airworthiness authority. This action is intended to prevent the shear pins on the rear fixed panels of the center landing gear from failing, which could result in loss of the panels during flight with consequent injury to people on the ground. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

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

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1181.

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 Airbus Model A330 series airplanes was published in the **Federal Register** on August 31, 2001 (66 FR 45951). That action proposed to require removal of the shear pins that keep the rear fixed panels on the center landing gear closed and installation of new solid shear pins.

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.

Changes Made to the Proposed AD

Since issuance of the proposed AD, Airbus has issued Service Bulletin A330–52–3058, Revision 01, dated February 8, 2001. The original issue of this service bulletin, dated April 7, 2000, was referenced in the proposed AD as the appropriate source of service information for the required replacement. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in France. The FAA finds that the procedures in Revision 01 of the service bulletin are essentially the same as those in the original issue. Therefore, we have revised paragraph (a) of the final rule to reference Revision 01 of the service bulletin, and we have included a new ''**Note 2**'' to give credit to

operators that may have accomplished the required actions prior to the effective date of this AD in accordance with the original issue of the service bulletin. Subsequent notes have been renumbered accordingly. Additionally, we have revised the applicability of the final rule to include Revision 01 of the service bulletin.

Conclusion

After careful review of the available data, 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 increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 2 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 replacement, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no charge. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $120, 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:

2001–26–17 Airbus Industrie: Amendment 39–12583. Docket 2001–NM–28–AD.

Applicability: Model A330–202, –223, –243, –301, –321, –322, –323, –341, –342, and –343 series airplanes, on which Airbus Modification 47707 has not been incorporated; or Airbus Service Bulletin A330–52–3058, dated April 7, 2000, or Revision 01, dated February 8, 2001, has not been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the shear pins on the rear fixed panels of the center landing gear from failing, which could result in loss of the panels during flight with consequent injury to people on the ground, accomplish the following:

Replacement

(a) Within 18 months after the effective date of this AD: Remove the shear pins that keep the rear fixed panels of the center landing gear closed and install solid shear pins, in accordance with Airbus Service Bulletin A330–52–3058, Revision 01, dated February 8, 2001.

Note 2: Accomplishment of the replacement in accordance with Airbus Service Bulletin A330–52–3058, dated April 7, 2000, prior to the effective date of this AD, is 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, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

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

Special Flight Permits

(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 Airbus Service Bulletin A330–52–3058, Revision 01, dated February 8, 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 2001–042(B), dated January 24, 2001.

Effective Date

(e) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 21, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–146 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–174–AD; Amendment 39–12584; AD 2001–26–18]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–300 series airplanes, that requires, for certain airplanes, a one-time torque test (inspection) of the attachment bolts of the forward engine mount vibration isolators to determine if the bolts are adequately torqued, and corrective action, if necessary. For all airplanes, this amendment prohibits installation of an attachment bolt on the forward engine mount vibration isolators, unless the attachment bolt is torqued within certain limits. These actions are necessary to prevent failure of the engine mount, which could result in separation of the engine from the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 8, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 8, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. 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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1503; 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 certain Dornier Model 328–300 series airplanes was published in the **Federal Register** on September 14, 2001 (66 FR 47901). That action proposed to require, for certain airplanes, a one-time torque test (inspection) of the attachment bolts of the forward engine mount vibration isolators to determine if the bolts are adequately torqued, and corrective action, if necessary. For all airplanes, that action also proposed to prohibit installation of an attachment bolt on the forward engine mount vibration isolators, unless the attachment bolt is torqued within certain limits.

Comments

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

Conclusion

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

Cost Impact

The FAA estimates that 36 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. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $4,320, 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:

2001–26–18 Dornier Luftfahrt GMBH: Amendment 39–12584. Docket 2001–NM–174–AD.

Applicability: Model 328–300 series airplanes, on which a forward engine mount vibration isolator has been removed or reinstalled since the date of manufacture of the airplane, certificated in any category.

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

One-Time Inspection

(a) For airplanes on which a forward engine mount vibration isolator has been removed or reinstalled prior to the effective date of this AD: Within 2,500 flight cycles after the first removal or reinstallation of a forward engine mount vibration isolator, or within 30 days after the effective date of this AD, whichever comes later, do a one-time torque test (inspection) of the attachment bolts of the forward engine mount vibration isolators on the left- and right-hand sides of the airplane to determine if the bolts are adequately torqued, according to Dornier Service Bulletin SB–328J–71–109, dated March 26, 2001, including Dornier 328JET Aircraft Maintenance Manual (AMM) Temporary Revision (TR) 71–130, dated March 8, 2001.

Replacement of Bolts

(b) During the inspection required by paragraph (a) of this AD, if the torque value of any attachment bolt is found to be outside the limits specified in Dornier Service Bulletin SB–328J–71–109, dated March 26, 2001, including Dornier 328JET AMM TR 71–130, dated March 8, 2001: Before further flight, do all actions associated with replacing all bolts on the vibration isolator on which the improperly torqued bolt was found (including performing a detailed visual inspection to determine the condition of components of the vibration isolator and replacement of any damaged components with new components, removing the existing bolts and washers that attach the forward engine mount vibration isolators to the engine, installing new bolts to reattach the forward engine mount vibration isolators to the engine, and torquing the new bolts to adequate torque values), according to the service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Torque Requirements

(c) For all airplanes: As of the effective date of this AD, no one may install an attachment bolt on the forward engine mount vibration isolators on any airplane, unless the attachment bolt is torqued within the limits specified in Dornier 328JET AMM TR 71–130, dated March 8, 2001.

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

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

Special Flight Permits

(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) The actions shall be done in accordance with Dornier Service Bulletin SB–328J–71–109, dated March 26, 2001, including Dornier 328JET Aircraft Maintenance Manual Temporary Revision 71–130, dated March 8, 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 FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in German airworthiness directive 2001–163, dated June 14, 2001.

Effective Date

(g) This amendment becomes effective on February 8, 2002.

Issued in Renton, Washington, on December 21, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–147 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ACE–7]

Amendment to Class E Airspace, Ankeny, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATE: 0901 UTC, December 27, 2001.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on September 24, 2001 (66 FR 48794). 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 December 27, 2001. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on November 7, 2001.

Herman J. Lyons,

Manager, Air Traffic Division, Central Region.

[FR Doc. 02–166 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–17]

Establishment of Class E5 Airspace, Wauchula, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E5 airspace at Wauchula, FL. A Non-Directional Beacon (NDB) Runway (RWY) 36 Standard Instrument Approach Procedure (SIAP) has been developed for Wauchula Municipal Airport, Wauchula, FL. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and other Instrument Flight Rules (IFR) operations at Wauchula Municipal Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

EFFECTIVE DATE: 0901 UTC, April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box

20636, Atlanta, Georgia 30320; telephone (404) 305–5588.

SUPPLEMENTARY INFORMATION:

History

On November 20, 2001, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E5 airspace at Wauchula, FL (66 FR 58082) to provide adequate controlled airspace to contain the NDB RWY 36 SIAP and other IFR operations at Wauchula Municipal Airport. Class E airspace designations for airspace extending upward from 700 feet or more above the surface of the earth are published in FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.7 The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E5 airspace at Wauchula, FL.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows: Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO FL E5 Wauchula, FL [New]

Wauchula Municipal Airport, FL
(Lat. 27°30′36″ N, long. 81°52′50″ W)
Wauchula NDB
(Lat. 27°30′36″ N, long. 81°53′00″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Wauchula Municipal Airport and within 4 miles east and 8 miles west of the 176° bearing from the Wauchula NDB extending from the 6.4-mile radius to 16 miles south of the airport.

* * * * *

Issued in College Park, Georgia, on December 27, 2001.

Cesar I. Perez,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–164 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–15]

Amendment of Class E5 Airspace, Andrews–Murphy, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E5 airspace at Andrews-Murphy, NC. A Area Navigation (RNAV), Global Positioning System (GPS), Runway (RWY) 8 Standard Instrument Approach Procedure (SIAP), has been developed for Andrews-Murphy, NC. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP.

DATES: 0901 UTC, April 18, 2002.

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

SUPPLEMENTARY INFORMATION:

History

On November 20, 2001, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class E5 airspace at Andrews-Murphy, NC, (66 FR 58080). This action provides adequate Class E airspace for IFR operations at Andrews-Murphy, NC. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR part 71.1. The Class E designation listed in this document will be published subsequently in the Order.

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

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class E5 airspace at Andrews-Murphy, NC.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

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

* * * * *

ASO NC E5 Andrews-Murphy, NC [Revised]

Andrews-Murphy Airport, NC
(Lat. 35°11′42″N, long. 83°51′50″W)
RUGIE Waypoint
(Lat. 35°08′57″N, long. 83°57′29″W)
Andrews-Murphy, NC, Point in Space Coordinates
(Lat. 35°11′10″N, long. 83°52′57″W)

That airspace extending upward from 700 feet or more above the surface within a 6.5-mile radius of the Andrews-Murphy Airport and within 3.2 miles each side of the 237° course from the RUGIE Waypoint, extending from the 6.5-mile radius to 8.1 miles southwest of the airport and that airspace within a 6-mile radius of the point in space (lat. 35°11′10″N, long. 83°52′57″W) serving Andrews-Murphy, NC; excluding that airspace within the Knoxville, TN, Class E airspace.

* * * * *

Issued in College Park, Georgia, on December 27, 2001.

Cesar I. Perez,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–163 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–14]

Establishment of Class E5 Airspace; Union, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E5 airspace at Union, SC. A Non-Directional Beacon (NDB) Runway (RWY) 5 Standard Instrument Approach Procedure (SIAP) has been developed for Union County, Troy Shelton Field, Union, SC. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and other Instrument Flight Rules (IFR) operations at Union County, Troy Shelton Field. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

EFFECTIVE DATE: 0901 UTC, April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

On November 20, 2001, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E5 airspace at Union, SC, (66 FR 58081) to provide adequate controlled airspace to contain the NDB RWY 5 SIAP and other IFR operations at Union County, Troy Shelton Field. Class E airspace designations for airspace extending upward from 700 feet or more above the surface of the earth are published in FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E5 airspace at Union, SC.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR Part 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6055 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO SC E5 Union, SC [New]

Union County, Troy Shelton Field, SC
(Lat. 34°41′11″ N, Long. 81°38′30″ W)
Union NDB
(Lat. 34°41′02″ N, Long. 81°38′32″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Union County, Troy Shelton Field and within 4 miles north and 8 miles south of the 241° bearing from the Union NDB

extending from the 6.3-mile radius to 16 miles southwest of the airport.

* * * * *

Issued in College Park, Georgia on December 27, 2001.

Cesar I. Perez,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–162 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ANM–31]

Establishment of Class E Airspace, Bellingham, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at the surface of Bellingham International Airport, Bellingham, WA. Class E controlled airspace, above the surface of the earth, is required to contain aircraft executing procedures in the Instrument Flight Rules (IFR). The effect of this action clarifies when two-way radio communication with Bellingham ATCT is required and to provide adequate Class E controlled airspace between the surface and the en route phase of flight for aircraft executing Instrument Flight Rules (IFR) operations at Bellingham International Airport, Bellingham, WA, when the Bellingham ATCT is closed. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. The effect of this action is to provide adequate controlled airspace for IFR operations at Bellingham International Airport, Bellingham, WA.

EFFECTIVE DATE: 0901 UTC, February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 00–ANM–31, 1601 Lind Avenue SW, Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On August 14, 2001, the FAA proposed to amend Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by establishing Class E airspace at Bellingham, WA, in order to provide a safer IFR environment at Bellingham International Airport, Bellingham, WA (66 FR 42618). This amendment established Class E2 surface area controlled airspace at Bellingham, WA, to contain IFR aircraft operating in the Bellingham terminal area during the hours when the Bellingham ATCT is closed. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. A comment was received from FAA, AVN–500. A discrepancy was found in the Airport Reference Point coordinates. This changes is reflected in the legal description. This change is considered to be an insignificant

The Rule

This amendment to Title 41 Code of Federal Regulations, part 71 (14 CFR part 71) by establishing Class E controlled airspace at Bellingham, WA. Bellingham ATCT recently changed its operating hours to less than a 24-hour-a-day operation. In the absence of the Class D airspace, Class E controlled airspace above the surface of the earth is required for aircraft executing IFR operations at Bellingham International Airport when the ATCT is closed. The FAA establishes Class E airspace where necessary to contain transitioning between the terminal and en route environments. This rule is designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under IFR at the Bellingham International Airport and between the terminal and en route transition stages.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as surface areas, are published in Paragraph 6005, of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001 and effective September 16, 2001, is amended as follows:

Paragraph 6002 Class E airspace designated as surface area for an airport.

* * * * *

ANM WA E2 Bellingham, WA [New]

Bellington International Airport
(Lat. 48°56′34″ N., long. 122°32′15″ W.)
Whatcom VORTAC/CC
(Lat. 48°56′43″ N., long. 122°34′45″ W.)

Within a 4-mile radius of Bellingham International Airport, and within the 1.8 miles each side of the Watchcom VORTAC 169° radial extending north from the 4-mile radius of the Bellington International Airport to 2.7 miles south of the VORTAC. This Class E airspace is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Seattle, Washington, on December 26, 2001.

Daniel A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 02–161 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–26]

Establishment of Class E Airspace; Kenmare, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Kenmare, ND. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway 26 has been developed for Kenmare Municipal Airport. Controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing this approach. This action creates Class E airspace for Kenmare, ND.

EFFECTIVE DATE: 0901 UTC, February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, October 19, 2000, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Kenmare, ND (65 FR 62655). The proposal was to create controlled airspace extending upward from 700 feet above the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Kenmare, ND, to accommodate aircraft executing instrument flight procedures into and out of Kenmare Municipal Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL ND E5 Kenmare, ND [New]

Kenmare Municipal Airport, ND
(Lat. 48°40′03″ N, long. 102°02′51″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Kenmare Municipal Airport, and that airspace extending upward from 1200 feet above the surface beginning at lat. 49°00′00″ N., long. 103°00′00″ W., to lat. 48°30′00″ N., long. 103°00′00″ W., to lat. 48°30′00″ N., long. 101°00′00″ W., to lat. 49°00′00″ N., long. 101°00′00″ W., thence to the point of beginning, excluding that airspace within the Minot AFB, ND, Mohall, ND, and Tioga, ND, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on December 5, 2001.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–253 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–27]

Establishment of Class E Airspace; Warren, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Warren, MN. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway 30 has been developed for Warren Municipal Airport. Controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing this approach. This action creates Class E airspace for Warren, MN.

EFFECTIVE DATE: 0901 UTC February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, October 19, 2000, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Warren, MN (65 FR 62657). The proposal was to create controlled airspace extending upward from 700 feet above the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more

above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Warren, MN, to accommodate aircraft executing instrument flight procedures into and out of Warren Municipal Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL MN E5 Warren, MN [NEW]

Warren Municipal Airport, MN
(Lat. 48° 11′ 28″ N, long. 96° 42′ 40″ W)
Point in Space Coordinates
(Lat. 48° 04′ 50″ N, long. 96° 31′ 08″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Warren Municipal Airport, and that airspace extending upward from 1200 feet above the surface within the State of North Dakota within a 30.0-mile radius of the Point In Space, excluding that airspace within the Grand Forks, ND, Class E airspace area.

* * * * *

Issued in Des Plains, Illinois on December 5, 2001.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–255 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–29]

Proposed Modification of Class E Airspace; Hillsboro, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Hillsboro, ND. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway 16, and an RNAV SIAP to Rwy 34, have been developed for Hillsboro Municipal Airport. Controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing these approaches. This action increases the radius of the existing controlled airspace for Hillsboro, ND.

EFFECTIVE DATE: 0901 UTC, February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, October 19, 2000, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Hillsboro, ND (65 FR 26823).

The proposal was to modify controlled airspace extending upward from 700 feet above the surface to contain aircraft executing instrument approach procedures and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Hillsboro, ND, to accommodate aircraft executing instrument flight procedures into and out of Hillsboro Municipal Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 7.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL ND E5 Hillsboro, ND [Revised]

Hillsboro Municipal Airport, ND
(Lat. 47°21′34″ N, long. 97°03′38″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Hillsboro Municipal Airport, and that airspace extending upward from 1200 feet above the surface within the State of North Dakota within a 45.0-mile radius of Hillsboro Municipal Airport, excluding that airspace within the Grand Forks, ND, and Fargo, ND, Class E airspace areas, and excluding all Federal Airways.

* * * * *

Issued in Des Plaines, Illinois on December 5, 2001.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–256 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–28]

Establishment of Class E Airspace; Stanley, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Stanley, ND. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway 27 has been developed for Stanley Municipal Airport. Controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing this approach. This action creates Class E airspace for Stanley, ND.

EFFECTIVE DATE: 0901 UTC February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, October 19, 2000, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Stanley, ND (65 FR 62653). The proposal was to create controlled airspace extending upward from 700 feet above the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Kenmare, ND, to accommodate aircraft executing instrument flight procedures into and out of Stanley Municipal Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL ND E5 Stanley, ND [NEW]

Stanley Municipal Airport, ND
(Lat. 48°18′03″ N, long. 102°24′23″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Stanley Municipal Airport, and that airspace extending upward from 1200 feet above the surface within a 40.0-mile radius of Stanley Municipal Airport, excluding that airspace within the Williston, ND, Tioga, ND, Minot, ND, Kenmare, ND, Hazen, ND, and New Town, ND, Class E airspace areas, and excluding all Federal Airways.

* * * * *

Issued in Des Plaines, Illinois on December 5, 2001.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–257 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–24]

Modification of Class E Airspace; Youngstown, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Youngstown, OH. An VHF Omnidirectional Range–A (VOR–A) Standard Instrument Approach Procedure (SIAP) to Runway 26 has been developed for Youngstown-Warren Regional Airport. Controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing this approach. This action increases the width of the northerly extension and increases the radius of the existing Class E airspace for Youngstown, OH.

EFFECTIVE DATE: 0901 UTC, February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, October 6, 2000, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Youngstown, OH (65 FR 59762). The proposal was to modify controlled airspace extending upward from 700 feet above the surface to contain aircraft executing instrument approach procedures.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Youngstown, OH, to accommodate aircraft executing instrument flight procedures into and out of Youngstown-Warren Regional Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1063 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL OH E5 Youngstown, OH [Revised]

Youngstown-Warren Regional Airport, OH
(Lat. 41°15′39″ N, long. 80°40′45″ W)
Youngstown, Lansdowne Airport, OH
(Lat. 41°07′50″ N, long. 80°37′10″ W)
Youngstown VORTAC
(Lat. 41°19′52″ N, long. 80°40′29″ W)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of the Youngstown-Warren Regional Airport, and within 3.6 miles each side of the Youngstown VORTAC 360° radial extending from the 7.0-mile radius to 10.0 miles north of the VORTAC, and within a 6.2-mile radius of the Lansdowne Airport.

* * * * *

Issued in Des Plaines, Illinois on December 5, 2001.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–258 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–187]

RIN 2115–AA84, 2115–AA97

Regulated Navigation Areas, Safety And Security Zones: Long Island Sound Marine Inspection and Captain of the Port Zone

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area (RNA) and two safety and security zones. The rule will regulate the circumstances under which certain vessels may enter, transit or operate within the regulated navigation area and will exclude all vessels from operating within 700 yards of the Millstone Nuclear Power Plant or 100 yards of an anchored Coast Guard vessel. This action is necessary to ensure public safety and prevent sabotage or terrorist acts.

DATES: This rule is effective from December 10, 2001 until June 15, 2002.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Group/Marine Safety Office Long Island Sound, 120 Woodward Avenue, New Haven, CT between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander P.J. Maguire, Group/Marine Safety Office Long Island Sound, Prevention Department, at (203) 468–4401.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the

Coast Guard finds that good cause exists for not publishing an NPRM. On September 11, 2001, two commercial aircraft were hijacked from Logan Airport in Boston, Massachusetts and flown into the World Trade Center in New York, New York inflicting catastrophic human casualties and property damage. A similar attack was conducted on the Pentagon with a plane launched from Newark, NJ on the same day. National security and intelligence officials warn that future terrorist attacks against civilian targets may be anticipated. This rulemaking is urgently required to prevent future terrorist strikes within and adjacent to waters within the Long Island Sound Marine Inspection and Captain of the Port Zone. The delay inherent in the NPRM process is contrary to the public interest insofar as it may render individuals, vessels and facilities within and adjacent to the Long Island Sound Marine Inspection and Captain of the Port Zone vulnerable to subversive activity, sabotage or terrorist attack.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The measures contemplated by the rule are intended to prevent future terrorist attack against individuals, vessels and waterfront facilities within or adjacent to the Long Island Sound Marine Inspection and Captain of the Port Zone. Immediate action is required to accomplish these objectives. Any delay in the effective date of this rule is impracticable and contrary to the public interest.

Background and Purpose

On September 11, 2001, terrorists launched attacks on civilian and military targets within the United States killing large numbers of people and damaging properties of national significance. Vessels operating within the Long Island Sound Marine Inspection and Captain of the Port Zone present possible targets of terrorist attack or platforms from which terrorist attacks may be launched upon other vessels, waterfront facilities and adjacent population centers. The Coast Guard has established a Regulated Navigation Area within the waters of Long Island Sound Marine Inspection and Captain of the Port Zone, as part of a comprehensive, port security regime designed to safeguard human life, vessels and waterfront facilities from sabotage or terrorist acts. The Captain of the Port will determine the threat posed by and to affected vessels within the Regulated Navigation Area and may establish conditions, under which they are allowed to enter, transit or operate within the area. Prior to the determination of whether and under what conditions a vessel may enter, transit or operate within the Regulated Navigation Area, vessels may be directed by the Captain of the Port to temporarily anchor in a specific location within the Regulated Navigation Area. In addition, the Coast Guard has established a safety and security zone that restricts movement within 700 yards of the Millstone Nuclear Power Plant in Waterford, CT. Safety and security zones are established for all waters within 100 yards of all anchored Coast Guard vessels.

Regulated Navigation Area

The rule establishes a regulated navigation area (RNA) comprised of the waters of the Long Island Sound Marine Inspection and Captain of the Port Zone extending seaward 12 nautical miles from the territorial sea baseline. Affected vessels are required to obtain authorization from the Captain of the Port before crossing the three nautical mile line from any southern or eastern approach. The three nautical mile line is measured from the territorial sea baseline. This line is depicted on National Oceanic and Atmospheric Administration (NOAA) nautical charts, including chart numbers 13205, 12353, and 12326.

In order to obtain authorization, a vessel subject to this rule may be required to undergo a port security inspection to the satisfaction of the Captain of the Port. Vessels awaiting a port security inspection or Captain of the Port authorization to enter will be directed to anchor in a specific location.

All vessels over 1,600 gross tons operating inside the line extending seaward three nautical miles from the territorial sea baseline must receive authorization from the Captain of the Port prior to any vessel movement. This requirement enables the Captain of the Port to maintain control over the movement of vessels that pose a potential threat to other vessels, waterfront facilities and adjacent population centers. The Captain of the Port may authorize a vessel subject to this rule to enter a port or place within the RNA under such circumstances and conditions as he deems appropriate to minimize the threat of injury to the vessel, the port, waterfront facilities or adjacent population centers resulting from sabotage or terrorist acts launched against or from the vessel.

Vessels 300 gross tons or greater may not transit through the Lower Thames River and the Naval Submarine Base New London Restricted Area, established in 33 CFR 334.75(a), at a speed in excess of 8 knots. This speed restriction does not apply to public vessels as defined in 33 USC 1321(a)(4).

Safety and Security Zones

The rule also establishes safety and security zones. One zone is being established within a 700-yard radius from the stack at the Millstone Power Plant. This zone is being established to protect the power plant, persons and vessels from subversive or terrorist acts. We have created additional zone defined by reference to a fixed radius around Coast Guard vessels anchored in the RNA. These zones are intended principally to protect the vessels themselves from subversive or terrorist acts.

No person or vessel may enter or remain in the prescribed safety and security zone at any time without the permission of the Captain of the Port. Each person or vessel in a safety and security zone shall obey any direction or order of the Captain of the Port. The Captain of the Port may take possession and control of any vessel in a safety and security zone and/or remove any person, vessel, article or thing from a security zone.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12886, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the relatively small area which vessels are prohibited from operating within. It is contemplated that vessels will be able to operate elsewhere within the RNA once the Captain of the Port has determined that the vessels do not pose a threat to individuals, other vessels or waterfront facilities. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting the public, vessels, and vessel crews from the further devastating consequences of the aforementioned acts of terrorism, and from potential future sabotage or other

subversive acts, accidents, or other causes of a similar nature.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard has not yet determined whether this proposal will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses and 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 is not presently able to certify under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities. However, given the continued risk and potential damage to the national security interests of the United States, in addition to the need to protect and safeguard innocent civilians within and near the port, it is necessary to implement this regulation before said analysis may be fully accomplished. Maritime advisories will be initiated by normal methods and means and will be widely available to users of the area.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please call Lieutenant Commander P.J. Maguire, Marine Safety Office Long Island Sound, at (203) 468–4401. 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 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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

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 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.

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–153 to read as follows:

§ 165.T01–153 Regulated Navigation Area: Long Island Sound Marine Inspection and Captain of the Port Zone.

(a) *Regulated navigation area location.* All waters of the Long Island Sound Marine Inspection and Captain of the Port Zone, as delineated in 33 CFR 3.05–35, extending seaward to a line 12 nautical miles from the territorial sea baseline, are established as a regulated navigation area (RNA).

(b) *Applicability.* This section applies to all vessels operating within the RNA, except the following:

(1) Recreational vessels;

(2) Vessels operating exclusively within the Marine Inspection and Captain of the Port Zone;

(3) Vessels on a single voyage which depart from and return to the same port or place within the RNA;

(4) U.S. flagged public vessels; and

(5) Primary towing vessels engaged in towing tank barges carrying petroleum oil in bulk as cargo and issuing the securité calls required under 33 CFR 165.100(d)(2).

(c) *Effective dates.* This section is effective from December 10, 2001 until June 15, 2002.

(d) *Regulations.* (1) Speed restrictions in vicinity of Naval Submarine Base New London and Lower Thames River. Vessels of 300 gross tons or more may not proceed at a speed over eight knots in the Thames River from New London Harbor channel buoys 7 and 8 (Light List numbers 21875 and 21880 respectively) north through the upper limit of the Naval Submarine Base New London Restricted Area, as specified in 33 CFR 334.75(a). All vessels less than 300 gross tons are exempt from this rule. This speed restriction does not apply to public vessels as defined in 33 U.S.C. 1321(a)(4). The U.S. Navy and other Federal, State and municipal agencies may assist the U.S. Coast Guard in the enforcement of this rule.

(2) All inbound vessels operating within the RNA must be inspected to the satisfaction of the United States Coast Guard and must obtain authorization from the Captain of the Port before crossing the line three nautical miles from the territorial sea baseline.

(3) Vessels awaiting inspection or Captain of the Port authorization to enter within the three nautical mile line will be directed to anchor in a specific location within the Regulated Navigation Area.

(4) Vessels over 1,600 gross tons operating in the RNA within the line extending seaward three nautical miles from the territorial sea baseline must receive authorization from the Captain of the Port prior to any vessel movements.

3. Add temporary § 165.T01–154 to read as follows:

§ 165.T01–154 Safety and Security Zones: Long Island Sound Marine Inspection Zone and Captain of the Port Zone.

(a) *Safety and security zones.* The following are established as safety and security zones:

(1) *Safety and Security Zone A*: The waters of Long Island Sound south, east and west of the Millstone Power Plant within a seven hundred (700) yard radius of the stack at Millstone, Lat. 41°18′34″ North, Long. 72°9′57″ West (NAD 83).

(2) *Safety and Security Zone B.* U. S. Coast Guard vessels: All waters within a 100-yard radius of any anchored U. S. Coast Guard vessel.

(b) *Effective date.* This section is effective from December 10, 2001 until June 15, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 and 165.33 apply.

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

Dated: December 10, 2001.

G. N. Naccara,

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

[FR Doc. 02–160 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 011108271–1271–01]

RIN 0651–AB44

Revision of the Time Limit for National Stage Commencement in the United States for Patent Cooperation Treaty Applications

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office) is revising the rules of practice relating to applications filed under the Patent Cooperation Treaty (PCT). This rule modifies the Office's rules of practice to comply with an amendment to the PCT. The changes in this rule specifically involve revising the rules of practice consistent with the change to the PCT to have a single time limit for national stage commencement for applications filed under the PCT, regardless of whether the applicant filed a Demand for an international preliminary examination.

DATES: *Effective Date:* April 1, 2002.

Applicability Date: The changes in this final rule apply to any international (PCT) application in which the twenty-month period from the priority date expires on or after April 1, 2002, and in which the applicant has not yet entered the national stage as defined in 37 CFR 1.491(b) by April 1, 2002.

FOR FURTHER INFORMATION CONTACT: Charles A. Pearson, Director, Office of PCT Legal Administration, by telephone at (703) 306–4145, or Boris Milef, Legal Examiner, Office of PCT Legal Administration, by telephone at (703) 308–3659, or by mail addressed to: Box PCT—Patents, Commissioner for Patents, Washington, D.C. 20231, or by facsimile to (703) 308–6459, marked to the attention of Boris Milef.

SUPPLEMENTARY INFORMATION: During a September-October 2001 meeting of the Governing Bodies of the World Intellectual Property Organization (WIPO), the PCT Assembly adopted an amendment to the PCT Article 22. Specifically, PCT Article 22 was amended to change its time limit for entering the national stage of twenty months from the priority date of the PCT application to a time limit of thirty months from the priority date of the PCT application. *See* PCT Article 47 (allows the time limits fixed in PCT Chapters I and II to be modified by a decision of the Contracting States through the PCT Assembly, subject to certain conditions). This amendment to PCT Article 22 takes effect on April 1, 2002.

With this amendment to PCT Article 22, the time limit under PCT Article 22 and the time limit under PCT Article 39 will be the same: thirty months from the priority date of the PCT application. Thus, the PCT will provide a single time period for national stage commencement for PCT applications, regardless of whether the applicant filed a Demand for an international preliminary examination. Therefore, applicants will no longer be required to file a Demand for an international preliminary examination under PCT Article 31 (and pay the international preliminary examination fees under 37 CFR 1.482) in order to delay commencement of the national stage until thirty months from the priority date. An applicant's decision whether to file a Demand under PCT Article 31 may be based upon whether the applicant wants an international preliminary examination report, and not upon whether the applicant wants to delay commencement of the national stage until thirty months from the priority date.

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, Part 1, is amended as follows:

Section 1.8: Section 1.8(a)(2)(i)(F) is amended to eliminate its reference to § 1.494 (which is removed and reserved).

Section 1.14: Section 1.14(d)(4) is amended to eliminate its reference to § 1.494 (which is removed and reserved).

Section 1.25: Section 1.25(b) is amended to eliminate its reference to § 1.494 (which is removed and reserved). Section 1.25 is also amended to place the sentence ''[a]n authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee'' at the end of the paragraph because that provision is applicable to all of the charges provided for in § 1.25(b).

Section 1.41: Section 1.41(a)(4) is amended to state that the inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, and to indicate that the inventorship set forth in the international application includes any change effected under PCT Rule 92*bis*. Section 1.41(a)(4) is also amended to refer to § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any declaration filed under PCT Rule 4.17(iv).

Section 1.48: Section 1.48(f)(1) is amended to change ''enter the national stage under 35 U.S.C. 371 and § 1.494 or § 1.495'' to ''enter the national stage under 35 U.S.C. 371'' (§ 1.494 is removed and reserved).

Section 1.103: Section 1.103(d)(1) is amended to eliminate its reference to § 1.494 (which is removed and reserved).

Section 1.417: Section 1.417 is amended to eliminate its reference to § 1.494 (which is removed and reserved).

Section 1.480: Section 1.480 is amended to remove paragraph (c) and redesignate paragraph (d) as paragraph (c). Former § 1.480(c) is now unnecessary because the provisions of § 1.495 apply regardless of whether a Demand is made prior to the expiration of the nineteenth month from the priority date.

Section 1.491: Section 1.491 is amended to define both commencement of the national stage and entry into the national stage. Because these two events (commencement of the national stage and entry into the national stage) may not take place at the same time, the Office is amending § 1.491 to clarify when each of these two events takes place. Section 1.491(a) incorporates the statutory language contained in 35 U.S.C. 371(b), thus providing that ''[s]ubject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22(1) or (2), or under PCT Article 39(1)(a).'' However, in view of the amendment to PCT Article 22, the time limit under PCT Article 22(1) or (2) is now the same as the time limit under PCT Article 39(1)(a): thirty months from the priority date of the PCT application.

Section 1.491(b) contains the provisions of former § 1.491 amended to eliminate its reference to § 1.494 (which is removed and reserved), and provides that an international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.495.

The Office previously published a temporary rule that amends § 1.491 to define both commencement of the national stage and entry into the national stage in the manner discussed above. *See Timing of National Stage Commencement in the United States for Patent Cooperation Treaty Applications,* 66 FR 45775 (Aug. 30, 2001), 1250 *Off. Gaz. Pat. Office* 147 (Sept. 25, 2001). The Office also published a notice proposing the above change to § 1.491 for public comment. *See Requirements for Claiming the Benefit of Prior-Filed Applications Under Eighteen-Month Publication of Patent Applications,* 66 FR 46409 (Sept. 5, 2001), 1251 *Off. Gaz. Pat. Office* 16 (Oct. 2, 2001). The Office received no comment on the proposed change to § 1.491.

Section 1.492: Sections 1.492(e) and (f) are amended to eliminate their reference to § 1.494 (which is removed and reserved).

Section 1.494: Section 1.494 is removed and reserved. Since the time period for commencement of the national stage in the United States of America will not depend upon whether the applicant has filed a Demand under PCT Article 31, it will no longer be necessary to provide separately in § 1.494 and § 1.495 for the time period for filing the documents and fees required by 35 U.S.C. 371(c) for: (1) Applications in which a Demand under Article 31 has not been filed within nineteen months from the priority date (§ 1.494); and (2) applications in which a Demand under Article 31 has been filed within nineteen months from the priority date (§ 1.495).

Section 1.495: Section 1.495 is amended to be applicable regardless of whether the applicant has filed a Demand under Article 31 within nineteen months from the priority date. Section 1.495 is also amended to eliminate unassociated text in § 1.495(b) and § 1.495(c).

Section 1.497: Sections 1.497(a) and 1.497(c) are amended to eliminate their reference to § 1.494 (which is removed and reserved).

Section 1.497(d) is amended to clarify that if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration that was filed in the application under PCT Rule 4.17(iv) or § 1.497, the requirements of § 1.497(d)(1) through (d)(4) apply only if the inventive entity changed pursuant to PCT Rule 92*bis* is different from the inventive entity identified in any previously filed oath or declaration application under PCT Rule 4.17(iv) or § 1.497. Section 1.497(d) is also amended such that a new oath or declaration is not required under § 1.497(d) unless a new oath or declaration is required by § 1.497(f). Section 1.497(f) is amended to provide that a new oath or declaration under § 1.497 is not required when a change in the inventive entity is effected under PCT Rule 92*bis* after the declaration was executed unless no declaration which sets forth and is executed by the inventive entity as so changed has been filed in the application. Therefore, if a declaration under PCT Rule 4.17(iv) naming and executed by a first inventive entity is followed by a change of inventive entity under PCT Rule 92*bis* and a new declaration under PCT Rule 4.17(iv) naming and executed by the new (second) inventive entity filed in the application, the applicant must comply with the requirements of § 1.497(d) to enter the national stage but a new oath or declaration under § 1.497 is not required because the application contains a declaration under PCT Rule 4.17(iv) setting forth the inventive entity as changed pursuant to PCT Rule 92*bis*.

Classification

Administrative Procedure Act

The changes in this final rule relate solely to Office practices and procedures for patent applications filed under the PCT. Accordingly, this final rule involves rules of agency practice and procedure under 5 U.S.C. 553(b)(A), and may be adopted without prior

notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d). *See Bachow Communications Inc.* v. **FCC,** 237 F.3d 683, 690 (D.C. Cir. 2001). However, the Office did provide notice and an opportunity for comment on the change to § 1.491 in order to obtain the benefit of public comment on this change.

Regulatory Flexibility Act

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. As such, the regulatory flexibility analysis is not required, and none has been provided. *See* 5 U.S.C. 603.

Executive Order 13132

This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866

This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act

This rulemaking involves information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information involved in this rulemaking have been reviewed and previously approved by OMB under the following control numbers 0651–0021, 0651–0031, and 0651–0032. The Office is not resubmitting an information collection package to OMB for its review and approval because the changes in this rulemaking do not affect the information collection requirements associated with the information collections under OMB control numbers 0651–0021, 0651–0031, or 0651–0032.

The title, description and respondent description of the information collections are shown below with an estimate of the annual reporting burdens. Included in the estimates are the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

OMB Number: 0651–0021.

Title: Patent Cooperation Treaty.

Form Numbers: PCT/RO/101, ANNEX/134/144, PTO–1382, PCT/IPEA/401, PCT/IB/328.

Type of Review: Regular submission (approved through December of 2003).

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Federal Agencies or Employees, Not-for-Profit Institutions, Small Businesses or Organizations.

Estimated Number of Respondents: 331,288.

Estimated Time Per Response: Between 15 minutes and 4 hours.

Estimated Total Annual Burden Hours: 401,083.

Needs and Uses: The information collected is required by the Patent Cooperation Treaty (PCT). The general purpose of the PCT is to simplify the filing of patent applications on the same invention in different countries. It provides for a centralized filing procedure and a standardized application format.

OMB Number: 0651–0031.

Title: Patent Processing (Updating).

Form Numbers: PTO/SB/08/21–27/30–32/35–37/42/43/61/62/63/64/67/68/91/92/ 96/97/PTO–2053/PTO–2055.

Type of Review: Regular submission (approved through October of 2002).

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Not-for-Profit Institutions and Federal Government.

Estimated Number of Respondents: 2,247,389.

Estimated Time Per Response: 0.45 hours.

Estimated Total Annual Burden Hours: 1,021,941 hours.

Needs and Uses: During the processing of an application for a patent, the applicant/agent may be required or may desire to submit additional information to the United States Patent and Trademark Office concerning the examination of a specific application. The specific information required or which may be submitted includes: Information Disclosure Statements; Terminal Disclaimers; Petitions to Revive; Express Abandonments; Appeal Notices; Petitions for Access; Powers to Inspect; Certificates of Mailing or Transmission; Statements under § 3.73(b); Amendments; Petitions and their Transmittal Letters; and Deposit Account Order Forms.

OMB Number: 0651–0032.

Title: Initial Patent Application.

Form Number: PTO/SB/01–07/13PCT/17–19/29/101–110.

Type of Review: Regular submission (approved through October of 2002).

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Not-for-Profit Institutions and Federal Government.

Estimated Number of Respondents: 319,350.

Estimated Time Per Response: 9.35 hours.

Estimated Total Annual Burden Hours: 2,984,360 hours.

Needs and Uses: The purpose of this information collection is to permit the Office to determine whether an application meets the criteria set forth in the patent statute and regulations. The standard Fee Transmittal form, New Utility Patent Application Transmittal form, New Design Patent Application Transmittal form, New Plant Patent Application Transmittal form, Declaration, and Plant Patent Application Declaration will assist applicants in complying with the requirements of the patent statute and regulations, and will further assist the Office in the processing and examination of the application.

Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to Robert J. Spar, Director, Office of Patent Legal Administration, United States Patent and Trademark Office, Washington, DC 20231, or to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503, Attention: Desk Officer for the United States Patent and Trademark Office.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

For the reasons set forth in the preamble, 37 CFR Part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Section 1.8 is amended by revising paragraph (a)(2)(i)(F) to read as follows:

§ 1.8 Certificate of mailing or transmission.

(a) * * *

(2) * * *

(i) * * *

(F) The filing of a copy of the international application and the basic national fee necessary to enter the national stage, as specified in § 1.495(b).

* * * * *

3. Section 1.14 is amended by revising paragraph (d)(4) to read as follows:

§ 1.14 Patent applications preserved in confidence.

* * * * *

(d) * * *

(4) A registered attorney or agent named in the papers accompanying the application papers filed under § 1.53 or the national stage documents filed under § 1.495, if an executed oath or declaration pursuant to § 1.63 or § 1.497 has not been filed.

* * * * *

4. Section 1.25 is amended by revising paragraph (b) to read as follows:

§ 1.25 Deposit accounts.

* * * * *

(b) Filing, issue, appeal, international-type search report, international application processing, petition, and post-issuance fees may be charged against these accounts if sufficient funds are on deposit to cover such fees. A general authorization to charge all fees, or only certain fees, set forth in §§ 1.16 to 1.18 to a deposit account containing sufficient funds may be filed in an individual application, either for the entire pendency of the application or with a particular paper filed. An authorization to charge fees under § 1.16 in an international application entering the national stage under 35 U.S.C. 371 will be treated as an authorization to charge fees under § 1.492. An authorization to charge fees set forth in § 1.18 to a deposit account is subject to the provisions of § 1.311(b). An authorization to charge to a deposit account the fee for a request for reexamination pursuant to § 1.510 or § 1.913 and any other fees required in a reexamination proceeding in a patent may also be filed with the request for reexamination. An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

5. Section 1.41 is amended by revising paragraph (a)(4) to read as follows:

§ 1.41 Applicant for patent.

(a) * * *

(4) The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92*bis.* See § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any declaration filed under PCT Rule 4.17(iv) (§ 1.48(f)(1) does not apply to an international application entering the national stage under 35 U.S.C. 371).

* * * * *

6. Section 1.48 is amended by revising paragraph (f)(1) to read as follows:

§ 1.48 Correction of inventorship in a patent application, other than a reissue application, pursuant to 35 U.S.C. 116.

* * * * *

(f)(1) *Nonprovisional application—filing executed oath/declaration corrects inventorship.* If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63 by any of the inventors, the first submission of an executed oath or declaration under § 1.63 by any of the inventors during the pendency of the application will act to correct the earlier identification of inventorship. See §§ 1.41(a)(4) and 1.497(d) and (f) for submission of an executed oath or declaration to enter the national stage under 35 U.S.C. 371 naming an inventive entity different from the inventive entity set forth in the international stage.

* * * * *

7. Section 1.103 is amended by revising paragraph (d)(1) to read as follows:

§ 1.103 Suspension of action by the Office.

* * * * *

(d) * * *

(1) The application is an original utility or plant application filed under § 1.53(b) or resulting from entry of an international application into the national stage after compliance with § 1.495;

* * * * *

8. Section 1.417 is revised to read as follows:

§ 1.417 Submission of translation of international publication.

The submission of the international publication or an English language translation of an international application pursuant to 35 U.S.C. 154(d)(4) must clearly identify the international application to which it pertains (§ 1.5(a)) and, unless it is being submitted pursuant to § 1.495, be clearly identified as a submission pursuant to 35 U.S.C. 154(d)(4). Otherwise, the submission will be treated as a filing under 35 U.S.C. 111(a). Such submissions should be marked ''Box PCT.''

9. Section 1.480 is amended by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

10. Section 1.491 is revised to read as follows:

§ 1.491. National stage commencement and entry.

(a) Subject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22 (1) or (2), or under PCT Article 39(1)(a).

(b) An international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.495.

11. Section 1.492 is amended by revising paragraphs (e) and (f) to read as follows:

§ 1.492 National stage fees.

* * * * *

(e) Surcharge for filing the oath or declaration later than thirty months from the priority date pursuant to § 1.495(c):

By a small entity (§ 1.27(a))	$65.00
By other than a small entity	130.00

(f) For filing an English translation of an international application or of any annexes to an international preliminary examination report later than thirty months after the priority date (§ 1.495(c) and (e))..... $130.00.

* * * * *

12. Section 1.494 is removed and reserved.

§ 1.494 [Removed and Reserved]

13. Section 1.495 is amended by revising the section heading and by revising paragraphs (a) through (e) and (h) to read as follows:

§ 1.495 Entering the national stage in the United States of America.

(a) The applicant in an international application must fulfill the requirements of 35 U.S.C. 371 within the time periods set forth in paragraphs (b) and (c) of this section in order to prevent the abandonment of the international application as to the United States of America. The thirty-month time period set forth in paragraphs (b), (c), (d), (e) and (h) of this section may not be extended. International applications for which those requirements are timely fulfilled will enter the national stage and obtain an examination as to the patentability of the invention in the United States of America.

(b) To avoid abandonment of the application, the applicant shall furnish to the United States Patent and Trademark Office not later than the expiration of thirty months from the priority date:

(1) A copy of the international application, unless it has been previously communicated by the International Bureau or unless it was originally filed in the United States Patent and Trademark Office; and

(2) The basic national fee (see § 1.492(a)).

(c) If applicant complies with paragraph (b) of this section before expiration of thirty months from the priority date but omits either a translation of the international application, as filed, into the English language, if it was originally filed in another language (35 U.S.C. 371(c)(2)), or the oath or declaration of the inventor (35 U.S.C. 371(c)(4) and § 1.497), if a declaration of inventorship in compliance with § 1.497 has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26*ter*.1, applicant will be so notified and given a period of time within which to file the translation and/or oath or declaration in order to prevent abandonment of the application. The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of thirty months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of thirty months after the priority date. A ''Sequence Listing'' need not be translated if the ''Sequence Listing'' complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b).

(d) A copy of any amendments to the claims made under PCT Article 19, and a translation of those amendments into English, if they were made in another language, must be furnished not later than the expiration of thirty months from the priority date. Amendments under PCT Article 19 which are not received by the expiration of thirty months from the priority date will be considered to be canceled.

(e) A translation into English of any annexes to an international preliminary examination report (if applicable), if the annexes were made in another language, must be furnished not later than the expiration of thirty months from the priority date. Translations of the annexes which are not received by the expiration of thirty months from the priority date may be submitted within any period set pursuant to paragraph (c) of this section accompanied by the processing fee set forth in § 1.492(f). Annexes for which translations are not timely received will be considered canceled.

* * * * *

(h) An international application becomes abandoned as to the United States thirty months from the priority date if the requirements of paragraph (b) of this section have not been complied with within thirty months from the priority date. If the requirements of paragraph (b) of this section are complied with within thirty months from the priority date but either of any required translation of the international application as filed or the oath or declaration are not timely filed, an international application will become abandoned as to the United States upon expiration of the time period set pursuant to paragraph (c) of this section.

14. Section 1.497 is amended by revising the introductory text of paragraph (a) and paragraphs (c), (d) and (f) to read as follows:

§ 1.497 Oath or declaration under 35 U.S.C. 371(c)(4).

(a) When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to § 1.495, and a declaration in compliance with this section has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26*ter*.1, he or she must file an oath or declaration that:

* * * * *

(c) Subject to paragraph (f) of this section, if the oath or declaration meets the requirements of paragraphs (a) and (b) of this section, the oath or declaration will be accepted as complying with 35 U.S.C. 371(c)(4) and § 1.495(c). However, if the oath or declaration does not also meet the requirements of § 1.63, a supplemental oath or declaration in compliance with § 1.63 or an application date sheet will be required in accordance with § 1.67.

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(i);

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter); and

(4) Any new oath or declaration required by paragraph (f) of this section.

* * * * *

(f) A new oath or declaration in accordance with this section must be filed to satisfy 35 U.S.C. 371(c)(4) if the declaration was filed under PCT Rule 4.17(iv), and:

(1) There was a change in the international filing date pursuant to PCT Rule 20.2 after the declaration was executed; or

(2) A change in the inventive entity was effected under PCT Rule 92*bis* after the declaration was executed and no declaration which sets forth and is executed by the inventive entity as so changed has been filed in the application.

* * * * *

Dated: December 27, 2001.

James E. Rogan,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 02–157 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–16–P

Proposed Rules

Federal Register
Vol. 67, No. 3
Friday, January 4, 2002

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 Chapters I, IX, X, and XI

[Doc. # L&RRS–01–01]

Regulatory Flexibility Act: Plan for Periodic Review of Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Schedule for review of agency regulations.

SUMMARY: The Agricultural Marketing Service (AMS) is publishing this plan for the review of its regulations under the Regulatory Flexibility Act (RFA). AMS has included in this plan all regulations that warrant periodic review irrespective of whether specific regulations meet the threshold requirement for mandatory review established by the RFA. The identified rules will be reviewed as indicated during the next ten years.

FOR FURTHER INFORMATION CONTACT: Christine M. Sarcone, Director, Legislative and Regulatory Review Staff, AMS, USDA, P.O. Box 96456, Room 3510–South, Washington, D.C. 20090–6456; telephone: (202) 720–3203; fax: (202) 690–3767.

SUPPLEMENTARY INFORMATION:

Background

Sec. 610 of the RFA (5 U.S.C. 610) requires agencies to review all regulations on a periodic basis that have or will have a significant economic impact on a substantial number of small entities. Because many AMS regulations impact small entities, AMS decided, as a matter of policy, to review certain regulations which although they may not meet the threshold requirement under Sec. 610 of the RFA (5 U.S.C. 610) merit review.

This document updates the original plan which was published on February 18, 1999 (64 FR 8014). Since then, two reviews have been completed and summaries of the results published in the **Federal Register**—(1) California Olives, (7 CFR part 932), March 27, 2001 (66 FR 16593); and (2) Federal Seed Act Regulations, (7 CFR part 201), March 22, 2001 (66 FR 16015). Copies of these two completed reviews can be obtained from the Legislative and Regulatory Review Staff at the telephone number provided in the **FOR FURTHER INFORMATION CONTACT** section of this document. In addition, two other reviews have been completed with summaries of the results to be published in the **Federal Register** in the near future—(1) Watermelon Research and Promotion Program (7 CFR part 1210); and (2) Irish Potatoes Grown in Certain Designated Counties in ID, and Malheur County, OR (7 CFR part 945).

In the 1999 review plan, AMS stated that reviews for the Dairy Promotion Program, Potato Research and Promotion, Egg Research and Promotion, and Pork Promotion, Research and Consumer Information regulations would be conducted in calendar year 2001; however, it was determined that completion of such reviews was not feasible by the established dates, therefore, review of the regulations has been delayed until year 2002. In addition, a request for comments was published in the **Federal Register** on June 13, 2001, (66 FR 31850) for Almonds Grown in California (7 CFR part 981). However, completion of this review also has been delayed until year 2002.

AMS also stated that it would announce regulations to be reviewed in the semi-annual regulatory agenda which is published in the **Federal Register**; however, after further consideration, the agency has decided that it would announce the reviews in the **Federal Register** separate from the semi-annual regulatory agenda. AMS plans now to publish in the year the regulations are scheduled for review a **Federal Register** document announcing the review. At that time, a contact person will be identified to whom comments may be submitted concerning the review.

The purpose of each review will be to determine whether the rules should be continued without change, or should be amended or rescinded (consistent with the objectives of applicable statutes) to minimize impacts on small businesses. In reviewing its rules the AMS will consider the following factors:

(1) The continued need for the rule;

(2) The nature of complaints or comments from the public concerning the rule;

(3) The complexity of the rule;

(4) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, to the extent feasible, with state and local regulations; and

(5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

The attached document announces the revised schedule for reviewing the agency's regulations.

Dated: December 27, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

AGRICULTURAL MARKETING SERVICE 10-YEAR REVIEW PLAN FOR REGULATIONS IDENTIFIED FOR SECTION 610 REVIEW REGULATORY FLEXIBILITY ACT

CFR part & authority	AMS program/regulation	Year implemented	Year for review
7 part 46; 7 U.S.C. 499a–499t	Perishable Agricultural Commodities Act, 1930	*1930	2008
7 part 110; 7 U.S.C. 136i–1	Pesticide Recordkeeping	1993	2003
7 part 205; 7 U.S.C. 6501–6522	National Organic Program	2000	2010
7 part 905; 7 U.S.C. 601–674	Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida.	1939	2007
7 part 916; 7 U.S.C. 601–674	Nectarines Grown in California	1958	2003
7 part 917; 7 U.S.C. 601–674	Fresh Pears and Peaches Grown in California	1939	2003

AGRICULTURAL MARKETING SERVICE 10-YEAR REVIEW PLAN FOR REGULATIONS IDENTIFIED FOR SECTION 610 REVIEW REGULATORY FLEXIBILITY ACT—Continued

CFR part & authority	AMS program/regulation	Year implemented	Year for review
7 part 923; 7 U.S.C. 601–674	Sweet Cherries Grown in Designated Counties in Washington.	1957	2007
7 part 925; 7 U.S.C. 601–674	Grapes Grown in a Designated Area of Southeastern California.	1980	2006
7 part 927; 7 U.S.C. 601–674	Winter Pears Grown in Oregon and Washington	1939	2003
7 part 929; 7 U.S.C. 601–674	Cranberries Grown in States of Massachusetts, Rhode Island, etc..	1962	2003
7 Part 930; 7 U.S.C. 601–674	Tart Cherries Grown in MI, NY, PA, OR, UT, WA & WI.	1996	2006
7 part 948; 7 U.S.C. 601–674	Irish Potatoes Grown in Colorado	1941	2006
7 part 966; 7 U.S.C. 601–674	Tomatoes Grown in Florida	1955	2002
7 part 981; 7 U.S.C. 601–674	Almonds Grown in California	1950	2002
7 part 984; 7 U.S.C. 601–674	Walnuts Grown in California	1948	2008
7 part 989; 7 U.S.C. 601–674	Raisins Produced from Grapes Grown in California	1949	2004
7 part 993; 7 U.S.C. 601–674	Dried Prunes Produced in California	1949	2002
7 part 998; 7 U.S.C. 601–674	Marketing Agreement Regulating the Quality of Domestically Produced Peanuts.	1965	2005
7 Parts 1000–1139; 7 U.S.C. 601–674	Federal Milk Marketing Orders	1999	2009
7 part 1150; 7 U.S.C. 4501–4514	Dairy Promotion Program	1984	2002
7 part 1160; 7 U.S.C. 6401–6417	Fluid Milk Promotion Program	1993	2003
7 part 1205; 7 U.S.C. 2101–2118	Cotton Research and Promotion	1996	2002
7 part 1207; 7 U.S.C. 2611–2627	Potato Research and Promotion	1972	2002
7 part 1209; 7 U.S.C. 6101–6112	Mushroom Promotion, Research and Consumer Information Order.	1993	2004
7 part 1215; 7 U.S.C. 7481–7491	Popcorn Promotion, Research and Consumer Information.	1997	2007
7 part 1216; 7 U.S.C. 7401–7425	Peanut Promotion, Research, and Information Order	1999	2009
7 part 1218; 7 U.S.C. 7401–7425	Blueberry Promotion, Research, and Information Order.	2000	2010
7 part 1220; 7 U.S.C. 6301–6311	Soybean Promotion, Research and Consumer Information.	1991	2003
7 part 1230; 7 U.S.C. 4801–4819	Pork Promotion, Research, and Consumer Information.	1986	2002
7 part 1240; 7 U.S.C. 4601–4612	Honey Research, Promotion, and Consumer Information Order.	1987	2002
7 part 1250; 7 U.S.C. 2701–2718	Egg Research and Promotion	1976	2002
7 part 1260; 7 U.S.C. 2901–2911	Beef Promotion and Research	1986	2003

*Regs. Amended 1997.

[FR Doc. 02–241 Filed 1–3–02; 8:45 am]
BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AG51

Tobacco Marketing Quotas, Acreage Allotments and Production Adjustment

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule would amend the tobacco marketing quota regulations by making it a requirement that burley tobacco producers designate the specific warehouse, dealer or receiving station at which they will sell their tobacco in order to qualify for price support and marketing cards. The tobacco marketing quota regulations currently require that only flue-cured tobacco producers, as a condition of price-support, designate the warehouses at which they will market their tobacco and the amounts to be marketed at each designated location. These amendments will provide warehouse operators, the Agriculture Marketing Service (AMS) and others accurate information when planning for a tobacco auction marketing year.

DATES: Comments concerning the contents of the proposed rule must be submitted by January 22, 2002, to be assured of consideration. Comments concerning the information collection must be submitted by March 5, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to Director, Tobacco and Peanuts Division, FSA, USDA, 1400 Independence Avenue, SW., room 5750–S, STOP 0514, Washington, DC 20250–0514; Fax: (202) 690–2298. All comments will be made available for public inspection in the Office of the Director during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ann Wortham, Agricultural Program Specialist, Tobacco and Peanuts Division, United States Department of Agriculture (USDA), 1400 Independence Avenue, SW., STOP 0514, Washington, DC 20250–0514, telephone (202) 720–2715.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule is issued in conformance with Executive Order 12866 and has been determined to be significant and was reviewed by OMB.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because USDA is not required by 5 U.S.C. 553 or any

other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Federal Assistance Programs

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases-10.0514.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

The provisions of Title II of the Unfunded Mandates Reform Act of 1995 are not applicable to this rule because the USDA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporations's (CCC) intention to request an extension of a currently approved information collection. This information will be used in support of the Tobacco Marketing Quota Program. Producers must agree to inform the Farm Service Agency (FSA) of the locations at which they will sell their tobacco and the number of pounds of that tobacco that will be sold at each location using form FSA–808, ''Designation of Burley Tobacco Sales and Request for Marketing Cards'' to collect the data.

Title: Designation of Burley Tobacco Sales and Request for Marketing Cards.

OMB #: 0560–0217.

Type of Request: Extension of a currently approved information collection.

Expiration Date: 3/31/02.

Abstract: The information is necessary to promote, foster, and maintain an orderly marketing of burley tobacco in a swiftly changing market environment. Historically, 99 percent of all burley tobacco has been marketed at auction warehouses where the tobacco has been graded by AMS personnel and where price-support has been offered.

However, between the 2000 marketing season and the current, 2001, marketing season, and based on figures that have become recently available through the designation period for flue-cured tobacco (the second major cigarette-producing tobacco), FSA predicts that as much as 80 percent of the 2001 crop of burley tobacco will *not* be sold at auction warehouses.

The figures compiled at the close of the flue-cured designation period showed that 79 percent of that tobacco would bypass the traditional auction system. This change has resulted in the known closing of up to 25 flue-cured tobacco warehouses and in an AMS reduction-in-force that has cost the jobs of more than 50 tobacco graders. It is expected that nearly half the existing flue-cured warehouses may be out of business by the end of the 2001 market season.

Without the collection of designation information for burley tobacco, FSA will not know where the tobacco will be sold or how many pounds will be sold outside the traditional auction market system. Warehouse operators who, in the past, have handled almost all of any year's crop, will not have the information needed to keep their businesses open; and AMS will not know how to schedule the grading of burley tobacco.

Estimate of Respondent Burden: Public reporting burden for this collection of information is estimated to average .25 hours per response.

Respondents: Farm operators, farm operators' authorized agents, or any producers who have an interest in the tobacco to be marketed.

Estimated number of Respondents: 150,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1.25 hours. This estimate includes 60 minutes travel time for applicants to the local USDA service center office for those respondents who choose not to file the information electronically.

Proposed topics for comment include: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments concerning the information collection must be sent to the Desk Office for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Ann Wortham, Agricultural Program Specialist, USDA–FSA–TPD–TB, STOP 0514, 1400 Independence Ave., SW., Washington, DC 20250–0514; E-mail *Ann Wortham@wdc.fsa.usda.gov;* or facsimile (202) 2690–4917. Copies of the information collection may be obtained from Ms. Wortham at the above 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.

Background

Currently, AMS, working with local trade boards or with tobacco warehouse associations, schedules the days on which auction sales are to take place at designated auction markets, equitably distributing sales opportunity among the warehouses based on floor space or performance or both.

Because of the recent high volume of direct contract purchases, the current manner of determining sales time no longer appears to be feasible. It is necessary to collect marketing-intention information on burley tobacco in the same manner that marketing-intention information has been collected on flue-cured tobacco since 1974.

In order to implement a successful burley tobacco designation program, producers were allowed to designate pounds to specific warehouses beginning June 1, 2001, as recommended by the Burley Tobacco Advisory Committee (Committee).

The 39-member committee was established by the Secretary in 1990 to provide information essential to the orderly marketing of burley tobacco. At a meeting in June, 2000, the Committee passed a motion that would affect the method of determining the number of days on which auction sales would be allowed to take place at each tobacco auction warehouse. The Committee's motion, to establish a Grower Designation Program for burley tobacco similar to the long standing Flue-cured Tobacco Warehouse Designation Program, followed an announcement in early 2000 by a major cigarette

manufacturer that it would contract with burley tobacco growers to buy tobacco directly from them at central buying points known as receiving stations, essentially acting as a dealer and bypassing the traditional auction market system.

The Flue-cured Tobacco Warehouse Designation Program requires that each flue-cured farm operator designate to which warehouse(s) that farm's tobacco will be presented for sale and the number of pounds of tobacco that will be marketed at each designated location. Such designations provide information vital to the equitable scheduling among warehouses of the day(s) on which each location can hold an auction sale and the number of pounds that can be sold on each of those scheduled days. This information also allows AMS to schedule personnel to grade such tobacco when it is presented for sale. Designation is a condition of price support eligibility for flue-cured tobacco growers.

For the 2000 market year FSA had no advance information regarding the volume of burley tobacco that individual burley growers had placed under private contract with the buying company because such information was contained in individual and private contracts between grower and company; and thus did not know how much tobacco would bypass the traditional auction warehouse market system.

The buying company announced early in 2001 that it would dramatically expand its direct purchase program. It would contract to purchase both burley and flue-cured tobacco rather than just burley; and it would purchase these kinds of tobacco from receiving stations in Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee and Virginia rather than just Kentucky and Tennessee.

Seven other leaf-buying companies followed this announcement with announcements of their own: they, too, would contract with individual burly and flue-cured tobacco growers to buy their crops direct. Currently there are eight companies with stated intentions of buying both burley and flue-cured tobacco at 72 established receiving stations in seven states.

On May 7, 2001, following the close of the flue-cured initial designation period, FSA received a report that predicted a need for a major information collection effort regarding burley tobacco: seventy-nine percent of the 2001 flue-cured tobacco available for sale has been designated to receiving stations.

The FSA judges that a comparable percentage of burley will be sold during 2001 at receiving stations. However, with no designation program in place there is no way to collect the information that is vital to the industry, to the warehouses where burley tobacco has historically been marketed, and to USDA, in particular AMS, which is immediately impacted by the lack of such data. From the historic 1 percent of sales that occurred outside the auction market system, there is the possibility that much of the burley tobacco crop will go elsewhere. This is a sudden change in only one market season. The FSA did not have figures to make such a deduction until after the end of flue-cured designation and the compilations of figures collected from flue-cured growers nationwide.

All eligible burley tobacco growers may avail themselves of the auction market system. However, only the growers/sellers and buyers involved in non-auction sale and purchase transactions know the amount of tobacco that will be involved in these private transactions. Without a burley designation program in place neither the buying companies, AMS, nor the warehouses will have any information concerning how much tobacco will be available for sale by auction, because they will not have information about what tobacco *won't* be available for sale by auction.

USDA is concerned with the effects that nonauction sales will have on the orderly marketing of tobacco and that large quantities of direct sales could be disruptive to the orderly process of marketing burley tobacco. The Grower Designation Program is necessary for the 2001 orderly marketing of burley tobacco. USDA's implementation of the burley tobacco Grower Designation Program will track market volumes and thereby enable the AMS to implement a process of remobilizing its downsized workforce.

FSA began collecting data through burley designations from growers voluntarily on June 1, 2001 in order to have data for planning the warehouse system needs prior to September 1, 2001. Although burley farmers may wait until the effective date of this rule to submit their information, they are encouraged to report now to facilitate the marketing of their crops. They may make changes during scheduled redesignation periods. The comment period has been limited to 15 days in order that this schedule can be met and accordingly serve the emergency needs of warehouse operators, dealers and producers.

This proposed rule would amend the tobacco marketing quota regulations by requiring that burley tobacco producers designate the specific warehouse, dealer or contract buying point at which they will market their tobacco in order to qualify for price support and the issuance of a marketing card. Producers would have the option to make changes during scheduled redesignation periods.

Burley and flue-cured tobacco that is produced for market is sold on a nationwide market and moves almost wholly in interstate and foreign commerce from the producer to the ultimate consumer. The Agricultural Adjustment Act of 1938 as amended (the Act) gave to the Secretary of Agriculture the responsibility for the promotion and maintenance of an orderly flow of tobacco in commerce. The means by which producers market these tobaccos has changed more in the past 12 months than in the past 50 years.

Until recently, approximately 97% of both burley and flue-cured tobacco was delivered to a warehouse, sometimes weeks in advance of a sale date. There the tobacco was either sold at auction with payment of the highest bid going to the producer or placed in storage as USDA loan security with payment of a price support advance against the loan going to the producer.

There has been a strong USDA presence in the auction market venue. Obvious (and physically present) at an auction warehouse on each sales day are the marketing recorder and the tobacco grader. Not so obvious are the cooperative marketing associations that act on behalf of their producer members by entering into annual loan agreements with USDA in order to secure the money that is used to make price support available to producers through auction warehouses. The warehouses have, in turn, contracted with an association in order to make price support advances to producers on behalf of the association and also to store the loan tobacco on which price support advances have been made. The checks and balances inherent in the warehouse venue have provided USDA with many methods to audit the flow of tobacco into commerce. The following are examples.

1. Marketing Recorders

Review warehouse records and reports for maintenance, completeness, and accuracy;

Report deficiencies in warehouse reports and records;

Record on the marketing card each producer sale of tobacco;

Collect producer payments, penalties, liens, or levies;

2. Graders

Inspect tobacco presented for sale, determining and then applying quality standards and assigning a grade to the tobacco to establish the amount of price support available for each lot;

Collect and submit of grade/pounds information for statistical purposes such as using the distribution of grades sold in one market year in order to establish the grade loan rates for the following market year;

Work with the warehouse sale supervisor, providing information on the daily pound limit-for-sale for an orderly scheduling of sales of producer tobacco;

3. Associations/Warehouses

Verify that tobacco for which a price support advance has been made and which has been placed under loan is indeed eligible for price support;

Arrange for shipment of loan tobacco for processing (such as to a stemmery) where it is then containerized and returned to storage; and

Maintain inventory loan tobacco until its ultimate sale to a leaf buying company.

In other words, in the traditional auction venue, the entrance into and passage through commerce of tobacco—from the producer to the ultimate consumer—is carefully monitored, with the scheduling of sales the most important factor in guaranteeing that the tobacco is marketed in an orderly manner. Since 1974, flue-cured producers have informed USDA by way of a designation program of where they would market their tobacco. This designation information has been provided to associations so that sale time might be scheduled at auction warehouses; and to assure that tobacco graders and market recorders are available at those times. Designation further provides statistical information to USDA about the total number of pounds that will be presented for sale in order to provide an audit trail for reconciliation with the pounds that are ultimately sold. That the designation program was already in place for flue-cured tobacco accounts in large part for the orderly marketing of this kind of tobacco during the recently ended market year when, instead of almost all of the flue-cured crop going as usual to auction for sale or price support, almost all the tobacco went to a non-auction venue with almost no USDA presence (only a market recorder).

With the information provided by producer designation, USDA knew how much flue-cured tobacco was scheduled to be sold at auction and how much was scheduled to be sold at non-auction. And this information has provided USDA with methods of meeting the requirements set out in the Act of monitoring the commercial flow of tobacco and assuring that no more than the established national quota was presented for sale, thus preserving the supply and demand intentions provided for in the Act.

Until the last 12 months, monitoring the movement of burley tobacco from farm into commerce has been straightforward because almost all of it was sold at auction. The approximately 3 percent of burley tobacco that was sold outside the auction warehouse venue did not jeopardize USDA's mandate to monitor and insure an orderly marketing of this crop. Burley warehouses are predominantly family owned and run operations, many for generations, so there has developed a close and often personal relationship between warehouse staff and the producers who sell there, providing an accommodating business-to-customer framework intended to assure that the same customers (producers selling tobacco) return to the same warehouse year after year. Annual sales time at burley auction warehouses, which has been determined by using a ''previous 5 years'' formula, has changed little in the past 50 years because of this method of doing business. Just as warehouse operations passed down from one generation to another, so too did the marketing relationships of producers.

If a disruption in this long-standing method of scheduling burley tobacco sales had occurred as it did in the flue-cured marketing venue in the early 1970's, a sales designation program would have been necessary for burley tobacco as well.

However, no such disruption in the burley tobacco venue occurred until recently, and the disruption has been dramatic enough to necessitate a designation program to monitor the flow of burley tobacco to sales location. In 2000 a traditional 97% of burley was sold in the long-established auction warehouse venue; in 2001 approximately 80% of burley tobacco will have been sold at non-auction locations and at present USDA has no method of knowing where or when this tobacco will enter into commerce or if it will do so in an orderly manner.

List of Subjects in 7 CFR Part 1464

Imports, Tobacco.

Accordingly, 7 CFR part 1464 is proposed to be amended as follows:

PART 1464—TOBACCO

1. The authority citation for part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1; 1445–2; 15 U.S.C. 714b, 714c; Pub. L. 106–78, Pub. L. 106–113, Stat. 1135 and Pub. L. 106–224.

2. Revise § 1464.2 (b)(2) introductory text, (b)(2)(ii), (b)(2)(iii), (b)(2)(iv), (b)(2)(v) and (b)(2)(vii) to read as follows:

§ 1464.2 Availability of price support.

* * * * *

(b) * * *

(2) *Special requirements for flue-cured and burley tobacco.* Price support will be available only on flue-cured and burley tobacco that has been designated for sale at specific warehouses by the producer under the following conditions:

* * * * *

(ii) *Producer designation of warehouses.* Producers will be required, as a condition of price support, to designate the warehouses at which they will market their tobacco.

(A) For flue-cured tobacco such designations may be at any warehouse or warehouses in any market within a radius of 100 miles from the county seat of the county in which the farm is located, or if such farm is physically within two counties, then from the county seat of the county in which the county FSA office administering that farm is located. To the extent there are less than eight markets within such radius, any warehouse or warehouses in any of the eight markets nearest to the county seat may be designated. A producer may obtain price support only in a warehouse that the producer has designated, and at each such warehouse only with respect to the quantity of tobacco designated for sale at such warehouse.

(B) For burley tobacco such designations may be at any warehouse or warehouses in any burley market.

(iii) *When producer designations shall be made.* Producers must designate the warehouse(s) at which they will market their tobacco during a period that shall be announced beforehand by the local county FSA office. Unless extended by the Deputy Administrator, the period for making designations shall be before May 31 each year for flue-cured tobacco and August 31 each year for burley tobacco. Producers who lease quota or whose farm is reconstituted (the combining or dividing of a farm due to a change in operation) after such period may designate the warehouse(s) at which their tobacco will be marketed according to procedures to be

established by the Deputy Administrator, Farm Programs, FSA. Producers who have designated warehouses that cease to operate or cease to have tobacco inspection or price support available may change their designations at any time after such occurrences. Producers who have designated warehouses whose inspection services have been temporarily suspended for any reason for the equivalent of at least one sales day may change their designation at any time after such occurrences. Redesignation (changes in warehouse(s) designated or in pounds designated to a warehouse) or designations for farms that have not previously designated tobacco may be made by producers during the five business days ending on the first Friday of each month during the flue-cured or burley, as applicable, tobacco marketing season. Such redesignation or initial designation shall be made on any one day of each redesignation period. Such redesignation or initial designation shall be effective on the second Monday following the Friday on which the redesignation period ends.

(iv) *Form and content of designations.* For flue-cured tobacco a designation shall be made for each warehouse at which a producer desires to market tobacco by executing a form provided by the county FSA office. The producer will be required to indicate on such form the name of the warehouse or warehouses designated by the producer and the pounds of flue-cured tobacco the producer desires to sell at such warehouse as well as any other information required to be stated on such form. For burley tobacco a designation shall be made for each warehouse, receiving station or dealer at which a producer desires to market tobacco by executing a form provided by the county FSA office. The producer will be required to indicate on such form the name of the warehouse(s), receiving station(s) or dealer(s) designated by the producer and the pounds of burley tobacco the producer desires to sell at such warehouse, receiving station or dealer as well as any other information required to be stated on such form.

(v) *Entering designation information.* For flue-cured tobacco, the warehouse code number of the warehouse the producer has designated will be indicated on the farm marketing card. For burley tobacco, the warehouse, receiving station, or dealer code number of the warehouse, receiving station or dealer the producer has designated will be indicated on the farm marketing card. If an effective date is determined in accordance with paragraph (b)(2)(iii) of this section, such effective date will be shown on the farm marketing card. For flue-cured tobacco, if the producer has not designated a warehouse, a warehouse code will not be shown on the marketing card. Changes in designation by the producer shall be accomplished by the producer returning the marketing card to the county FSA office and requesting the transfer of any unmarketed pounds of flue-cured or burley tobacco shown on any marketing card to another eligible warehouse, receiving station or dealer, if applicable.

* * * * *

(vii) *Availability of designation information.* Each county FSA office shall send designations received to the Flue-Cured Tobacco Cooperative Stabilization Corporation, Raleigh, North Carolina for flue-cured tobacco, Burley Tobacco Growers Cooperative Association, Lexington, Kentucky and Burley Stabilization Corporation, Knoxville, Tennessee for burley tobacco, following each designation period and each period for changing designations. That association(s) shall inform the Flue-Cured Tobacco Advisory Committee or the Burley Tobacco Advisory Committee, as applicable, of the pounds designated to each warehouse and the pounds of any undesignated or nonauction tobacco that, for the purpose of recommending opening dates and selling schedules in accordance with part 29 of this title, is available for apportioning for sale at each warehouse. That association also shall furnish each warehouse the name and address of the producers who designated the warehouse, the pounds each designated and the pounds that represent 103 percent of the marketing quota of each such producer. The Director, Tobacco and Peanuts Division, shall furnish each receiving station the name and address of the producers who designated the receiving station, the pounds each designated and the pounds that represent 103% of the marketing quota of each such producer.

* * * * *

3. Revise § 1464.7(d) to read as follows:

§ 1464.7 Eligible producer

(a) * * *

(b) * * *

(c) * * *

(d) In addition to meeting all other requirements that apply elsewhere, including (but not limited to) the warehouse designation provisions of § 1464.2, must not be ineligible, in accordance with part 1400 of this title, to receive price support payments, loans and benefits.

* * * * *

4. Revise § 1464.10 (i)(1)(i), (i)(2) and (i)(3)(i) to read as follows:

§ 1464.10 No-net-cost tobacco fund or account.

* * * * *

(i) * * *

(1) * * *

(i) From any dealer, receiving station official or warehouse operator who acquired the tobacco involved from the producer; or

* * * * *

(2) A dealer, receiving station official or warehouse operator may deduct the amount of any producer contribution or assessment from the price paid to the producer for such tobacco.

(3) * * *

(i) From the dealer, receiving station official or warehouse operator who acquired the tobacco involved from the producer; or

* * * * *

Signed at Washington, DC, on December 21, 2001.

James R. Little,

Executive Vice-President, Commodity Credit Corporation.

[FR Doc. 02–186 Filed 1–3–02; 8:45 am]

BILLING CODE 3410–05–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; and Model A300 F4–605R 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 Model A300 B2, A300 B4, A300 B4–600, and A300 B4–600R series airplanes, that 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. This new action revises the proposed

rule by including additional airplanes in 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 upper flange runout of frame 40, which could result in reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by January 29, 2002.

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 Model A300 B2, A300 B4, A300 B4–600, and A300 B4–600R series airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on August 22, 2001 (66 FR 44089). That supplemental 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 supplemental NPRM was prompted by reports of cracked frame 40 aft fittings at stringer 33 on the left and right sides of the fuselage. The cracking has been attributed to local stress concentration at the upper flange runout of frame 40. That condition, if not corrected, could result in reduced structural integrity of the airplane.

Actions Since Issuance of Previous Proposal

Due consideration has been given to the comments received in response to the first supplemental NPRM.

Support for the Proposal

One commenter, an operator, generally supports the proposal. The commenter reports that the proposed actions, including the optional terminating action, have already been accomplished on most of its airplanes. The commenter also provides the cost of accomplishing the work on its fleet.

Request to Revise Applicability

One commenter, the manufacturer, requests that the applicability of the first supplemental NPRM be revised to include all Airbus Model A300 F4–605R airplanes. This commenter had earlier requested, in response to the original NPRM, that Model A300 F4–622R airplanes be removed from the applicability of the original NPRM. However, the commenter notes that Model A300 F4–605R airplanes were also removed from the applicability, although they are subject to the unsafe condition and should be included.

The FAA concurs, for the reasons identified by the commenter. Model A300 F4–605R airplanes had been inadvertently omitted from the applicability. The applicability section of this second supplemental NPRM has been revised accordingly.

Conclusion

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

Cost Impact

The FAA estimates that 70 airplanes of U.S. registry would be affected by this second supplemental NPRM.

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; and Model A300 F4–605R 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	Sept. 30, 1998.
	(ii) Revision 02	A300–53–0296	May 12, 1999.
(2) A300 B4–600 and A300 B4–600R series airplanes and Model A300 F4–605R airplanes.	(i) Revision 01 or	A300–53–6048	Sept. 30, 1998.
	(ii) Revision 03	A300–53–6048	Feb. 21, 2000.

Note 2: For Model A300 B4–600 and A300 B4–600R series airplanes and Model A300 F4–605R 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).

TABLE 2.—INSPECTION REQUIREMENTS—Continued

Requirements	Description
(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 specified actions 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 and Model A300 F4–605R airplanes, past-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 and Model A300 F4–605R airplanes, pre-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 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 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.

TABLE 3.—COMPLIANCE TIMES FOR INSPECTION—Continued

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—
	(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 and Model A300 F4–605R 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 in accordance with the applicable service bulletin 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: 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: In accordance with Airbus Service Bulletin A300–53–0297, Revision 2, dated October 31, 1995.

Exception 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 December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–201 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–400–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas MD–90–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas MD–90–30 series airplanes. This proposal would

require inspection of the power feeder cables on the left and right side of the aft cargo compartment between certain stations for minimum clearance from the adjacent structure and for the presence of a grommet in the lightening hole through the floor cusp, and corrective actions, if necessary. This action is necessary to detect and correct inadequate clearance of the power feeder cables on the left and right side of the aft cargo compartment, the lack of a grommet in the lightening hole through the floor cusp, and improper installation of the cabin sidewall grill during production. These conditions could lead to chafing of the power feeder cables, resulting in electrical arcing and possibly in a fire in the cargo compartment of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–400–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–400–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–400–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 Number 2000–NM–400–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that on McDonnell Douglas MD–90–30 series airplanes, there is a potential for the power feeder cables of the aft cargo compartment to contact the lightening hole through the floor cusp between certain stations on the left and right sides of the airplane. Analysis indicates that the cabin sidewall grill may not have been properly installed during production and a grommet may not have been installed in the lightening hole, leaving inadequate clearance between the power feeder cables and the lightening hole and forcing the cables to ride hard against the outboard edge of the lightening hole. These conditions, if not corrected, could lead to chafing of the power feeder cables of the aft cargo compartment, resulting in electrical arcing and possibly in a fire in the cargo compartment of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000, which describes procedures for a general visual inspection of the power feeder cables of the left and right sides of the aft cargo compartment between stations Y=1344 and Y=1364. The inspection is to verify that the minimum clearance exists between the power feeder cables and the adjacent structure and that a grommet has been installed in the lightening hole through the floor cusp. The service bulletin also describes procedures for the following corrective actions, if necessary:

- Installation of the grommet if it is missing,
- Re-positioning of the power feeder cables to achieve the minimum clearance from the adjacent structure,
- Inspection of the power feeder cables for damage,
- Repair of any damaged power feeder cable, * Fabrication of trim, and
- Modification of the retainer assembly of the cabin sidewall grill.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 16 airplanes of the affected design in the worldwide fleet. The FAA estimates that 14 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is

estimated to be $840, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this proposed AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2000–NM–400–AD.

Applicability: Model MD–90–30 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct inadequate clearance of the power feeder cables on the left and right side of the aft cargo compartment, the lack of a grommet in the lightening hole through the floor cusp, and improper installation of the cabin sidewall grill, which could lead to chafing of the power feeder cables, resulting in electrical arcing and possibly in a fire in the cargo compartment of the airplane, accomplish the following:

Inspection

(a) Within one year after the effective date of this AD: Perform a general visual inspection of the power feeder cable installation on the left and right sides of the aft cargo compartment between stations Y=1344.000 and Y=1364.000 for the minimum clearance between the power feeder cables and the adjacent structure and for grommet installation, in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000. If the inspection reveals that adequate clearance exists and a grommet is installed, no further action is required.

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.''

Note 3: Inspections and repairs accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Service Bulletin MD90–24–025, dated July 31, 1996, are considered acceptable for compliance with the applicable actions specified in this amendment.

Corrective Action, If Necessary

(b) Subsequent to the inspection required by paragraph (a) of this AD and prior to further flight, perform the actions described in paragraph (b)(1), (b)(2), (b)(3), or (b)(4) of this AD as applicable, in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000.

(1) If minimum clearance exists and if a grommet is not installed: Install a grommet.

(2) If minimum clearance does not exist and if a grommet is installed: Conduct a general visual inspection of the power feeder cables for damage, repair any damaged cable, and re-position the cables inboard to achieve minimum clearance.

(3) If minimum clearance does not exist and if a grommet is not installed: Conduct a general visual inspection of the power feeder cables for damage, repair any damaged cable, install a grommet, and re-position cables inboard to achieve minimum clearance.

(4) If minimum clearance does not exist but cannot be accomplished or a hard riding condition exists: Conduct a general visual inspection of the power feeder cables for damage; repair any damaged cable; fabricate trim; install a grommet, if necessary; position power feeder cables to achieve the minimum clearance; and modify the retainer assembly of the cabin sidewall grill.

Alternative Methods of Compliance

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

Note 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

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–202 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–195–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas MD–90–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas MD–90–30 series airplanes. This proposal would require replacement of the existing strake feed-thru and internal electrical connectors with new, moisture resistant connectors. This action is necessary to prevent moisture from entering the strake feed-thru and internal electrical connectors, which could lead to electrical arcing and a consequent fire in the electrical and electronic (E/E) compartment of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–195–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–195–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–195–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 Number 2000–NM–195–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received two reports indicating that on McDonnell Douglas Model MD–90–30 series airplanes, a strake internal electrical connector had arced to its corresponding feed-thru connector, damaging the pins and base metal in both connectors. Investigation revealed that moisture had entered the feed-thru and internal electrical connectors, which caused the arcing. This condition, if not corrected, could result in electrical arcing and a consequent fire in the electrical and electronic (E/E) compartment of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 02, dated September 26, 2000, which describes procedures for replacing the existing feed-thru and internal electrical connectors with new, moisture resistant connectors. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 99 airplanes of the affected design in the worldwide fleet. The FAA estimates that 25 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 14 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts are available at no charge from the manufacturer. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $21,000, or $840 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated

with accomplishing the actions required by this proposed AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2000–NM–195–AD.

Applicability: Model MD–90–30 series airplanes, certificated in any category; as listed in McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 02, dated September 26, 2000.

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 moisture from entering the strake feed-thru and internal electrical connectors, which could lead to electrical arcing and a consequent fire in the electrical and electronic (E/E) compartment of the airplane, accomplish the following:

Replacement

(a) Within one year after the effective date of this AD: Replace the existing strake feed-thru and internal wire connectors with new connectors, in accordance with McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 02, dated September 26, 2000.

Note 2: Replacements accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 01, dated April 3, 2000, or original issue, dated August 12, 1998, are considered acceptable for compliance with the applicable action specified in this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–203 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–244–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model 717 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model 717 series airplanes. This proposal would require repetitive inspections for cracking of the spoiler hold-down actuator supports located on the left and right wing rear spars; adjustment of the spoiler hold-down actuators; and replacement of cracked spoiler hold-down actuator supports with new supports. The proposal would also require replacement of all spoiler hold-down actuator supports, which terminates the repetitive inspections. This action is necessary to detect and correct as well as to prevent cracks in the spoiler hold-down actuator supports, which could lead to reduced spoiler hold-down capability, resulting in loss of the back-up protection of the spoiler float hold-down and unavailability of monitoring for an uncommanded spoiler movement. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-*

anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–244–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5238; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–244–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 Number 2001–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that four occurrences of cracks in the spoiler hold-down actuator supports had been observed by an operator of McDonnell Douglas Model 717 series airplanes. The cracks, which occurred on airplanes which had accumulated approximately 2,800 total flight hours, were caused by high fatigue loads due to excessive deflection of the supports. If not detected and corrected or prevented, cracks in the spoiler hold-down actuator supports could lead to reduced spoiler hold-down capability, resulting in loss of the back-up protection of the spoiler float hold-down and unavailability of monitoring for an uncommanded spoiler movement.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 717–57A0002, Revision 02, dated October 2, 2001, which describes procedures for repetitive visual inspections of the spoiler hold-down actuator supports located on the left and right wing rear spars for cracks and adjustment of the spoiler hold-down actuators. The service bulletin recommends that spoiler hold-down actuator supports, which are found to be cracked, be replaced with new supports within 500 flight hours of the inspection.

The FAA has also reviewed and approved Boeing Service Bulletin 717–57–0004, Revision 01, dated October 2, 2001, which describes procedures for replacement of the spoiler hold-down actuator supports, idler links, hinge pin, and attaching parts with new parts and for adjustment of the spoiler hold-down actuators. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Operators should note that, while it is not the FAA's normal policy to allow flight with known cracks, the proposed rule would permit further flight with a cracked spoiler hold-down actuator support, provided that the spoiler hold-down actuators are adjusted prior to further flight and that the cracked spoiler hold-down actuator support is replaced within 500 flight hours after the inspection during which a crack was detected.

Cost Impact

There are approximately 52 airplanes of the affected design in the worldwide fleet. The FAA estimates that 36 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 12 work hours per airplane to accomplish the proposed detailed visual inspection and adjustment of the spoiler hold-down actuator supports for cracks 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 $25,920, or $720 per airplane, per inspection cycle.

It would take approximately 18 to 43 work hours per airplane to accomplish the proposed replacement of the spoiler hold-down actuator supports and associated parts at an average labor rate of $60 per work hour. The manufacturer has committed previously to its customers that it would bear the cost of replacement parts. As a result, the cost of those parts is not attributable to this proposed AD. Based on these figures, the cost impact of the proposed replacement on U.S. operators is estimated to be between $38,880 and $92,880, or between $1,080 and $2,580 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this proposed AD. Therefore, the

future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2001–NM–244–AD.

Applicability: Model 717 series airplanes, manufacturer's fuselage numbers 5002 through 5064 inclusive, and 5066 through 5073 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct as well as to prevent cracks in the spoiler hold-down actuator supports, which could lead to reduced spoiler hold-down capability, resulting in loss of the back-up protection of the spoiler float hold-down and unavailability of monitoring for an uncommanded spoiler movement, accomplish the following:

Inspections

(a) Prior to the accumulation of 1,500 total flight hours, or within 500 flight hours after the effective date of this AD, whichever occurs later: Perform a detailed visual inspection of the spoiler hold-down actuator supports on the left and right wing rear spar for cracks, in accordance with Boeing Alert Service Bulletin 717–57A0002, Revision 02, dated October 2, 2001.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Note 3: Inspections accomplished prior to the effective date of this AD in accordance with Boeing Alert Service Bulletin 717–57A0002, Revision 01, dated February 28, 2001, are considered acceptable for compliance with the applicable action specified in this amendment.

(1) If no crack is detected: Prior to further flight, adjust the spoiler hold-down actuators in accordance with the service bulletin. Repeat the detailed visual inspection at intervals not to exceed 500 flight hours until the accomplishment of the requirements of paragraph (b) of this AD.

(2) If any crack is detected: Prior to further flight, adjust the spoiler hold-down actuators in accordance with the service bulletin. Within 500 flight hours after accomplishment of the inspection, replace the cracked spoiler hold-down actuator supports(s) and associated idler link(s), hinge pins, and attaching parts with new parts and adjust the spoiler hold-down actuators, in accordance with Boeing Service Bulletin 717–57–0004, Revision 01, dated October 2, 2001. Replacement of a cracked spoiler hold-down actuator support as required herein constitutes terminating action for that actuator support for the requirements of this AD.

Terminating Action

(b) Within 15 months after the effective date of this AD: Replace spoiler hold-down actuator supports, idler links, hinge pin, and attaching parts with new parts and adjust the spoiler hold-down actuators, in accordance with Boeing Service Bulletin 717–57–0004, Revision 01, dated October 2, 2001. Any spoiler hold-down actuator supports, idler links, hinge pin, or attaching parts which have previously been replaced in accordance with paragraph (a)(2) of this AD do not need to be replaced. Replacement of all spoiler hold-down actuators in accordance with Boeing Service Bulletin 717–57–0004, Revision 01, dated October 2, 2001, constitutes terminating action for the requirements of this AD.

Note 4: Replacement of a spoiler hold-down actuator support accomplished prior to the effective date of this AD in accordance with Boeing Service Bulletin 717–57–0004, dated May 30, 2001, is considered acceptable for compliance with the applicable action specified in this amendment.

Alternative Methods of Compliance

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

Note 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

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate,Aircraft Certification Service.

[FR Doc. 02–204 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–333–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 777 series airplanes. This proposal would require inspection of certain aft axle pivot pins of the main landing gear (MLG) for heat damage and either reworking of damaged pins or replacement of damaged pins with new pins. This action is necessary to prevent breakage of the aft axle pivot pin of the MLG, which could overload the center axle, causing the tires to blow out upon landing, and could disengage the aft axle so that it jams the gear in the wheel well, preventing proper extension of the MLG. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2000–NM–333–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–333–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stan Wood, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2772; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–333–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 Number 2000–NM–333–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that a fractured aft axle pivot pin had been discovered in the main landing gear (MLG) of a Boeing Model 777 series airplane used as a flight test airplane with 488 total flight cycles. Metallurgical inspection of the aft axle pivot pin revealed heat damage to the base metal. Such heat damage, if not corrected, could cause breakage of the aft axle of the pivot pin of the MLG. A broken aft axle pivot pin could migrate from the joint, disengaging the aft axle and causing it to jam the gear in the wheel well, which could prevent proper extension of the MLG. In addition, the loss of function of the aft axle could overload the center axle, causing the tires to blow out upon landing.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing special Attention Service Bulletin 777–32–0029, dated May 18, 2000, which describes procedures for performing a visual inspection of the aft axle pivot pins of the MLG to determine their serial numbers, removal of certain pivot pins, inspection of the pivot pins for heat damage using either the Barkhausen Noise Inspection method for chromium-plated parts or the magnetic particle inspection method, and re-installation of undamaged pivot pins or replacement of damaged pivot pins with new pivot pins. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 263 airplanes of the affected design in the worldwide fleet. The FAA estimates that 73 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be at least $17,520, or $240 per airplane.

The cost impact figure discussed above is based on assumptions that no

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 2000–NM–333–AD.

Applicability: Model 777 series airplanes, line numbers 1 through 263 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent breakage of the aft axle pivot pin of the main landing gear (MLG), which could overload the center axle, causing the tires to blow out upon landing, and could disengage the aft axle so that it jams the gear in the wheel well, preventing proper extension of the MLG, accomplish the following:

Inspection

(a) Within 18 months of the effective date of this AD: Perform the actions specified in paragraph (a)(1) or (a)(2) of this AD, as applicable, in accordance with Boeing special Attention Service Bulletin 777–32–0029, dated May 18, 2000.

(1) For airplanes which have line numbers 1 through 68 inclusive (designated as Group 1 airplanes in the service bulletin) and on which the aft axle pivot pin of the main landing gear (MLG) has been replaced prior to the effective date of this AD: Inspect the serial number of the pivot pin.

(i) If the serial number of the pivot pin does not have the prefix of EGL, no further action is required.

(ii) If the serial number of the pivot pin does have the prefix of EGL, prior to further flight, perform the actions required by paragraph (a)(2) of this AD.

(2) For airplanes which have line numbers 69 through 263 inclusive (designated as Group 2 airplanes in the service bulletin): Remove the aft axle pivot pin, remove the lube insert from the aft axle pivot pin, and inspect the aft axle pivot pin for heat damage. The inspection must be done either by the Barkhausen Noise Inspection method for chromium-plated parts or by the magnetic particle inspection method, in accordance with the service bulletin.

(i) If heat damage is found by the inspection required by paragraph (a)(2) of this AD: Prior to further flight, re-work the existing aft axle pivot pin, re-install the existing lube insert, and re-install the re-worked aft axle pivot pin or install a new aft axle pivot pin in the MLG, in accordance with the service bulletin.

(ii) If no heat damage is found by the inspection required by paragraph (a)(2) of this AD: Prior to further flight, re-install the existing lube insert and re-install the existing aft axle pivot pin or install a new aft axle pivot pin in the MLG, in accordance with the service bulletin.

Spares

(b) After the effective date of this AD, no person shall install an aft axle pivot pin having a serial number with the prefix ''EGL'' in the MLG, unless the pivot pin has been inspected as required by paragraph (a) of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–205 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–198–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–90–30 series airplanes. This proposal would require modification of the main battery ground stud and installation of a nameplate which indicates torque requirements for the ground stud nut. This action is necessary to prevent the ground stud nut from being

inadequately tightened or becoming loose, which could result in electrical arcing between the ground stud and the adjacent structure, leading to damage to electrical or electronic equipment or possibly to fire in the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–198–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–198–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–198–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 Number 2000–NM–198–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The manufacturer has received a report from an operator of a McDonnell Douglas Model DC–9–82 airplane that a main battery ground stud and the adjacent structure had been burnt. The damage was attributed to a loose or inadequately tightened ground stud, which caused electrical arcing. The main battery stud on the affected model is similar to that on MD–90–30 series airplanes. Therefore, the MD–90–30 series airplanes may be subject to the same unsafe condition reported on the DC–9–82 airplane. The proposed rule is necessary to prevent the ground stud nut from being inadequately tightened or becoming loose, which could result in electrical arcing between the ground stud and the adjacent structure, leading to damage to electrical or electronic equipment or possibly to fire in the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD90–24A004, Revision 01, dated January 11, 2000, which describes procedures for modification of the main battery ground stud and installation of a nameplate which specifies torque requirements for the ground stud nut. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 18 airplanes of the affected design in the worldwide fleet. The FAA estimates that 14 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $840, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. However, for affected airplanes within the period under the warranty agreement, the FAA has been advised that the manufacturer has committed previously to its customers that it will bear the cost of replacement parts. The FAA has also been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this proposed AD. Therefore, the future economic cost impact of this AD may be less than the cost impact figure indicated above. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or

time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2000–NM–198–AD.

Applicability: Model MD–90–30 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–24A004, Revision 01, dated January 11, 2000; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the ground stud nut from being inadequately tightened or becoming loose, which could result in electrical arcing between the ground stud and the adjacent structure, leading to damage to electrical or electronic equipment or possibly to fire in the airplane, accomplish the following:

Modification

(a) Within 6 months after the effective date of this AD: Reverse the main battery ground stud and install a nameplate which indicates torque requirements for the ground stud nut, in accordance with McDonnell Douglas alert Service Bulletin MD90–24A004, Revision 01, dated January 11, 2000.

(b) After accomplishing paragraph (a) of this AD and prior to further flight: Inspect the electrical bonding of the ground stud, in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A004, Revision 01, dated January 11, 2000.

Note 2: Accomplishment of the reversal of the ground stud installation and installation of the nameplate in accordance with McDonnell Douglas Service Bulletin MD90–24–004, dated February 26, 1996, is acceptable for compliance with the requirements of paragraph (a) of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–206 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–117–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, and –400F Series Airplanes; and Model 747SR Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, and –400F series airplanes; and Model 747SR series airplanes. For certain airplanes, this proposal would require repetitive inspections of the clevis bushings on the inboard and outboard sequence carriages of the wing foreflap for bushing migration, and corrective action, if necessary; replacement of existing bushings with new bushings, which would terminate the repetitive inspections; and replacement of the bushing markers with new markers, if necessary, to indicate the correct bushing orientation. For certain other airplanes, this proposal would require a one-time inspection to determine whether the bushings are in the correct orientation, and follow-on actions. This action is necessary to prevent the loss of an inboard trailing edge foreflap during flight, and subsequent damage to the airplane in flight. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket 2001–NM–117–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–117–AD'' in the subject line and need

not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: John Craycraft, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2782; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket 2001–NM–117–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 2001–NM–117–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that an operator of a Boeing Model 747 series airplane with 22,141 total flight hours and 7,268 total flight cycles discovered a broken lug on the inboard sequence carriage clevis of the wing foreflap during a routine check. Subsequently, another operator, with a Model 747 series airplane that had accumulated 5,790 total flight hours and 1,965 total flight cycles, found a cracked lug. In both cases, the bushing at the outboard lug had migrated out of place, resulting in bending loads on the lug. In one event, a Model 747 series airplane that had accumulated 114,036 total flight hours and 20,438 total flight cycles had the wing foreflap separate from the airplane during flight as a result of migrated bushings. The detached foreflap impacted the fuselage, creating a 5.5-foot-by-3-foot hole in the main cabin during flight. No operational problems had been reported prior to the discovery of the cracked or broken lugs. Continued operation of the airplane without detecting and replacing migrated bushings could result in loss of an inboard trailing edge foreflap during flight, which could subsequently cause damage to the airplane in flight.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993, which, for certain airplanes, describes procedures for a general visual inspection of the bushings of the clevis on the inboard and outboard sequence carriages of the inboard trailing edge foreflap to detect bushing migration, and corrective action, if necessary; repetitive inspections of the bushings until they have been replaced; replacement of the bushings with new bushings; and replacement of the markers installed on the airplane, if necessary, to ensure correct orientation of the bushings. For certain other airplanes, the service bulletin describes procedures for a one-time general visual inspection to determine whether the bushings are in the correct orientation, and follow-on actions. If the bushings are correctly oriented, follow-on action involves replacement of the existing markers on the airplane with new markers, if applicable, to ensure that bushings are oriented correctly in future replacements. If the bushings are incorrectly oriented, follow-on actions in the service bulletin involve correction of the orientation and replacement of the existing markers with new markers. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Differences Between Proposed Rule and Service Bulletin

Operators should note that this proposed AD would require, within 5 years, the bushing replacement described in Boeing Service Bulletin 747–57–2166, Revision 5, as terminating action for the repetitive inspections. (Incorporation of the terminating action is optional in the service bulletin.) The FAA has determined that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not provide the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed replacement requirement is consistent with these conditions.

Operators also should note that, for airplanes on which the bushings have been replaced prior to the effective date of this AD in accordance with Boeing Service Bulletin 747–57–2166, Revision 4, dated December 6, 1990, or prior revisions, this proposed AD would require accomplishment of an inspection to determine whether the bushings are correctly oriented, and follow-on actions. This proposed AD would differ from the service bulletin in that, if any bushing is incorrectly oriented, the follow-on actions would involve accomplishment of the repetitive inspections for bushing migration and eventual replacement of the bushings with new bushings.

Operators should also note that the number of airplanes to which this AD is applicable is larger than that published in the service bulletin. Additional line numbers of airplanes have been included, as advised in Boeing Service Letter 747–SL–57–77, dated November 18, 1993. However, the FAA has further learned that the Boeing 747SP flaps are of a different design and are excluded from the proposed rule.

Cost Impact

There are approximately 589 airplanes of the affected design in the worldwide fleet. The FAA estimates that 222 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 7 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts costs would be negligible. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $93,240, or $420 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 2001–NM–117–AD.

Applicability: Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, and –400F series airplanes; and Model 747SR series airplanes; certificated in any category; line numbers 1 through 1009, except 968, 999, 1004, and 1007.

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 the loss of an inboard trailing edge foreflap during flight, and subsequent damage to the airplane in flight, accomplish the following:

Inspections (Bushings Not Yet Replaced)

(a) For airplanes on which the bushings have not been replaced prior to the effective date of this AD in accordance with Boeing Service Bulletin 747–57–2166, Revision 4, dated December 6, 1990, or prior revisions: Prior to the accumulation of 5,000 total flight cycles, or within 1,200 flight cycles after the effective date of this AD, whichever occurs later, perform a general visual inspection of the bushings of the clevis on the inboard and outboard sequence carriages, flap tracks 3, 4, 5, and 6 of the inboard trailing edge foreflap, for bushing migration, in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993.

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.''

(1) For each nondiscrepant bushing (with no migration): Repeat the inspection of that bushing at intervals not to exceed 1,200 flight cycles, until the terminating action required by paragraph (c) of this AD has been accomplished.

(2) For any discrepant bushing: Prior to further flight, replace the discrepant bushing with a new bushing and, if applicable, replace the bushing marker with a new marker, in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993. No further action is required by this AD for that bushing only.

Note 3: It is not necessary to replace the marker if the marker installed on the airplane shows the correct bushing orientation (flange reversed, as shown in NEW CONFIGURATION, Figure 1, of Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993).

Inspection (Bushings Replaced)

(b) For airplanes on which the bushings have been replaced prior to the effective date of this AD in accordance with Boeing Service Bulletin 747–57–2166, Revision 4, dated December 6, 1990, or previous revisions: Prior to the accumulation of 5,000 total flight cycles, or within 1,200 flight cycles after the effective date of this AD, whichever occurs later, perform a one-time general visual inspection of the bushings of the clevis on the inboard and outboard sequence carriages, flap tracks 3, 4, 5, and 6 of the inboard trailing edge foreflap, to determine whether the bushings are oriented correctly, in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993.

(1) For each bushing that is oriented correctly: Within 5 years after the effective date of this AD, replace the markers installed on the airplane with new markers, as applicable, in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993.

Note 4: It is not necessary to replace the marker if the marker installed on the airplane shows the correct bushing orientation (flange reversed, as shown in NEW CONFIGURATION, Figure 1, of Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993).

(2) For any bushing that is oriented incorrectly: Prior to further flight, perform a general visual inspection of the bushing for bushing migration, in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993.

(i) For each nondiscrepant bushing (with no migration), repeat the inspection specified by paragraph (b)(2) of this AD at intervals not to exceed 1,200 flight cycles, until the terminating action required by paragraph (c) of this AD has been accomplished.

(ii) For any discrepant bushing: Prior to further flight, replace the discrepant bushing with a new bushing and, if applicable, replace the bushing marker with a new marker, in accordance with the service bulletin. No further action is required by this paragraph for that bushing only.

Note 5: It is not necessary to replace the marker if the marker installed on the airplane shows the correct bushing orientation (flange reversed, as shown in NEW CONFIGURATION, Figure 1, of Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993).

Terminating Action

(c) Within 5 years after the effective date of this AD, replace the existing bushings of the clevis on the inboard and outboard sequence carriages, in flap tracks 3, 4, 5, and 6 of the inboard trailing edge foreflap, in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993. Replacement of the bushings in accordance with Boeing Service Bulletin 747–57–2166, Revision 4, dated December 6, 1990, or earlier, is acceptable, provided the bushings are inspected as required by paragraph (b) of this AD and found to be in the correct orientation. Also, as applicable, before further flight, replace the markers installed on the airplane with new markers in accordance with Boeing Service Bulletin 747–57–2166, Revision 5. Replacement of all bushings, and markers as applicable, terminates the requirements of this AD.

Note 6: It is not necessary to replace the marker if the marker installed on the airplane shows the correct bushing orientation (flange reversed, as shown in NEW CONFIGURATION, Figure 1, of Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993).

Spares

(d) As of the effective date of this AD, no person shall install on any airplane a carriage and toggle assembly unless it has been modified in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993.

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

Note 7: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–207 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–376–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Series Airplanes Equipped with Rolls Royce RB211 Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes equipped with Rolls Royce RB211 engines, that currently requires modification of the nacelle strut and wing structure. This action would add a one-time inspection of the middle gusset of the inboard side load fitting for proper alignment, and a one-time inspection of certain fastener holes in the lower spar fitting of the nacelle strut and wing structure for cracking, and corrective actions, if necessary. For certain airplanes, this action would require installation of new fasteners. The actions specified by the proposed AD are intended to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut. These actions are intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–376–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–376–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2776; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments

submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–376–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–376–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On November 17, 1999, the FAA issued AD 99–24–07, amendment 39–11431 (64 FR 66370, November 26, 1999), applicable to certain Boeing Model 757 series airplanes equipped with Rolls Royce RB211 engines, to require modification of the nacelle strut and wing structure. That action was prompted by reports indicating that the actual operational loads applied to the nacelle are higher than the analytical loads that were used during the initial design. Such an increase in loading can lead to fatigue cracking in primary strut structure prior to an airplane's reaching its design service objective. The requirements of that AD are intended to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut.

Actions Since Issuance of Previous Rule

Since the issuance of AD 99–24–07, the FAA has reviewed and approved Boeing Service Bulletin 757–54–0035, Revision 1, dated April 15, 1999. The procedures in this service bulletin are similar to those in Boeing Service Bulletin 757–54–0035, dated July 17, 1997, which was referenced as the appropriate source of service information for the modification of the nacelle strut and wing structure required by the existing AD. However, Revision 1 describes new procedures for an examination of the middle gusset of the inboard side load fitting to determine if the angle between the middle gusset and the outboard face of the lug is out of alignment. If the angle is out of alignment, the corrective action involves machining the middle gusset to the specified angle.

Revision 1 also describes procedures for removing and discarding the midchord and aft bulkhead fasteners of the lower spar fitting, and doing a one-time eddy current inspection of those fastener holes for cracking. If any indication of a crack is found, the service bulletin specifies contacting the airplane manufacturer for repair instructions. The service bulletin also describes procedures to increase the diameter of the fastener holes and install new, improved fasteners. For airplanes modified per the original issue of the service bulletin, these new procedures are described separately in Part V of Revision 1. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 99–24–07 to continue to require modification of the nacelle strut and wing structure. This action would add a one-time inspection of the middle gusset of the inboard side load fitting for proper alignment, and corrective action, if necessary; and a one-time inspection of the lower spar fitting of the nacelle strut and wing structure for cracking, and enlargement of the holes and replacement of certain fasteners with new, improved fasteners. The actions would be required to be accomplished according to the service bulletin described previously, except as discussed below.

Differences Between Proposed AD and Service Bulletin

Although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repairs, this proposed AD would require such repairs to be accomplished per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle Aircraft Certification Office, to make such findings.

This proposed AD requires accomplishment of the inspections within 3 years after accomplishment of the modification of the nacelle strut and wing structure, or 3 years after the effective date of this AD, whichever is later. The service bulletin recommends that operators accomplish the actions in the bulletin ''at a maintenance time when the engines are removed, but before the airplane gets 50,000 total flight cycles.'' In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspections (1 hour for detailed visual/8 hours for fastener removal/eddy current). In light of all of these factors, the FAA finds a 3-year compliance time for initiating the inspections to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Although the service bulletin specifies an examination of the middle gusset of the inboard side load fitting for proper alignment, this proposed AD would require a detailed visual inspection for accomplishment of that action. A note has been included in this proposed rule to define that inspection.

Cost Impact

There are approximately 394 airplanes of the affected design in the worldwide fleet. The FAA estimates that 176 airplanes of U.S. registry would be affected by this proposed AD.

The modification that is currently required by AD 99–24–07 takes approximately 1,049 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. This work hour figure includes the time it will take to remove and reinstall the struts from the airplane as well as the time to gain and close access to the adjacent wing structure. Based on these figures, the cost impact of the currently required modification on U.S. operators is estimated to be $11,077,440, or $62,940 per airplane.

This cost impact figure does not reflect the cost of the terminating actions described in the service bulletins listed in paragraph I.C., Table I, ''Strut Improvement Bulletins,'' on page 6 of Boeing Service Bulletin 757–54–0035, that are required to be accomplished prior to, or concurrently with, the modification of the nacelle strut and wing structure. Since some operators may have accomplished certain modifications on some or all of the airplanes in its fleet, while other operators may not have accomplished any of the modifications on any of the airplanes in its fleet, the FAA is unable to provide a reasonable estimate of the cost of accomplishing the terminating actions described in the service bulletins listed in Table I of the service bulletin.

It would take approximately 1 work hour per airplane to accomplish the new detailed visual inspection of the middle gusset, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $60 per airplane.

It would take approximately 8 work hours per airplane to accomplish the new fastener removal and eddy current inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the removal and inspection proposed by this AD on U.S. operators is estimated to be $480 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11431 (64 FR 66370, November 26, 1999), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 2000–NM–376–AD. Supersedes AD 99–24–07, Amendment 39–11431.

Applicability: Model 757 series airplanes equipped with Rolls Royce engines, line numbers 1 through 735 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut, accomplish the following:

Restatement of Requirements of AD 99–24–07

Modification

(a) Modify the nacelle strut and wing structure according to Boeing Service Bulletin 757–54–0035, dated July 17, 1997, or Revision 1, dated April 15, 1999, at the later of the times specified in paragraph (a)(1) or (a)(2) of this AD. All of the terminating actions described in the service bulletins listed in paragraph I.C., Table I, ''Strut Improvement Bulletins,'' on page 6 of Boeing Service Bulletin 757–54–0035, or on page 7 of Revision 1 of the service bulletin, as applicable, must be accomplished according to those service bulletins prior to, or concurrently with, the accomplishment of the modification of the nacelle strut and wing structure required by this paragraph. After the effective date of this AD, use only Revision 1 of the service bulletin.

(1) Prior to the accumulation of 37,500 total flight cycles, or prior to 20 years since the date of manufacture of the airplane, whichever occurs first.

(2) Within 3,000 flight cycles after January 3, 2000 (the effective date of AD 99–24–07, amendment 39–11431).

New Requirements of This AD

One-Time Inspections/Corrective Actions

(b) For airplanes that have done the modification required by paragraph (a) of this AD according to Boeing Service Bulletin 757–54–0035, dated July 17, 1997: Within 3 years after doing the modification required by paragraph (a) of this AD, or 3 years after the effective date of this AD, whichever is later, do the requirements specified in paragraphs (b)(1) and (b)(2) of this AD.

(1) Do a one-time detailed visual inspection of the middle gusset of the inboard side load fitting for proper alignment according to Part II of the Accomplishment Instructions of Boeing Service Bulletin 757–54–0035, Revision 1, dated April 15, 1999. If the gusset is not aligned properly, before further flight, machine the gusset to the specified angle, according to the service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(2) Remove and discard the midchord and aft bulkhead fasteners of the lower spar fitting and do a one-time eddy current inspection of those fastener holes for cracking according to Part V of the Accomplishment Instructions of Boeing Service Bulletin 757–54–0035, Revision 1, dated April 15, 1999.

(i) If any cracking is found during the inspection required by paragraph (b)(2) of this AD: Before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD. Then do paragraph (b)(2)(ii) of this AD.

(ii) If no cracking is found during the inspection required by paragraph (b)(2) of this AD, or after repair of cracking as required by paragraph (b)(2)(i) of this AD: Before further flight, increase the diameter of the fastener holes and install new fasteners, according to the service bulletin.

Alternative Methods of Compliance

(c)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 99–24–07, amendment 39–11431, are approved as alternative methods of compliance with paragraph (a) of this AD.

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

Special Flight Permits

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–208 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–121–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes. This proposal would require an inspection of the parallel power feeder cables of the number 2 generator for chafing or structure damage; repositioning of the cables; and repair, if necessary. This action is necessary to prevent wire chafing of the parallel power feeder cables of the number 2 generator, which, if not corrected, could result in electrical arcing and damage to adjacent structure, and consequent smoke and/or fire in the aft door panel area. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–121–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm–nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–121–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–121–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–121–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report of a fault alert of the electrical power generator system with smoke in the right aft galley area on a McDonnell Douglas Model MD–11 series airplane. The affected airplane had accumulated 28,867 total flight hours and 4,878 total flight cycles. Investigation revealed that the parallel power feeder cable of the number 2 Integrated Drive Generator (IDG) was burned through 30 percent due to chafing on the aft track of door R4. The parallel power feeder cables on Model MD–11 and DC–10 series airplanes, and Model MD–10–10F and MD–10–30F series airplanes are routed the same at the aft track of door R4. Wire chafing of the parallel power feeder cables of the number 2 generator, if not corrected, could result in electrical arcing and damage to adjacent structure, and consequent smoke and/or fire in the aft door panel area.

Other Relevant Rulemaking

On August 14, 2001, the FAA issued AD 2001–17–08, amendment 39–12399 (66 FR 44043, August 22, 2001), which applies to certain McDonnell Douglas Model MD–11 series airplanes. That AD is intended 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. The AD requires a general visual inspection to detect chafing or damage of the parallel power feeder cables of the number 2 IDG; repairing any chafed cable and damaged structure; and repositioning the parallel power feeder cables of the number 2 IDG.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC10–24A170, Revision 01, dated September 25, 2001, which describes procedures for a one-time general visual inspection of the parallel power feeder cables of the number 2 generator for chafing and structure damage; repositioning of the cables; and repair, if necessary. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 231 Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 157 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $9,420, or $60 per airplane.

It would take approximately 2 work hours per airplane to accomplish the proposed repositioning of cables, at an average labor rate of $60 per work hour. Required parts would cost approximately $646 per airplane. Based on these figures, the cost impact of the repositioning of cables proposed by this AD on U.S. operators is estimated to be $120,262, or $766 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2001–NM–121–AD.

Applicability: Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin DC10–24A170, Revision 01, dated September 25, 2001.

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 wire chafing of the parallel power feeder cables of the number 2 generator, which, if not corrected, could result in electrical arcing and damage to adjacent structure, and consequent smoke and/or fire in the aft door panel area, accomplish the following:

Inspection and Follow-On Actions

(a) Within 6 months after the effective date of this AD, do a one-time general visual inspection of the parallel power feeder cables of the number 2 generator for chafing and structure damage, per Boeing Alert Service Bulletin DC10–24A170, Revision 01, dated September 25, 2001.

(1) Condition 1. If no chafing or structure damage is found: At the next scheduled maintenance visit, but no later than 6 months after the effective date of this AD, reposition the cables per the alert service bulletin.

(2) Condition 2. If any chafing or structure damage is found: Prior to further flight, repair the cable and damaged adjacent structure, as applicable, and reposition the cables, per the alert service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or 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.''

Alternative Methods of Compliance

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

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

Special Flight Permit

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

Issued in Renton, Washington, on December 21, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–209 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–19]

Proposed Establishment of Class E5 Airspace; Batesville, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E5 airspace at Batesville, MS. A Localizer (LOC)/Distance Measuring Equipment (DME) Runway (RWY) 19, a Area Navigation (RNAV) Global Positioning System (GPS) RWY 1 and a RNAV (GPS) RWY 19 Standard Instrument Approach Procedures (SIAP) have been developed for Panola County Airport, Batesville, MS. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and other Instrument Flight Rules (IFR) operations at Panola County Airport. The operating status of the airport would change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

DATES: Comments must be received on or before February 4, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 01–ASO–19, Manager, Airspace Branch, ASO–520, PO Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments as self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–ASO–19.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, PO Box 20636, Atlanta Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E5 airspace at Batesville, MS. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

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

* * * * *

ASO MS E5 Batesville, MS [New]

Panola County Airport, MS

(Lat. 34°21′59″N, long. 89°54′32″W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Panola County Airport.

* * * * *

Issued in College Park, Georgia, on December 20, 2001.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–165 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

Proposed Rules

Federal Register
Vol. 67, No. 3
Friday, January 4, 2002

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 Chapters I, IX, X, and XI

[Doc. # L&RRS–01–01]

Regulatory Flexibility Act: Plan for Periodic Review of Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Schedule for review of agency regulations.

SUMMARY: The Agricultural Marketing Service (AMS) is publishing this plan for the review of its regulations under the Regulatory Flexibility Act (RFA). AMS has included in this plan all regulations that warrant periodic review irrespective of whether specific regulations meet the threshold requirement for mandatory review established by the RFA. The identified rules will be reviewed as indicated during the next ten years.

FOR FURTHER INFORMATION CONTACT: Christine M. Sarcone, Director, Legislative and Regulatory Review Staff, AMS, USDA, P.O. Box 96456, Room 3510–South, Washington, D.C. 20090–6456; telephone: (202) 720–3203; fax: (202) 690–3767.

SUPPLEMENTARY INFORMATION:

Background

Sec. 610 of the RFA (5 U.S.C. 610) requires agencies to review all regulations on a periodic basis that have or will have a significant economic impact on a substantial number of small entities. Because many AMS regulations impact small entities, AMS decided, as a matter of policy, to review certain regulations which although they may not meet the threshold requirement under Sec. 610 of the RFA (5 U.S.C. 610) merit review.

This document updates the original plan which was published on February 18, 1999 (64 FR 8014). Since then, two reviews have been completed and summaries of the results published in the **Federal Register**—(1) California Olives, (7 CFR part 932), March 27, 2001 (66 FR 16593); and (2) Federal Seed Act Regulations, (7 CFR part 201), March 22, 2001 (66 FR 16015). Copies of these two completed reviews can be obtained from the Legislative and Regulatory Review Staff at the telephone number provided in the **FOR FURTHER INFORMATION CONTACT** section of this document. In addition, two other reviews have been completed with summaries of the results to be published in the **Federal Register** in the near future—(1) Watermelon Research and Promotion Program (7 CFR part 1210); and (2) Irish Potatoes Grown in Certain Designated Counties in ID, and Malheur County, OR (7 CFR part 945).

In the 1999 review plan, AMS stated that reviews for the Dairy Promotion Program, Potato Research and Promotion, Egg Research and Promotion, and Pork Promotion, Research and Consumer Information regulations would be conducted in calendar year 2001; however, it was determined that completion of such reviews was not feasible by the established dates, therefore, review of the regulations has been delayed until year 2002. In addition, a request for comments was published in the **Federal Register** on June 13, 2001, (66 FR 31850) for Almonds Grown in California (7 CFR part 981). However, completion of this review also has been delayed until year 2002.

AMS also stated that it would announce regulations to be reviewed in the semi-annual regulatory agenda which is published in the **Federal Register**; however, after further consideration, the agency has decided that it would announce the reviews in the **Federal Register** separate from the semi-annual regulatory agenda. AMS plans now to publish in the year the regulations are scheduled for review a **Federal Register** document announcing the review. At that time, a contact person will be identified to whom comments may be submitted concerning the review.

The purpose of each review will be to determine whether the rules should be continued without change, or should be amended or rescinded (consistent with the objectives of applicable statutes) to minimize impacts on small businesses. In reviewing its rules the AMS will consider the following factors:

(1) The continued need for the rule;

(2) The nature of complaints or comments from the public concerning the rule;

(3) The complexity of the rule;

(4) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, to the extent feasible, with state and local regulations; and

(5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

The attached document announces the revised schedule for reviewing the agency's regulations.

Dated: December 27, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

AGRICULTURAL MARKETING SERVICE 10-YEAR REVIEW PLAN FOR REGULATIONS IDENTIFIED FOR SECTION 610 REVIEW REGULATORY FLEXIBILITY ACT

CFR part & authority	AMS program/regulation	Year implemented	Year for review
7 part 46; 7 U.S.C. 499a–499t	Perishable Agricultural Commodities Act, 1930	*1930	2008
7 part 110; 7 U.S.C. 136i–1	Pesticide Recordkeeping	1993	2003
7 part 205; 7 U.S.C. 6501–6522	National Organic Program	2000	2010
7 part 905; 7 U.S.C. 601–674	Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida.	1939	2007
7 part 916; 7 U.S.C. 601–674	Nectarines Grown in California	1958	2003
7 part 917; 7 U.S.C. 601–674	Fresh Pears and Peaches Grown in California	1939	2003

AGRICULTURAL MARKETING SERVICE 10-YEAR REVIEW PLAN FOR REGULATIONS IDENTIFIED FOR SECTION 610 REVIEW REGULATORY FLEXIBILITY ACT—Continued

CFR part & authority	AMS program/regulation	Year implemented	Year for review
7 part 923; 7 U.S.C. 601–674	Sweet Cherries Grown in Designated Counties in Washington.	1957	2007
7 part 925; 7 U.S.C. 601–674	Grapes Grown in a Designated Area of Southeastern California.	1980	2006
7 part 927; 7 U.S.C. 601–674	Winter Pears Grown in Oregon and Washington	1939	2003
7 part 929; 7 U.S.C. 601–674	Cranberries Grown in States of Massachusetts, Rhode Island, etc..	1962	2003
7 Part 930; 7 U.S.C. 601–674	Tart Cherries Grown in MI, NY, PA, OR, UT, WA & WI.	1996	2006
7 part 948; 7 U.S.C. 601–674	Irish Potatoes Grown in Colorado	1941	2006
7 part 966; 7 U.S.C. 601–674	Tomatoes Grown in Florida	1955	2002
7 part 981; 7 U.S.C. 601–674	Almonds Grown in California	1950	2002
7 part 984; 7 U.S.C. 601–674	Walnuts Grown in California	1948	2008
7 part 989; 7 U.S.C. 601–674	Raisins Produced from Grapes Grown in California	1949	2004
7 part 993; 7 U.S.C. 601–674	Dried Prunes Produced in California	1949	2002
7 part 998; 7 U.S.C. 601–674	Marketing Agreement Regulating the Quality of Domestically Produced Peanuts.	1965	2005
7 Parts 1000–1139; 7 U.S.C. 601–674	Federal Milk Marketing Orders	1999	2009
7 part 1150; 7 U.S.C. 4501–4514	Dairy Promotion Program	1984	2002
7 part 1160; 7 U.S.C. 6401–6417	Fluid Milk Promotion Program	1993	2003
7 part 1205; 7 U.S.C. 2101–2118	Cotton Research and Promotion	1996	2002
7 part 1207; 7 U.S.C. 2611–2627	Potato Research and Promotion	1972	2002
7 part 1209; 7 U.S.C. 6101–6112	Mushroom Promotion, Research and Consumer Information Order.	1993	2004
7 part 1215; 7 U.S.C. 7481–7491	Popcorn Promotion, Research and Consumer Information.	1997	2007
7 part 1216; 7 U.S.C. 7401–7425	Peanut Promotion, Research, and Information Order	1999	2009
7 part 1218; 7 U.S.C. 7401–7425	Blueberry Promotion, Research, and Information Order.	2000	2010
7 part 1220; 7 U.S.C. 6301–6311	Soybean Promotion, Research and Consumer Information.	1991	2003
7 part 1230; 7 U.S.C. 4801–4819	Pork Promotion, Research, and Consumer Information.	1986	2002
7 part 1240; 7 U.S.C. 4601–4612	Honey Research, Promotion, and Consumer Information Order.	1987	2002
7 part 1250; 7 U.S.C. 2701–2718	Egg Research and Promotion	1976	2002
7 part 1260; 7 U.S.C. 2901–2911	Beef Promotion and Research	1986	2003

*Regs. Amended 1997.

[FR Doc. 02–241 Filed 1–3–02; 8:45 am]
BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AG51

Tobacco Marketing Quotas, Acreage Allotments and Production Adjustment

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule would amend the tobacco marketing quota regulations by making it a requirement that burley tobacco producers designate the specific warehouse, dealer or receiving station at which they will sell their tobacco in order to qualify for price support and marketing cards. The tobacco marketing quota regulations currently require that only flue-cured tobacco producers, as a condition of price-support, designate the warehouses at which they will market their tobacco and the amounts to be marketed at each designated location. These amendments will provide warehouse operators, the Agriculture Marketing Service (AMS) and others accurate information when planning for a tobacco auction marketing year.

DATES: Comments concerning the contents of the proposed rule must be submitted by January 22, 2002, to be assured of consideration. Comments concerning the information collection must be submitted by March 5, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to Director, Tobacco and Peanuts Division, FSA, USDA, 1400 Independence Avenue, SW., room 5750–S, STOP 0514, Washington, DC 20250–0514; Fax: (202) 690–2298. All comments will be made available for public inspection in the Office of the Director during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ann Wortham, Agricultural Program Specialist, Tobacco and Peanuts Division, United States Department of Agriculture (USDA), 1400 Independence Avenue, SW., STOP 0514, Washington, DC 20250–0514, telephone (202) 720–2715.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule is issued in conformance with Executive Order 12866 and has been determined to be significant and was reviewed by OMB.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because USDA is not required by 5 U.S.C. 553 or any

other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Federal Assistance Programs

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases-10.0514.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

The provisions of Title II of the Unfunded Mandates Reform Act of 1995 are not applicable to this rule because the USDA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporations's (CCC) intention to request an extension of a currently approved information collection. This information will be used in support of the Tobacco Marketing Quota Program. Producers must agree to inform the Farm Service Agency (FSA) of the locations at which they will sell their tobacco and the number of pounds of that tobacco that will be sold at each location using form FSA–808, ''Designation of Burley Tobacco Sales and Request for Marketing Cards'' to collect the data.

Title: Designation of Burley Tobacco Sales and Request for Marketing Cards.

OMB #: 0560–0217.

Type of Request: Extension of a currently approved information collection.

Expiration Date: 3/31/02.

Abstract: The information is necessary to promote, foster, and maintain an orderly marketing of burley tobacco in a swiftly changing market environment. Historically, 99 percent of all burley tobacco has been marketed at auction warehouses where the tobacco has been graded by AMS personnel and where price-support has been offered.

However, between the 2000 marketing season and the current, 2001, marketing season, and based on figures that have become recently available through the designation period for flue-cured tobacco (the second major cigarette-producing tobacco), FSA predicts that as much as 80 percent of the 2001 crop of burley tobacco will *not* be sold at auction warehouses.

The figures compiled at the close of the flue-cured designation period showed that 79 percent of that tobacco would bypass the traditional auction system. This change has resulted in the known closing of up to 25 flue-cured tobacco warehouses and in an AMS reduction-in-force that has cost the jobs of more than 50 tobacco graders. It is expected that nearly half the existing flue-cured warehouses may be out of business by the end of the 2001 market season.

Without the collection of designation information for burley tobacco, FSA will not know where the tobacco will be sold or how many pounds will be sold outside the traditional auction market system. Warehouse operators who, in the past, have handled almost all of any year's crop, will not have the information needed to keep their businesses open; and AMS will not know how to schedule the grading of burley tobacco.

Estimate of Respondent Burden: Public reporting burden for this collection of information is estimated to average .25 hours per response.

Respondents: Farm operators, farm operators' authorized agents, or any producers who have an interest in the tobacco to be marketed.

Estimated number of Respondents: 150,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1.25 hours. This estimate includes 60 minutes travel time for applicants to the local USDA service center office for those respondents who choose not to file the information electronically.

Proposed topics for comment include: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments concerning the information collection must be sent to the Desk Office for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Ann Wortham, Agricultural Program Specialist, USDA–FSA–TPD–TB, STOP 0514, 1400 Independence Ave., SW., Washington, DC 20250–0514; E-mail *Ann Wortham@wdc.fsa.usda.gov;* or facsimile (202) 2690–4917. Copies of the information collection may be obtained from Ms. Wortham at the above 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.

Background

Currently, AMS, working with local trade boards or with tobacco warehouse associations, schedules the days on which auction sales are to take place at designated auction markets, equitably distributing sales opportunity among the warehouses based on floor space or performance or both.

Because of the recent high volume of direct contract purchases, the current manner of determining sales time no longer appears to be feasible. It is necessary to collect marketing-intention information on burley tobacco in the same manner that marketing-intention information has been collected on flue-cured tobacco since 1974.

In order to implement a successful burley tobacco designation program, producers were allowed to designate pounds to specific warehouses beginning June 1, 2001, as recommended by the Burley Tobacco Advisory Committee (Committee).

The 39-member committee was established by the Secretary in 1990 to provide information essential to the orderly marketing of burley tobacco. At a meeting in June, 2000, the Committee passed a motion that would affect the method of determining the number of days on which auction sales would be allowed to take place at each tobacco auction warehouse. The Committee's motion, to establish a Grower Designation Program for burley tobacco similar to the long standing Flue-cured Tobacco Warehouse Designation Program, followed an announcement in early 2000 by a major cigarette

manufacturer that it would contract with burley tobacco growers to buy tobacco directly from them at central buying points known as receiving stations, essentially acting as a dealer and bypassing the traditional auction market system.

The Flue-cured Tobacco Warehouse Designation Program requires that each flue-cured farm operator designate to which warehouse(s) that farm's tobacco will be presented for sale and the number of pounds of tobacco that will be marketed at each designated location. Such designations provide information vital to the equitable scheduling among warehouses of the day(s) on which each location can hold an auction sale and the number of pounds that can be sold on each of those scheduled days. This information also allows AMS to schedule personnel to grade such tobacco when it is presented for sale. Designation is a condition of price support eligibility for flue-cured tobacco growers.

For the 2000 market year FSA had no advance information regarding the volume of burley tobacco that individual burley growers had placed under private contract with the buying company because such information was contained in individual and private contracts between grower and company; and thus did not know how much tobacco would bypass the traditional auction warehouse market system.

The buying company announced early in 2001 that it would dramatically expand its direct purchase program. It would contract to purchase both burley and flue-cured tobacco rather than just burley; and it would purchase these kinds of tobacco from receiving stations in Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee and Virginia rather than just Kentucky and Tennessee.

Seven other leaf-buying companies followed this announcement with announcements of their own: they, too, would contract with individual burly and flue-cured tobacco growers to buy their crops direct. Currently there are eight companies with stated intentions of buying both burley and flue-cured tobacco at 72 established receiving stations in seven states.

On May 7, 2001, following the close of the flue-cured initial designation period, FSA received a report that predicted a need for a major information collection effort regarding burley tobacco: seventy-nine percent of the 2001 flue-cured tobacco available for sale has been designated to receiving stations.

The FSA judges that a comparable percentage of burley will be sold during 2001 at receiving stations. However, with no designation program in place there is no way to collect the information that is vital to the industry, to the warehouses where burley tobacco has historically been marketed, and to USDA, in particular AMS, which is immediately impacted by the lack of such data. From the historic 1 percent of sales that occurred outside the auction market system, there is the possibility that much of the burley tobacco crop will go elsewhere. This is a sudden change in only one market season. The FSA did not have figures to make such a deduction until after the end of flue-cured designation and the compilations of figures collected from flue-cured growers nationwide.

All eligible burley tobacco growers may avail themselves of the auction market system. However, only the growers/sellers and buyers involved in non-auction sale and purchase transactions know the amount of tobacco that will be involved in these private transactions. Without a burley designation program in place neither the buying companies, AMS, nor the warehouses will have any information concerning how much tobacco will be available for sale by auction, because they will not have information about what tobacco *won't* be available for sale by auction.

USDA is concerned with the effects that nonauction sales will have on the orderly marketing of tobacco and that large quantities of direct sales could be disruptive to the orderly process of marketing burley tobacco. The Grower Designation Program is necessary for the 2001 orderly marketing of burley tobacco. USDA's implementation of the burley tobacco Grower Designation Program will track market volumes and thereby enable the AMS to implement a process of remobilizing its downsized workforce.

FSA began collecting data through burley designations from growers voluntarily on June 1, 2001 in order to have data for planning the warehouse system needs prior to September 1, 2001. Although burley farmers may wait until the effective date of this rule to submit their information, they are encouraged to report now to facilitate the marketing of their crops. They may make changes during scheduled redesignation periods. The comment period has been limited to 15 days in order that this schedule can be met and accordingly serve the emergency needs of warehouse operators, dealers and producers.

This proposed rule would amend the tobacco marketing quota regulations by requiring that burley tobacco producers designate the specific warehouse, dealer or contract buying point at which they will market their tobacco in order to qualify for price support and the issuance of a marketing card. Producers would have the option to make changes during scheduled redesignation periods.

Burley and flue-cured tobacco that is produced for market is sold on a nationwide market and moves almost wholly in interstate and foreign commerce from the producer to the ultimate consumer. The Agricultural Adjustment Act of 1938 as amended (the Act) gave to the Secretary of Agriculture the responsibility for the promotion and maintenance of an orderly flow of tobacco in commerce. The means by which producers market these tobaccos has changed more in the past 12 months than in the past 50 years.

Until recently, approximately 97% of both burley and flue-cured tobacco was delivered to a warehouse, sometimes weeks in advance of a sale date. There the tobacco was either sold at auction with payment of the highest bid going to the producer or placed in storage as USDA loan security with payment of a price support advance against the loan going to the producer.

There has been a strong USDA presence in the auction market venue. Obvious (and physically present) at an auction warehouse on each sales day are the marketing recorder and the tobacco grader. Not so obvious are the cooperative marketing associations that act on behalf of their producer members by entering into annual loan agreements with USDA in order to secure the money that is used to make price support available to producers through auction warehouses. The warehouses have, in turn, contracted with an association in order to make price support advances to producers on behalf of the association and also to store the loan tobacco on which price support advances have been made. The checks and balances inherent in the warehouse venue have provided USDA with many methods to audit the flow of tobacco into commerce. The following are examples.

1. Marketing Recorders

Review warehouse records and reports for maintenance, completeness, and accuracy;

Report deficiencies in warehouse reports and records;

Record on the marketing card each producer sale of tobacco;

Collect producer payments, penalties, liens, or levies;

2. Graders

Inspect tobacco presented for sale, determining and then applying quality standards and assigning a grade to the tobacco to establish the amount of price support available for each lot;

Collect and submit of grade/pounds information for statistical purposes such as using the distribution of grades sold in one market year in order to establish the grade loan rates for the following market year;

Work with the warehouse sale supervisor, providing information on the daily pound limit-for-sale for an orderly scheduling of sales of producer tobacco;

3. Associations/Warehouses

Verify that tobacco for which a price support advance has been made and which has been placed under loan is indeed eligible for price support;

Arrange for shipment of loan tobacco for processing (such as to a stemmery) where it is then containerized and returned to storage; and

Maintain inventory loan tobacco until its ultimate sale to a leaf buying company.

In other words, in the traditional auction venue, the entrance into and passage through commerce of tobacco—from the producer to the ultimate consumer—is carefully monitored, with the scheduling of sales the most important factor in guaranteeing that the tobacco is marketed in an orderly manner. Since 1974, flue-cured producers have informed USDA by way of a designation program of where they would market their tobacco. This designation information has been provided to associations so that sale time might be scheduled at auction warehouses; and to assure that tobacco graders and market recorders are available at those times. Designation further provides statistical information to USDA about the total number of pounds that will be presented for sale in order to provide an audit trail for reconciliation with the pounds that are ultimately sold. That the designation program was already in place for flue-cured tobacco accounts in large part for the orderly marketing of this kind of tobacco during the recently ended market year when, instead of almost all of the flue-cured crop going as usual to auction for sale or price support, almost all the tobacco went to a non-auction venue with almost no USDA presence (only a market recorder).

With the information provided by producer designation, USDA knew how much flue-cured tobacco was scheduled to be sold at auction and how much was scheduled to be sold at non-auction. And this information has provided USDA with methods of meeting the requirements set out in the Act of monitoring the commercial flow of tobacco and assuring that no more than the established national quota was presented for sale, thus preserving the supply and demand intentions provided for in the Act.

Until the last 12 months, monitoring the movement of burley tobacco from farm into commerce has been straightforward because almost all of it was sold at auction. The approximately 3 percent of burley tobacco that was sold outside the auction warehouse venue did not jeopardize USDA's mandate to monitor and insure an orderly marketing of this crop. Burley warehouses are predominantly family owned and run operations, many for generations, so there has developed a close and often personal relationship between warehouse staff and the producers who sell there, providing an accommodating business-to-customer framework intended to assure that the same customers (producers selling tobacco) return to the same warehouse year after year. Annual sales time at burley auction warehouses, which has been determined by using a ''previous 5 years'' formula, has changed little in the past 50 years because of this method of doing business. Just as warehouse operations passed down from one generation to another, so too did the marketing relationships of producers.

If a disruption in this long-standing method of scheduling burley tobacco sales had occurred as it did in the flue-cured marketing venue in the early 1970's, a sales designation program would have been necessary for burley tobacco as well.

However, no such disruption in the burley tobacco venue occurred until recently, and the disruption has been dramatic enough to necessitate a designation program to monitor the flow of burley tobacco to sales location. In 2000 a traditional 97% of burley was sold in the long-established auction warehouse venue; in 2001 approximately 80% of burley tobacco will have been sold at non-auction locations and at present USDA has no method of knowing where or when this tobacco will enter into commerce or if it will do so in an orderly manner.

List of Subjects in 7 CFR Part 1464

Imports, Tobacco.

Accordingly, 7 CFR part 1464 is proposed to be amended as follows:

PART 1464—TOBACCO

1. The authority citation for part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1; 1445–2; 15 U.S.C. 714b, 714c; Pub. L. 106–78, Pub. L. 106–113, Stat. 1135 and Pub. L. 106–224.

2. Revise § 1464.2 (b)(2) introductory text, (b)(2)(ii), (b)(2)(iii), (b)(2)(iv), (b)(2)(v) and (b)(2)(vii) to read as follows:

§ 1464.2 Availability of price support.

* * * * *

(b) * * *

(2) *Special requirements for flue-cured and burley tobacco.* Price support will be available only on flue-cured and burley tobacco that has been designated for sale at specific warehouses by the producer under the following conditions:

* * * * *

(ii) *Producer designation of warehouses.* Producers will be required, as a condition of price support, to designate the warehouses at which they will market their tobacco.

(A) For flue-cured tobacco such designations may be at any warehouse or warehouses in any market within a radius of 100 miles from the county seat of the county in which the farm is located, or if such farm is physically within two counties, then from the county seat of the county in which the county FSA office administering that farm is located. To the extent there are less than eight markets within such radius, any warehouse or warehouses in any of the eight markets nearest to the county seat may be designated. A producer may obtain price support only in a warehouse that the producer has designated, and at each such warehouse only with respect to the quantity of tobacco designated for sale at such warehouse.

(B) For burley tobacco such designations may be at any warehouse or warehouses in any burley market.

(iii) *When producer designations shall be made.* Producers must designate the warehouse(s) at which they will market their tobacco during a period that shall be announced beforehand by the local county FSA office. Unless extended by the Deputy Administrator, the period for making designations shall be before May 31 each year for flue-cured tobacco and August 31 each year for burley tobacco. Producers who lease quota or whose farm is reconstituted (the combining or dividing of a farm due to a change in operation) after such period may designate the warehouse(s) at which their tobacco will be marketed according to procedures to be

established by the Deputy Administrator, Farm Programs, FSA. Producers who have designated warehouses that cease to operate or cease to have tobacco inspection or price support available may change their designations at any time after such occurrences. Producers who have designated warehouses whose inspection services have been temporarily suspended for any reason for the equivalent of at least one sales day may change their designation at any time after such occurrences. Redesignation (changes in warehouse(s) designated or in pounds designated to a warehouse) or designations for farms that have not previously designated tobacco may be made by producers during the five business days ending on the first Friday of each month during the flue-cured or burley, as applicable, tobacco marketing season. Such redesignation or initial designation shall be made on any one day of each redesignation period. Such redesignation or initial designation shall be effective on the second Monday following the Friday on which the redesignation period ends.

(iv) *Form and content of designations.* For flue-cured tobacco a designation shall be made for each warehouse at which a producer desires to market tobacco by executing a form provided by the county FSA office. The producer will be required to indicate on such form the name of the warehouse or warehouses designated by the producer and the pounds of flue-cured tobacco the producer desires to sell at such warehouse as well as any other information required to be stated on such form. For burley tobacco a designation shall be made for each warehouse, receiving station or dealer at which a producer desires to market tobacco by executing a form provided by the county FSA office. The producer will be required to indicate on such form the name of the warehouse(s), receiving station(s) or dealer(s) designated by the producer and the pounds of burley tobacco the producer desires to sell at such warehouse, receiving station or dealer as well as any other information required to be stated on such form.

(v) *Entering designation information.* For flue-cured tobacco, the warehouse code number of the warehouse the producer has designated will be indicated on the farm marketing card. For burley tobacco, the warehouse, receiving station, or dealer code number of the warehouse, receiving station or dealer the producer has designated will be indicated on the farm marketing card. If an effective date is determined in accordance with paragraph (b)(2)(iii) of this section, such effective date will be shown on the farm marketing card. For flue-cured tobacco, if the producer has not designated a warehouse, a warehouse code will not be shown on the marketing card. Changes in designation by the producer shall be accomplished by the producer returning the marketing card to the county FSA office and requesting the transfer of any unmarketed pounds of flue-cured or burley tobacco shown on any marketing card to another eligible warehouse, receiving station or dealer, if applicable.

* * * * *

(vii) *Availability of designation information.* Each county FSA office shall send designations received to the Flue-Cured Tobacco Cooperative Stabilization Corporation, Raleigh, North Carolina for flue-cured tobacco, Burley Tobacco Growers Cooperative Association, Lexington, Kentucky and Burley Stabilization Corporation, Knoxville, Tennessee for burley tobacco, following each designation period and each period for changing designations. That association(s) shall inform the Flue-Cured Tobacco Advisory Committee or the Burley Tobacco Advisory Committee, as applicable, of the pounds designated to each warehouse and the pounds of any undesignated or nonauction tobacco that, for the purpose of recommending opening dates and selling schedules in accordance with part 29 of this title, is available for apportioning for sale at each warehouse. That association also shall furnish each warehouse the name and address of the producers who designated the warehouse, the pounds each designated and the pounds that represent 103 percent of the marketing quota of each such producer. The Director, Tobacco and Peanuts Division, shall furnish each receiving station the name and address of the producers who designated the receiving station, the pounds each designated and the pounds that represent 103% of the marketing quota of each such producer.

* * * * *

3. Revise § 1464.7(d) to read as follows:

§ 1464.7 Eligible producer

(a) * * *

(b) * * *

(c) * * *

(d) In addition to meeting all other requirements that apply elsewhere, including (but not limited to) the warehouse designation provisions of § 1464.2, must not be ineligible, in accordance with part 1400 of this title, to receive price support payments, loans and benefits.

* * * * *

4. Revise § 1464.10 (i)(1)(i), (i)(2) and (i)(3)(i) to read as follows:

§ 1464.10 No-net-cost tobacco fund or account.

* * * * *

(i) * * *

(1) * * *

(i) From any dealer, receiving station official or warehouse operator who acquired the tobacco involved from the producer; or

* * * * *

(2) A dealer, receiving station official or warehouse operator may deduct the amount of any producer contribution or assessment from the price paid to the producer for such tobacco.

(3) * * *

(i) From the dealer, receiving station official or warehouse operator who acquired the tobacco involved from the producer; or

* * * * *

Signed at Washington, DC, on December 21, 2001.

James R. Little,

Executive Vice-President, Commodity Credit Corporation.

[FR Doc. 02–186 Filed 1–3–02; 8:45 am]

BILLING CODE 3410–05–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; and Model A300 F4–605R 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 Model A300 B2, A300 B4, A300 B4–600, and A300 B4–600R series airplanes, that 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. This new action revises the proposed

rule by including additional airplanes in 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 upper flange runout of frame 40, which could result in reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by January 29, 2002.

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 Model A300 B2, A300 B4, A300 B4–600, and A300 B4–600R series airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on August 22, 2001 (66 FR 44089). That supplemental 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 supplemental NPRM was prompted by reports of cracked frame 40 aft fittings at stringer 33 on the left and right sides of the fuselage. The cracking has been attributed to local stress concentration at the upper flange runout of frame 40. That condition, if not corrected, could result in reduced structural integrity of the airplane.

Actions Since Issuance of Previous Proposal

Due consideration has been given to the comments received in response to the first supplemental NPRM.

Support for the Proposal

One commenter, an operator, generally supports the proposal. The commenter reports that the proposed actions, including the optional terminating action, have already been accomplished on most of its airplanes. The commenter also provides the cost of accomplishing the work on its fleet.

Request to Revise Applicability

One commenter, the manufacturer, requests that the applicability of the first supplemental NPRM be revised to include all Airbus Model A300 F4–605R airplanes. This commenter had earlier requested, in response to the original NPRM, that Model A300 F4–622R airplanes be removed from the applicability of the original NPRM. However, the commenter notes that Model A300 F4–605R airplanes were also removed from the applicability, although they are subject to the unsafe condition and should be included.

The FAA concurs, for the reasons identified by the commenter. Model A300 F4–605R airplanes had been inadvertently omitted from the applicability. The applicability section of this second supplemental NPRM has been revised accordingly.

Conclusion

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

Cost Impact

The FAA estimates that 70 airplanes of U.S. registry would be affected by this second supplemental NPRM.

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; and Model A300 F4–605R 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	Sept. 30, 1998.
	(ii) Revision 02	A300–53–0296	May 12, 1999.
(2) A300 B4–600 and A300 B4–600R series airplanes and Model A300 F4–605R airplanes.	(i) Revision 01 or	A300–53–6048	Sept. 30, 1998.
	(ii) Revision 03	A300–53–6048	Feb. 21, 2000.

Note 2: For Model A300 B4–600 and A300 B4–600R series airplanes and Model A300 F4–605R 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).

TABLE 2.—INSPECTION REQUIREMENTS—Continued

Requirements	Description
(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 specified actions 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 and Model A300 F4–605R airplanes, past-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 and Model A300 F4–605R airplanes, pre-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 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 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.

TABLE 3.—COMPLIANCE TIMES FOR INSPECTION—Continued

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—
	(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 and Model A300 F4–605R 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 in accordance with the applicable service bulletin 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: 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: In accordance with Airbus Service Bulletin A300–53–0297, Revision 2, dated October 31, 1995.

Exception 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 December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–201 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–400–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas MD–90–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas MD–90–30 series airplanes. This proposal would

require inspection of the power feeder cables on the left and right side of the aft cargo compartment between certain stations for minimum clearance from the adjacent structure and for the presence of a grommet in the lightening hole through the floor cusp, and corrective actions, if necessary. This action is necessary to detect and correct inadequate clearance of the power feeder cables on the left and right side of the aft cargo compartment, the lack of a grommet in the lightening hole through the floor cusp, and improper installation of the cabin sidewall grill during production. These conditions could lead to chafing of the power feeder cables, resulting in electrical arcing and possibly in a fire in the cargo compartment of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–400–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–400–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–400–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 Number 2000–NM–400–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that on McDonnell Douglas MD–90–30 series airplanes, there is a potential for the power feeder cables of the aft cargo compartment to contact the lightening hole through the floor cusp between certain stations on the left and right sides of the airplane. Analysis indicates that the cabin sidewall grill may not have been properly installed during production and a grommet may not have been installed in the lightening hole, leaving inadequate clearance between the power feeder cables and the lightening hole and forcing the cables to ride hard against the outboard edge of the lightening hole. These conditions, if not corrected, could lead to chafing of the power feeder cables of the aft cargo compartment, resulting in electrical arcing and possibly in a fire in the cargo compartment of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000, which describes procedures for a general visual inspection of the power feeder cables of the left and right sides of the aft cargo compartment between stations Y=1344 and Y=1364. The inspection is to verify that the minimum clearance exists between the power feeder cables and the adjacent structure and that a grommet has been installed in the lightening hole through the floor cusp. The service bulletin also describes procedures for the following corrective actions, if necessary:

- Installation of the grommet if it is missing,
- Re-positioning of the power feeder cables to achieve the minimum clearance from the adjacent structure,
- Inspection of the power feeder cables for damage,
- Repair of any damaged power feeder cable, * Fabrication of trim, and
- Modification of the retainer assembly of the cabin sidewall grill.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 16 airplanes of the affected design in the worldwide fleet. The FAA estimates that 14 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is

estimated to be $840, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this proposed AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2000–NM–400–AD.

Applicability: Model MD–90–30 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct inadequate clearance of the power feeder cables on the left and right side of the aft cargo compartment, the lack of a grommet in the lightening hole through the floor cusp, and improper installation of the cabin sidewall grill, which could lead to chafing of the power feeder cables, resulting in electrical arcing and possibly in a fire in the cargo compartment of the airplane, accomplish the following:

Inspection

(a) Within one year after the effective date of this AD: Perform a general visual inspection of the power feeder cable installation on the left and right sides of the aft cargo compartment between stations Y=1344.000 and Y=1364.000 for the minimum clearance between the power feeder cables and the adjacent structure and for grommet installation, in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000. If the inspection reveals that adequate clearance exists and a grommet is installed, no further action is required.

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.''

Note 3: Inspections and repairs accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Service Bulletin MD90–24–025, dated July 31, 1996, are considered acceptable for compliance with the applicable actions specified in this amendment.

Corrective Action, If Necessary

(b) Subsequent to the inspection required by paragraph (a) of this AD and prior to further flight, perform the actions described in paragraph (b)(1), (b)(2), (b)(3), or (b)(4) of this AD as applicable, in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000.

(1) If minimum clearance exists and if a grommet is not installed: Install a grommet.

(2) If minimum clearance does not exist and if a grommet is installed: Conduct a general visual inspection of the power feeder cables for damage, repair any damaged cable, and re-position the cables inboard to achieve minimum clearance.

(3) If minimum clearance does not exist and if a grommet is not installed: Conduct a general visual inspection of the power feeder cables for damage, repair any damaged cable, install a grommet, and re-position cables inboard to achieve minimum clearance.

(4) If minimum clearance does not exist but cannot be accomplished or a hard riding condition exists: Conduct a general visual inspection of the power feeder cables for damage; repair any damaged cable; fabricate trim; install a grommet, if necessary; position power feeder cables to achieve the minimum clearance; and modify the retainer assembly of the cabin sidewall grill.

Alternative Methods of Compliance

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

Note 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

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–202 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–195–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas MD–90–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas MD–90–30 series airplanes. This proposal would require replacement of the existing strake feed-thru and internal electrical connectors with new, moisture resistant connectors. This action is necessary to prevent moisture from entering the strake feed-thru and internal electrical connectors, which could lead to electrical arcing and a consequent fire in the electrical and electronic (E/E) compartment of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–195–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–195–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–195–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 Number 2000–NM–195–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received two reports indicating that on McDonnell Douglas Model MD–90–30 series airplanes, a strake internal electrical connector had arced to its corresponding feed-thru connector, damaging the pins and base metal in both connectors. Investigation revealed that moisture had entered the feed-thru and internal electrical connectors, which caused the arcing. This condition, if not corrected, could result in electrical arcing and a consequent fire in the electrical and electronic (E/E) compartment of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 02, dated September 26, 2000, which describes procedures for replacing the existing feed-thru and internal electrical connectors with new, moisture resistant connectors. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 99 airplanes of the affected design in the worldwide fleet. The FAA estimates that 25 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 14 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts are available at no charge from the manufacturer. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $21,000, or $840 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated

with accomplishing the actions required by this proposed AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2000–NM–195–AD.

Applicability: Model MD–90–30 series airplanes, certificated in any category; as listed in McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 02, dated September 26, 2000.

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 moisture from entering the strake feed-thru and internal electrical connectors, which could lead to electrical arcing and a consequent fire in the electrical and electronic (E/E) compartment of the airplane, accomplish the following:

Replacement

(a) Within one year after the effective date of this AD: Replace the existing strake feed-thru and internal wire connectors with new connectors, in accordance with McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 02, dated September 26, 2000.

Note 2: Replacements accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 01, dated April 3, 2000, or original issue, dated August 12, 1998, are considered acceptable for compliance with the applicable action specified in this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–203 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–244–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model 717 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model 717 series airplanes. This proposal would require repetitive inspections for cracking of the spoiler hold-down actuator supports located on the left and right wing rear spars; adjustment of the spoiler hold-down actuators; and replacement of cracked spoiler hold-down actuator supports with new supports. The proposal would also require replacement of all spoiler hold-down actuator supports, which terminates the repetitive inspections. This action is necessary to detect and correct as well as to prevent cracks in the spoiler hold-down actuator supports, which could lead to reduced spoiler hold-down capability, resulting in loss of the back-up protection of the spoiler float hold-down and unavailability of monitoring for an uncommanded spoiler movement. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-*

anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–244–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5238; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–244–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 Number 2001–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that four occurrences of cracks in the spoiler hold-down actuator supports had been observed by an operator of McDonnell Douglas Model 717 series airplanes. The cracks, which occurred on airplanes which had accumulated approximately 2,800 total flight hours, were caused by high fatigue loads due to excessive deflection of the supports. If not detected and corrected or prevented, cracks in the spoiler hold-down actuator supports could lead to reduced spoiler hold-down capability, resulting in loss of the back-up protection of the spoiler float hold-down and unavailability of monitoring for an uncommanded spoiler movement.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 717–57A0002, Revision 02, dated October 2, 2001, which describes procedures for repetitive visual inspections of the spoiler hold-down actuator supports located on the left and right wing rear spars for cracks and adjustment of the spoiler hold-down actuators. The service bulletin recommends that spoiler hold-down actuator supports, which are found to be cracked, be replaced with new supports within 500 flight hours of the inspection.

The FAA has also reviewed and approved Boeing Service Bulletin 717–57–0004, Revision 01, dated October 2, 2001, which describes procedures for replacement of the spoiler hold-down actuator supports, idler links, hinge pin, and attaching parts with new parts and for adjustment of the spoiler hold-down actuators. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Operators should note that, while it is not the FAA's normal policy to allow flight with known cracks, the proposed rule would permit further flight with a cracked spoiler hold-down actuator support, provided that the spoiler hold-down actuators are adjusted prior to further flight and that the cracked spoiler hold-down actuator support is replaced within 500 flight hours after the inspection during which a crack was detected.

Cost Impact

There are approximately 52 airplanes of the affected design in the worldwide fleet. The FAA estimates that 36 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 12 work hours per airplane to accomplish the proposed detailed visual inspection and adjustment of the spoiler hold-down actuator supports for cracks 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 $25,920, or $720 per airplane, per inspection cycle.

It would take approximately 18 to 43 work hours per airplane to accomplish the proposed replacement of the spoiler hold-down actuator supports and associated parts at an average labor rate of $60 per work hour. The manufacturer has committed previously to its customers that it would bear the cost of replacement parts. As a result, the cost of those parts is not attributable to this proposed AD. Based on these figures, the cost impact of the proposed replacement on U.S. operators is estimated to be between $38,880 and $92,880, or between $1,080 and $2,580 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this proposed AD. Therefore, the

future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2001–NM–244–AD.

Applicability: Model 717 series airplanes, manufacturer's fuselage numbers 5002 through 5064 inclusive, and 5066 through 5073 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct as well as to prevent cracks in the spoiler hold-down actuator supports, which could lead to reduced spoiler hold-down capability, resulting in loss of the back-up protection of the spoiler float hold-down and unavailability of monitoring for an uncommanded spoiler movement, accomplish the following:

Inspections

(a) Prior to the accumulation of 1,500 total flight hours, or within 500 flight hours after the effective date of this AD, whichever occurs later: Perform a detailed visual inspection of the spoiler hold-down actuator supports on the left and right wing rear spar for cracks, in accordance with Boeing Alert Service Bulletin 717–57A0002, Revision 02, dated October 2, 2001.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Note 3: Inspections accomplished prior to the effective date of this AD in accordance with Boeing Alert Service Bulletin 717–57A0002, Revision 01, dated February 28, 2001, are considered acceptable for compliance with the applicable action specified in this amendment.

(1) If no crack is detected: Prior to further flight, adjust the spoiler hold-down actuators in accordance with the service bulletin. Repeat the detailed visual inspection at intervals not to exceed 500 flight hours until the accomplishment of the requirements of paragraph (b) of this AD.

(2) If any crack is detected: Prior to further flight, adjust the spoiler hold-down actuators in accordance with the service bulletin. Within 500 flight hours after accomplishment of the inspection, replace the cracked spoiler hold-down actuator supports(s) and associated idler link(s), hinge pins, and attaching parts with new parts and adjust the spoiler hold-down actuators, in accordance with Boeing Service Bulletin 717–57–0004, Revision 01, dated October 2, 2001. Replacement of a cracked spoiler hold-down actuator support as required herein constitutes terminating action for that actuator support for the requirements of this AD.

Terminating Action

(b) Within 15 months after the effective date of this AD: Replace spoiler hold-down actuator supports, idler links, hinge pin, and attaching parts with new parts and adjust the spoiler hold-down actuators, in accordance with Boeing Service Bulletin 717–57–0004, Revision 01, dated October 2, 2001. Any spoiler hold-down actuator supports, idler links, hinge pin, or attaching parts which have previously been replaced in accordance with paragraph (a)(2) of this AD do not need to be replaced. Replacement of all spoiler hold-down actuators in accordance with Boeing Service Bulletin 717–57–0004, Revision 01, dated October 2, 2001, constitutes terminating action for the requirements of this AD.

Note 4: Replacement of a spoiler hold-down actuator support accomplished prior to the effective date of this AD in accordance with Boeing Service Bulletin 717–57–0004, dated May 30, 2001, is considered acceptable for compliance with the applicable action specified in this amendment.

Alternative Methods of Compliance

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

Note 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

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate,Aircraft Certification Service.

[FR Doc. 02–204 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–333–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 777 series airplanes. This proposal would require inspection of certain aft axle pivot pins of the main landing gear (MLG) for heat damage and either reworking of damaged pins or replacement of damaged pins with new pins. This action is necessary to prevent breakage of the aft axle pivot pin of the MLG, which could overload the center axle, causing the tires to blow out upon landing, and could disengage the aft axle so that it jams the gear in the wheel well, preventing proper extension of the MLG. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2000–NM–333–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–333–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stan Wood, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2772; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–333–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 Number 2000–NM–333–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that a fractured aft axle pivot pin had been discovered in the main landing gear (MLG) of a Boeing Model 777 series airplane used as a flight test airplane with 488 total flight cycles. Metallurgical inspection of the aft axle pivot pin revealed heat damage to the base metal. Such heat damage, if not corrected, could cause breakage of the aft axle of the pivot pin of the MLG. A broken aft axle pivot pin could migrate from the joint, disengaging the aft axle and causing it to jam the gear in the wheel well, which could prevent proper extension of the MLG. In addition, the loss of function of the aft axle could overload the center axle, causing the tires to blow out upon landing.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing special Attention Service Bulletin 777–32–0029, dated May 18, 2000, which describes procedures for performing a visual inspection of the aft axle pivot pins of the MLG to determine their serial numbers, removal of certain pivot pins, inspection of the pivot pins for heat damage using either the Barkhausen Noise Inspection method for chromium-plated parts or the magnetic particle inspection method, and re-installation of undamaged pivot pins or replacement of damaged pivot pins with new pivot pins. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 263 airplanes of the affected design in the worldwide fleet. The FAA estimates that 73 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be at least $17,520, or $240 per airplane.

The cost impact figure discussed above is based on assumptions that no

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 2000–NM–333–AD.

Applicability: Model 777 series airplanes, line numbers 1 through 263 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent breakage of the aft axle pivot pin of the main landing gear (MLG), which could overload the center axle, causing the tires to blow out upon landing, and could disengage the aft axle so that it jams the gear in the wheel well, preventing proper extension of the MLG, accomplish the following:

Inspection

(a) Within 18 months of the effective date of this AD: Perform the actions specified in paragraph (a)(1) or (a)(2) of this AD, as applicable, in accordance with Boeing special Attention Service Bulletin 777–32–0029, dated May 18, 2000.

(1) For airplanes which have line numbers 1 through 68 inclusive (designated as Group 1 airplanes in the service bulletin) and on which the aft axle pivot pin of the main landing gear (MLG) has been replaced prior to the effective date of this AD: Inspect the serial number of the pivot pin.

(i) If the serial number of the pivot pin does not have the prefix of EGL, no further action is required.

(ii) If the serial number of the pivot pin does have the prefix of EGL, prior to further flight, perform the actions required by paragraph (a)(2) of this AD.

(2) For airplanes which have line numbers 69 through 263 inclusive (designated as Group 2 airplanes in the service bulletin): Remove the aft axle pivot pin, remove the lube insert from the aft axle pivot pin, and inspect the aft axle pivot pin for heat damage. The inspection must be done either by the Barkhausen Noise Inspection method for chromium-plated parts or by the magnetic particle inspection method, in accordance with the service bulletin.

(i) If heat damage is found by the inspection required by paragraph (a)(2) of this AD: Prior to further flight, re-work the existing aft axle pivot pin, re-install the existing lube insert, and re-install the re-worked aft axle pivot pin or install a new aft axle pivot pin in the MLG, in accordance with the service bulletin.

(ii) If no heat damage is found by the inspection required by paragraph (a)(2) of this AD: Prior to further flight, re-install the existing lube insert and re-install the existing aft axle pivot pin or install a new aft axle pivot pin in the MLG, in accordance with the service bulletin.

Spares

(b) After the effective date of this AD, no person shall install an aft axle pivot pin having a serial number with the prefix ''EGL'' in the MLG, unless the pivot pin has been inspected as required by paragraph (a) of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–205 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–198–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–90–30 series airplanes. This proposal would require modification of the main battery ground stud and installation of a nameplate which indicates torque requirements for the ground stud nut. This action is necessary to prevent the ground stud nut from being

inadequately tightened or becoming loose, which could result in electrical arcing between the ground stud and the adjacent structure, leading to damage to electrical or electronic equipment or possibly to fire in the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–198–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–198–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–198–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 Number 2000–NM–198–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The manufacturer has received a report from an operator of a McDonnell Douglas Model DC–9–82 airplane that a main battery ground stud and the adjacent structure had been burnt. The damage was attributed to a loose or inadequately tightened ground stud, which caused electrical arcing. The main battery stud on the affected model is similar to that on MD–90–30 series airplanes. Therefore, the MD–90–30 series airplanes may be subject to the same unsafe condition reported on the DC–9–82 airplane. The proposed rule is necessary to prevent the ground stud nut from being inadequately tightened or becoming loose, which could result in electrical arcing between the ground stud and the adjacent structure, leading to damage to electrical or electronic equipment or possibly to fire in the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD90–24A004, Revision 01, dated January 11, 2000, which describes procedures for modification of the main battery ground stud and installation of a nameplate which specifies torque requirements for the ground stud nut. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 18 airplanes of the affected design in the worldwide fleet. The FAA estimates that 14 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $840, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. However, for affected airplanes within the period under the warranty agreement, the FAA has been advised that the manufacturer has committed previously to its customers that it will bear the cost of replacement parts. The FAA has also been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this proposed AD. Therefore, the future economic cost impact of this AD may be less than the cost impact figure indicated above. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or

time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2000–NM–198–AD.

Applicability: Model MD–90–30 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–24A004, Revision 01, dated January 11, 2000; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the ground stud nut from being inadequately tightened or becoming loose, which could result in electrical arcing between the ground stud and the adjacent structure, leading to damage to electrical or electronic equipment or possibly to fire in the airplane, accomplish the following:

Modification

(a) Within 6 months after the effective date of this AD: Reverse the main battery ground stud and install a nameplate which indicates torque requirements for the ground stud nut, in accordance with McDonnell Douglas alert Service Bulletin MD90–24A004, Revision 01, dated January 11, 2000.

(b) After accomplishing paragraph (a) of this AD and prior to further flight: Inspect the electrical bonding of the ground stud, in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A004, Revision 01, dated January 11, 2000.

Note 2: Accomplishment of the reversal of the ground stud installation and installation of the nameplate in accordance with McDonnell Douglas Service Bulletin MD90–24–004, dated February 26, 1996, is acceptable for compliance with the requirements of paragraph (a) of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–206 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–117–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, and –400F Series Airplanes; and Model 747SR Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, and –400F series airplanes; and Model 747SR series airplanes. For certain airplanes, this proposal would require repetitive inspections of the clevis bushings on the inboard and outboard sequence carriages of the wing foreflap for bushing migration, and corrective action, if necessary; replacement of existing bushings with new bushings, which would terminate the repetitive inspections; and replacement of the bushing markers with new markers, if necessary, to indicate the correct bushing orientation. For certain other airplanes, this proposal would require a one-time inspection to determine whether the bushings are in the correct orientation, and follow-on actions. This action is necessary to prevent the loss of an inboard trailing edge foreflap during flight, and subsequent damage to the airplane in flight. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket 2001–NM–117–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–117–AD'' in the subject line and need

not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: John Craycraft, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2782; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket 2001–NM–117–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 2001–NM–117–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that an operator of a Boeing Model 747 series airplane with 22,141 total flight hours and 7,268 total flight cycles discovered a broken lug on the inboard sequence carriage clevis of the wing foreflap during a routine check. Subsequently, another operator, with a Model 747 series airplane that had accumulated 5,790 total flight hours and 1,965 total flight cycles, found a cracked lug. In both cases, the bushing at the outboard lug had migrated out of place, resulting in bending loads on the lug. In one event, a Model 747 series airplane that had accumulated 114,036 total flight hours and 20,438 total flight cycles had the wing foreflap separate from the airplane during flight as a result of migrated bushings. The detached foreflap impacted the fuselage, creating a 5.5-foot-by-3-foot hole in the main cabin during flight. No operational problems had been reported prior to the discovery of the cracked or broken lugs. Continued operation of the airplane without detecting and replacing migrated bushings could result in loss of an inboard trailing edge foreflap during flight, which could subsequently cause damage to the airplane in flight.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993, which, for certain airplanes, describes procedures for a general visual inspection of the bushings of the clevis on the inboard and outboard sequence carriages of the inboard trailing edge foreflap to detect bushing migration, and corrective action, if necessary; repetitive inspections of the bushings until they have been replaced; replacement of the bushings with new bushings; and replacement of the markers installed on the airplane, if necessary, to ensure correct orientation of the bushings. For certain other airplanes, the service bulletin describes procedures for a one-time general visual inspection to determine whether the bushings are in the correct orientation, and follow-on actions. If the bushings are correctly oriented, follow-on action involves replacement of the existing markers on the airplane with new markers, if applicable, to ensure that bushings are oriented correctly in future replacements. If the bushings are incorrectly oriented, follow-on actions in the service bulletin involve correction of the orientation and replacement of the existing markers with new markers. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Differences Between Proposed Rule and Service Bulletin

Operators should note that this proposed AD would require, within 5 years, the bushing replacement described in Boeing Service Bulletin 747–57–2166, Revision 5, as terminating action for the repetitive inspections. (Incorporation of the terminating action is optional in the service bulletin.) The FAA has determined that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not provide the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed replacement requirement is consistent with these conditions.

Operators also should note that, for airplanes on which the bushings have been replaced prior to the effective date of this AD in accordance with Boeing Service Bulletin 747–57–2166, Revision 4, dated December 6, 1990, or prior revisions, this proposed AD would require accomplishment of an inspection to determine whether the bushings are correctly oriented, and follow-on actions. This proposed AD would differ from the service bulletin in that, if any bushing is incorrectly oriented, the follow-on actions would involve accomplishment of the repetitive inspections for bushing migration and eventual replacement of the bushings with new bushings.

Operators should also note that the number of airplanes to which this AD is applicable is larger than that published in the service bulletin. Additional line numbers of airplanes have been included, as advised in Boeing Service Letter 747–SL–57–77, dated November 18, 1993. However, the FAA has further learned that the Boeing 747SP flaps are of a different design and are excluded from the proposed rule.

Cost Impact

There are approximately 589 airplanes of the affected design in the worldwide fleet. The FAA estimates that 222 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 7 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts costs would be negligible. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $93,240, or $420 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 2001–NM–117–AD.

Applicability: Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, and –400F series airplanes; and Model 747SR series airplanes; certificated in any category; line numbers 1 through 1009, except 968, 999, 1004, and 1007.

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 the loss of an inboard trailing edge foreflap during flight, and subsequent damage to the airplane in flight, accomplish the following:

Inspections (Bushings Not Yet Replaced)

(a) For airplanes on which the bushings have not been replaced prior to the effective date of this AD in accordance with Boeing Service Bulletin 747–57–2166, Revision 4, dated December 6, 1990, or prior revisions: Prior to the accumulation of 5,000 total flight cycles, or within 1,200 flight cycles after the effective date of this AD, whichever occurs later, perform a general visual inspection of the bushings of the clevis on the inboard and outboard sequence carriages, flap tracks 3, 4, 5, and 6 of the inboard trailing edge foreflap, for bushing migration, in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993.

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.''

(1) For each nondiscrepant bushing (with no migration): Repeat the inspection of that bushing at intervals not to exceed 1,200 flight cycles, until the terminating action required by paragraph (c) of this AD has been accomplished.

(2) For any discrepant bushing: Prior to further flight, replace the discrepant bushing with a new bushing and, if applicable, replace the bushing marker with a new marker, in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993. No further action is required by this AD for that bushing only.

Note 3: It is not necessary to replace the marker if the marker installed on the airplane shows the correct bushing orientation (flange reversed, as shown in NEW CONFIGURATION, Figure 1, of Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993).

Inspection (Bushings Replaced)

(b) For airplanes on which the bushings have been replaced prior to the effective date of this AD in accordance with Boeing Service Bulletin 747–57–2166, Revision 4, dated December 6, 1990, or previous revisions: Prior to the accumulation of 5,000 total flight cycles, or within 1,200 flight cycles after the effective date of this AD, whichever occurs later, perform a one-time general visual inspection of the bushings of the clevis on the inboard and outboard sequence carriages, flap tracks 3, 4, 5, and 6 of the inboard trailing edge foreflap, to determine whether the bushings are oriented correctly, in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993.

(1) For each bushing that is oriented correctly: Within 5 years after the effective date of this AD, replace the markers installed on the airplane with new markers, as applicable, in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993.

Note 4: It is not necessary to replace the marker if the marker installed on the airplane shows the correct bushing orientation (flange reversed, as shown in NEW CONFIGURATION, Figure 1, of Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993).

(2) For any bushing that is oriented incorrectly: Prior to further flight, perform a general visual inspection of the bushing for bushing migration, in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993.

(i) For each nondiscrepant bushing (with no migration), repeat the inspection specified by paragraph (b)(2) of this AD at intervals not to exceed 1,200 flight cycles, until the terminating action required by paragraph (c) of this AD has been accomplished.

(ii) For any discrepant bushing: Prior to further flight, replace the discrepant bushing with a new bushing and, if applicable, replace the bushing marker with a new marker, in accordance with the service bulletin. No further action is required by this paragraph for that bushing only.

Note 5: It is not necessary to replace the marker if the marker installed on the airplane shows the correct bushing orientation (flange reversed, as shown in NEW CONFIGURATION, Figure 1, of Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993).

Terminating Action

(c) Within 5 years after the effective date of this AD, replace the existing bushings of the clevis on the inboard and outboard sequence carriages, in flap tracks 3, 4, 5, and 6 of the inboard trailing edge foreflap, in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993. Replacement of the bushings in accordance with Boeing Service Bulletin 747–57–2166, Revision 4, dated December 6, 1990, or earlier, is acceptable, provided the bushings are inspected as required by paragraph (b) of this AD and found to be in the correct orientation. Also, as applicable, before further flight, replace the markers installed on the airplane with new markers in accordance with Boeing Service Bulletin 747–57–2166, Revision 5. Replacement of all bushings, and markers as applicable, terminates the requirements of this AD.

Note 6: It is not necessary to replace the marker if the marker installed on the airplane shows the correct bushing orientation (flange reversed, as shown in NEW CONFIGURATION, Figure 1, of Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993).

Spares

(d) As of the effective date of this AD, no person shall install on any airplane a carriage and toggle assembly unless it has been modified in accordance with Boeing Service Bulletin 747–57–2166, Revision 5, dated May 13, 1993.

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

Note 7: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–207 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–376–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Series Airplanes Equipped with Rolls Royce RB211 Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes equipped with Rolls Royce RB211 engines, that currently requires modification of the nacelle strut and wing structure. This action would add a one-time inspection of the middle gusset of the inboard side load fitting for proper alignment, and a one-time inspection of certain fastener holes in the lower spar fitting of the nacelle strut and wing structure for cracking, and corrective actions, if necessary. For certain airplanes, this action would require installation of new fasteners. The actions specified by the proposed AD are intended to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut. These actions are intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–376–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–376–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2776; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments

submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–376–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–376–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On November 17, 1999, the FAA issued AD 99–24–07, amendment 39–11431 (64 FR 66370, November 26, 1999), applicable to certain Boeing Model 757 series airplanes equipped with Rolls Royce RB211 engines, to require modification of the nacelle strut and wing structure. That action was prompted by reports indicating that the actual operational loads applied to the nacelle are higher than the analytical loads that were used during the initial design. Such an increase in loading can lead to fatigue cracking in primary strut structure prior to an airplane's reaching its design service objective. The requirements of that AD are intended to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut.

Actions Since Issuance of Previous Rule

Since the issuance of AD 99–24–07, the FAA has reviewed and approved Boeing Service Bulletin 757–54–0035, Revision 1, dated April 15, 1999. The procedures in this service bulletin are similar to those in Boeing Service Bulletin 757–54–0035, dated July 17, 1997, which was referenced as the appropriate source of service information for the modification of the nacelle strut and wing structure required by the existing AD. However, Revision 1 describes new procedures for an examination of the middle gusset of the inboard side load fitting to determine if the angle between the middle gusset and the outboard face of the lug is out of alignment. If the angle is out of alignment, the corrective action involves machining the middle gusset to the specified angle.

Revision 1 also describes procedures for removing and discarding the midchord and aft bulkhead fasteners of the lower spar fitting, and doing a one-time eddy current inspection of those fastener holes for cracking. If any indication of a crack is found, the service bulletin specifies contacting the airplane manufacturer for repair instructions. The service bulletin also describes procedures to increase the diameter of the fastener holes and install new, improved fasteners. For airplanes modified per the original issue of the service bulletin, these new procedures are described separately in Part V of Revision 1. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 99–24–07 to continue to require modification of the nacelle strut and wing structure. This action would add a one-time inspection of the middle gusset of the inboard side load fitting for proper alignment, and corrective action, if necessary; and a one-time inspection of the lower spar fitting of the nacelle strut and wing structure for cracking, and enlargement of the holes and replacement of certain fasteners with new, improved fasteners. The actions would be required to be accomplished according to the service bulletin described previously, except as discussed below.

Differences Between Proposed AD and Service Bulletin

Although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repairs, this proposed AD would require such repairs to be accomplished per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle Aircraft Certification Office, to make such findings.

This proposed AD requires accomplishment of the inspections within 3 years after accomplishment of the modification of the nacelle strut and wing structure, or 3 years after the effective date of this AD, whichever is later. The service bulletin recommends that operators accomplish the actions in the bulletin ''at a maintenance time when the engines are removed, but before the airplane gets 50,000 total flight cycles.'' In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspections (1 hour for detailed visual/8 hours for fastener removal/eddy current). In light of all of these factors, the FAA finds a 3-year compliance time for initiating the inspections to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Although the service bulletin specifies an examination of the middle gusset of the inboard side load fitting for proper alignment, this proposed AD would require a detailed visual inspection for accomplishment of that action. A note has been included in this proposed rule to define that inspection.

Cost Impact

There are approximately 394 airplanes of the affected design in the worldwide fleet. The FAA estimates that 176 airplanes of U.S. registry would be affected by this proposed AD.

The modification that is currently required by AD 99–24–07 takes approximately 1,049 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. This work hour figure includes the time it will take to remove and reinstall the struts from the airplane as well as the time to gain and close access to the adjacent wing structure. Based on these figures, the cost impact of the currently required modification on U.S. operators is estimated to be $11,077,440, or $62,940 per airplane.

This cost impact figure does not reflect the cost of the terminating actions described in the service bulletins listed in paragraph I.C., Table I, ''Strut Improvement Bulletins,'' on page 6 of Boeing Service Bulletin 757–54–0035, that are required to be accomplished prior to, or concurrently with, the modification of the nacelle strut and wing structure. Since some operators may have accomplished certain modifications on some or all of the airplanes in its fleet, while other operators may not have accomplished any of the modifications on any of the airplanes in its fleet, the FAA is unable to provide a reasonable estimate of the cost of accomplishing the terminating actions described in the service bulletins listed in Table I of the service bulletin.

It would take approximately 1 work hour per airplane to accomplish the new detailed visual inspection of the middle gusset, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $60 per airplane.

It would take approximately 8 work hours per airplane to accomplish the new fastener removal and eddy current inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the removal and inspection proposed by this AD on U.S. operators is estimated to be $480 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11431 (64 FR 66370, November 26, 1999), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 2000–NM–376–AD. Supersedes AD 99–24–07, Amendment 39–11431.

Applicability: Model 757 series airplanes equipped with Rolls Royce engines, line numbers 1 through 735 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut, accomplish the following:

Restatement of Requirements of AD 99–24–07

Modification

(a) Modify the nacelle strut and wing structure according to Boeing Service Bulletin 757–54–0035, dated July 17, 1997, or Revision 1, dated April 15, 1999, at the later of the times specified in paragraph (a)(1) or (a)(2) of this AD. All of the terminating actions described in the service bulletins listed in paragraph I.C., Table I, ''Strut Improvement Bulletins,'' on page 6 of Boeing Service Bulletin 757–54–0035, or on page 7 of Revision 1 of the service bulletin, as applicable, must be accomplished according to those service bulletins prior to, or concurrently with, the accomplishment of the modification of the nacelle strut and wing structure required by this paragraph. After the effective date of this AD, use only Revision 1 of the service bulletin.

(1) Prior to the accumulation of 37,500 total flight cycles, or prior to 20 years since the date of manufacture of the airplane, whichever occurs first.

(2) Within 3,000 flight cycles after January 3, 2000 (the effective date of AD 99–24–07, amendment 39–11431).

New Requirements of This AD

One-Time Inspections/Corrective Actions

(b) For airplanes that have done the modification required by paragraph (a) of this AD according to Boeing Service Bulletin 757–54–0035, dated July 17, 1997: Within 3 years after doing the modification required by paragraph (a) of this AD, or 3 years after the effective date of this AD, whichever is later, do the requirements specified in paragraphs (b)(1) and (b)(2) of this AD.

(1) Do a one-time detailed visual inspection of the middle gusset of the inboard side load fitting for proper alignment according to Part II of the Accomplishment Instructions of Boeing Service Bulletin 757–54–0035, Revision 1, dated April 15, 1999. If the gusset is not aligned properly, before further flight, machine the gusset to the specified angle, according to the service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(2) Remove and discard the midchord and aft bulkhead fasteners of the lower spar fitting and do a one-time eddy current inspection of those fastener holes for cracking according to Part V of the Accomplishment Instructions of Boeing Service Bulletin 757–54–0035, Revision 1, dated April 15, 1999.

(i) If any cracking is found during the inspection required by paragraph (b)(2) of this AD: Before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD. Then do paragraph (b)(2)(ii) of this AD.

(ii) If no cracking is found during the inspection required by paragraph (b)(2) of this AD, or after repair of cracking as required by paragraph (b)(2)(i) of this AD: Before further flight, increase the diameter of the fastener holes and install new fasteners, according to the service bulletin.

Alternative Methods of Compliance

(c)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 99–24–07, amendment 39–11431, are approved as alternative methods of compliance with paragraph (a) of this AD.

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

Special Flight Permits

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

Issued in Renton, Washington, on December 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–208 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–121–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes. This proposal would require an inspection of the parallel power feeder cables of the number 2 generator for chafing or structure damage; repositioning of the cables; and repair, if necessary. This action is necessary to prevent wire chafing of the parallel power feeder cables of the number 2 generator, which, if not corrected, could result in electrical arcing and damage to adjacent structure, and consequent smoke and/or fire in the aft door panel area. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–121–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm–nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–121–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–121–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–121–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report of a fault alert of the electrical power generator system with smoke in the right aft galley area on a McDonnell Douglas Model MD–11 series airplane. The affected airplane had accumulated 28,867 total flight hours and 4,878 total flight cycles. Investigation revealed that the parallel power feeder cable of the number 2 Integrated Drive Generator (IDG) was burned through 30 percent due to chafing on the aft track of door R4. The parallel power feeder cables on Model MD–11 and DC–10 series airplanes, and Model MD–10–10F and MD–10–30F series airplanes are routed the same at the aft track of door R4. Wire chafing of the parallel power feeder cables of the number 2 generator, if not corrected, could result in electrical arcing and damage to adjacent structure, and consequent smoke and/or fire in the aft door panel area.

Other Relevant Rulemaking

On August 14, 2001, the FAA issued AD 2001–17–08, amendment 39–12399 (66 FR 44043, August 22, 2001), which applies to certain McDonnell Douglas Model MD–11 series airplanes. That AD is intended 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. The AD requires a general visual inspection to detect chafing or damage of the parallel power feeder cables of the number 2 IDG; repairing any chafed cable and damaged structure; and repositioning the parallel power feeder cables of the number 2 IDG.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC10–24A170, Revision 01, dated September 25, 2001, which describes procedures for a one-time general visual inspection of the parallel power feeder cables of the number 2 generator for chafing and structure damage; repositioning of the cables; and repair, if necessary. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 231 Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 157 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $9,420, or $60 per airplane.

It would take approximately 2 work hours per airplane to accomplish the proposed repositioning of cables, at an average labor rate of $60 per work hour. Required parts would cost approximately $646 per airplane. Based on these figures, the cost impact of the repositioning of cables proposed by this AD on U.S. operators is estimated to be $120,262, or $766 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2001–NM–121–AD.

Applicability: Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin DC10–24A170, Revision 01, dated September 25, 2001.

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 wire chafing of the parallel power feeder cables of the number 2 generator, which, if not corrected, could result in electrical arcing and damage to adjacent structure, and consequent smoke and/or fire in the aft door panel area, accomplish the following:

Inspection and Follow-On Actions

(a) Within 6 months after the effective date of this AD, do a one-time general visual inspection of the parallel power feeder cables of the number 2 generator for chafing and structure damage, per Boeing Alert Service Bulletin DC10–24A170, Revision 01, dated September 25, 2001.

(1) Condition 1. If no chafing or structure damage is found: At the next scheduled maintenance visit, but no later than 6 months after the effective date of this AD, reposition the cables per the alert service bulletin.

(2) Condition 2. If any chafing or structure damage is found: Prior to further flight, repair the cable and damaged adjacent structure, as applicable, and reposition the cables, per the alert service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or 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.''

Alternative Methods of Compliance

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

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

Special Flight Permit

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

Issued in Renton, Washington, on December 21, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–209 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–19]

Proposed Establishment of Class E5 Airspace; Batesville, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E5 airspace at Batesville, MS. A Localizer (LOC)/Distance Measuring Equipment (DME) Runway (RWY) 19, a Area Navigation (RNAV) Global Positioning System (GPS) RWY 1 and a RNAV (GPS) RWY 19 Standard Instrument Approach Procedures (SIAP) have been developed for Panola County Airport, Batesville, MS. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and other Instrument Flight Rules (IFR) operations at Panola County Airport. The operating status of the airport would change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

DATES: Comments must be received on or before February 4, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 01–ASO–19, Manager, Airspace Branch, ASO–520, PO Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments as self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–ASO–19.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, PO Box 20636, Atlanta Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E5 airspace at Batesville, MS. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

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

* * * * *

ASO MS E5 Batesville, MS [New]

Panola County Airport, MS

(Lat. 34°21′59″N, long. 89°54′32″W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Panola County Airport.

* * * * *

Issued in College Park, Georgia, on December 20, 2001.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–165 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

Notices

Federal Register
Vol. 67, No. 3
Friday, January 4, 2002

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

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Evaluation of the 14 State Summer Food Service Program Pilot Project

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Nutrition Service's intention to request Office of Management and Budget approval of the data collection instruments for the Evaluation of the 14 State Summer Food Service Program Pilot Project.

DATES: Written comments on this notice must be received by March 4, 2002 to be assured of consideration.

ADDRESSES: Comments may be sent to Jay Hirschman, Director, Special Nutrition Staff, Office of Analysis, Nutrition, and Evaluation, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate, automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval of the information collection. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection forms should be directed to Jay Hirschman, (703) 305–2117.

SUPPLEMENTARY INFORMATION: *Title:* Evaluation of the 14 State Summer Food Service Program Pilot Project.

OMB Number: Not yet assigned.

Expiration Date: N/A.

Type of Request: New collection of information.

Abstract: Subsection 18 (f) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1769 (f)), added by section 1(a)(4) of the Consolidated Appropriations Act, 2001 (Pub. L. 106–554, December 21, 2000), authorized the Secretary of Agriculture, through the Administrator of the Food and Nutrition Service (FNS), to conduct a pilot in each eligible State to increase the number of children participating in the Summer Food Service Program (SFSP) in that State. Definition of ''eligible State'' was provided in the authorizing legislation. Fourteen States, specifically Alaska, Arkansas, Idaho, Indiana, Iowa, Kansas, Kentucky, Nebraska, New Hampshire, North Dakota, Oklahoma, Puerto Rico, Texas and Wyoming, met the eligibility criteria and are participating in the pilot, which began in fiscal year (FY) 2001 and will continue through FY 2003. For SFSP purposes, Puerto Rico is defined as a ''State'' in section 13(a)(1) of the NSLA, 42 U.S.C. 1761(a)(1).

The authorizing legislation also requires FNS to conduct an evaluation of the pilot project to describe (a) any effect on participation by children and service institutions in the SFSP in the pilot States; (b) any effect of the pilot on the quality of meals and supplements served in the pilot States; and (c) any effect of the pilot on program integrity. OMB approval will be requested for the data collection instruments to be used for evaluating the impact of the 14 State SFSP Pilot Project on the three areas specified in the law.

Respondents: Respondents include: (a) State government SFSP staff; (b) continuing sponsors who were sponsoring SFSP before the pilot started; (c) new sponsors who began sponsoring the program since the pilot began; (d) former sponsors who did not participate in SFSP in FY 2000, 2001 or 2002; and (e) school food service directors of non-participating school districts with 50% or more enrolled students certified to receive free and reduced price school meals.

Estimated Number of Respondents: (a) up to 54 State government employees that administer SFSP; (b) 166 continuing sponsors; (c) up to 150 new sponsors; (d) up to 150 former sponsors; and (e) up to 150 school food service directors of non-participating school districts.

Estimated Number of Responses per Respondent: One response per respondent with the exception of the 14 State Administrators who may be asked follow-up questions about program participation in FY 2003.

Estimate of Burden: Public reporting burden is estimated to range from 15 minutes for school food service directors of non-participating school districts to 120 minutes for State government SFSP administration staff.

Estimated Total Annual Burden on Respondents: 383.5 hours. (a) State government SFSP administration staff (54×120 minutes) = 108 hours; (b) continuing sponsors (166×30 minutes) = 83 hours; (c) new sponsors (150×30 minutes)= 75 hours; (d) former sponsors (150×20 minutes + 30×60 minutes for focus groups) = 80 hours; and (e) school food service directors of non-participating school districts (150×15 minutes) = 37.5 hours.

Dated: December 28, 2001.

Alberta C. Frost,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 02–156 Filed 1–3–02; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Summer Food Service Program for Children Program Reimbursement for 2002

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the annual adjustments to the reimbursement rates for meals served in the Summer Food Service Program for Children (SFSP). These adjustments reflect changes in the Consumer Price Index and are required by the statute governing the Program. In addition, further adjustments are made to these rates to reflect the higher costs of providing meals in the States of Alaska and Hawaii, as authorized by the William F. Goodling Child Nutrition Reauthorization Act of 1998.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Melissa A. Rothstein, Section Chief, Summer Food Service Program and Child and Adult Care Food Program, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302, (703) 305–2620.

SUPPLEMENTARY INFORMATION: This program is listed in the Catalog of Federal Domestic Assistance under No. 10.559 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3518), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This notice is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act. Additionally, this notice has been determined to be exempt from review by the Office of Management and Budget under Executive Order 12866.

Definitions

The terms used in this Notice shall have the meaning ascribed to them in the regulations governing the Summer Food Service Program for Children (7 CFR part 225).

Background

In accordance with section 13 of the National School Lunch Act (NSLA)(42 U.S.C. 1761) and the regulations governing the SFSP (7 CFR part 225), notice is hereby given of adjustments in Program payments for meals served to children participating in the SFSP in 2002. Adjustments are based on changes in the food away from home series of the Consumer Price Index (CPI) for All Urban Consumers for the period November 2000 through November 2001.

Section 104(a) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105–336) amended section 12(f) of the NSLA (42 U.S.C. 1760(f)) to allow adjustments to SFSP reimbursement rates to reflect the higher cost of providing meals in the SFSP in Alaska and Hawaii. Therefore, this notice contains adjusted rates for Alaska and Hawaii. This change was made in an effort to be consistent with other Child Nutrition Programs, such as the National School Lunch Program and the School Breakfast Program, which already had the authority to provide higher reimbursement rates for programs in Alaska and Hawaii.

The 2002 reimbursement rates, in dollars, for all States excluding Alaska and Hawaii:

MAXIMUM PER MEAL REIMBURSEMENT RATES FOR ALL STATES (NOT AK OR HI)

	Operating costs	Administrative costs	
		Rural or self-preparation sites	Other types of sites
Breakfast	$1.32	$.1300	$.1025
Lunch or Supper	2.30	.2400	.2000
Supplement	.53	.0650	.0525

The 2002 reimbursement rates, in dollars, for Alaska:

MAXIMUM PER MEAL REIMBURSEMENT RATES FOR ALASKA ONLY

	Operating costs	Administrative costs	
		Rural or self-preparation sites	Other types of sites
Breakfast	$2.14	$.2125	$.1675
Lunch or Supper	3.73	.3900	.3225
Supplement	.87	.1050	.0850

The 2002 reimbursement rates, in dollars, for Hawaii:

MAXIMUM PER MEAL REIMBURSEMENT RATES FOR HAWAII ONLY

	Operating costs	Administrative costs	
		Rural or self-preparation sites	Other types of sites
Breakfast	$1.54	$.1525	$.1200
Lunch or Supper	2.69	.2825	.2325
Supplement	.62	.0775	.0600

The total amount of payments to State agencies for disbursement to Program sponsors will be based upon these Program reimbursement rates and the number of meals of each type served. The above reimbursement rates, for both operating and administrative reimbursement rates, represent a 3.17 percent increase during 2001 (from 170.4 in November 2000 to 175.8 in November 2001) in the food away from home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. The Department would like to point out that the SFSP administrative reimbursement rates continue to be adjusted up or down to the nearest quarter-cent, as has previously been the case. Additionally, operating reimbursement rates have been rounded down to the nearest whole cent, as required by section 11(a)(3)(B) of the NSLA (42 U.S.C. 1759 (a)(3)(B)).

Authority: Secs. 9, 13 and 14, National School Lunch Act, as amended (42 U.S.C. 1758, 1761, and 1762a).

Dated: December 28, 2001.

Alberta Frost,

Acting Administrator.

[FR Doc. 02–238 Filed 1–3–02; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Idaho Panhandle Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Idaho Panhandle National Forests' Idaho Panhandle Resource Advisory Committee will meet Friday, January 18, 2002 in Coeur d'Alene, Idaho for a business meeting. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Ranotta K. McNair, Forest Supervisor and Designated Federal Officer, at (208) 765–7210.

SUPPLEMENTARY INFORMATION: The business meeting on January 18, begins at 10:00 AM, at the Forest Supervisor's Office of the Idaho Panhandle National Forests, 3815 Schreiber Way, Coeur d'Alene, Idaho 83815. Agenda topics will include election of Chairperson, develop criteria for reviewing project proposals, how to solicit projects, review project proposals, if available, and establishment of future meeting schedule. Due to unforeseen circumstances this document will be published less than 15 days before the meeting date.

Dated: December 28, 2001.

Pat Aguilar,

Deputy Forest Supervisor.

[FR Doc. 02–242 Filed 1–3–02; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 4, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Administrative/General Support Services

Minerals Management Service, DOI, 381 Elden Street, Herndon, Virginia
NPA: ServiceSource, Inc., Alexandria, Virginia
Government Agency: Department of the Interior

Base Supply Center, Fort Meade, Maryland
NPA: Blind Industries & Services of Maryland, Baltimore, Maryland
Government Agency: Fort Meade, Maryland

Customization & Distribution of Air Force Sales Promotional Items

HQ Air Force Recruiting Service, 550 D Street West, Suite 1, Randolph AFB, Texas
NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin
Government Agency: HQ Air Force Recruiting Service

Food Service Attendant

Air National Guard-Iowa, 3100 McKinley Avenue, Des Moines, Iowa
NPA: Progress Industries, Newton, Iowa
Government Agency: Air National Guard—Iowa

Hospital Housekeeping Services

Great Lakes Naval Hospital, Great Lakes, Illinois
NPA: Relief Enterprise, Inc., Austin, Texas
Government Agency: Great Lakes Naval Hospital

Janitorial/Custodial

Veterans Affairs Medical Center, OI Services Center, Edward Hines Jr., 1st Avenue, Bldg 20, Hines, Illinois
NPA: Jewish Voc. Service & Employment Center, Chicago, Illinois
Government Agency: VA Medical Center—Brecksville, Ohio

Laundry Service

VA Medical Center, At the following locations:
Denver, Colorado
Pueblo, Colorado
Cheyenne, Wyoming
NPA: Goodwill Industrial Services Corporation, Colorado Springs, Colorado
Government Agency: VA Medical Center,

Denver, Colorado

G. John Heyer,

General Counsel.

[FR Doc. 02–233 Filed 1–3–02; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia, Maryland and Virginia State Advisory Committees

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia, Maryland and Virginia Advisory Committees to the Commission will convene at 9:30 a.m. and adjourn at 1:00 p.m. on January 9, 2002, at the Fifth Floor Conference Room, 624 9th Street, NW., Washington, DC 20001. The Inter-SAC Committee will plan necessary details for the forthcoming Forum on the aftermath of 9–11 attacks.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 28, 2001.

Debra A. Carr,

Deputy General Counsel, Office of the General Council.

[FR Doc. 01–32259 Filed 12–31–01; 10:44 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Preliminary Results, Preliminary Partial Rescission, and Postponement of Final Results of the Fourth Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results, partial rescission, and postponement of final results of fourth antidumping duty administrative review.

SUMMARY: The Department of Commerce is currently conducting an administrative review of the antidumping duty order on brake rotors from the People's Republic of China covering the period April 1, 2000, through March 31, 2001. This administrative review examines one exporter and five exporters included in three exporter/producer combinations.

We have preliminarily determined that sales have not been made below normal value by Qingdao Gren (Group) Co., the exporter under review. If these preliminary results are adopted for the final results of this review, we will instruct the Customs Service to assess no antidumping duties on entries of the subject merchandise during the period of review from this exporter. We are also preliminarily rescinding the review with respect to five exporters included in three exporter/producer combinations, because none of those respondents made shipments of the subject merchandise during the period of review.

Interested parties are invited to comment on these preliminary results. We will issue the final results of this review no later than 300 days from the date of publication of this notice.

EFFECTIVE DATE: January 4, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Terre Keaton, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–1280, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2001).

SUPPLEMENTARY INFORMATION:

Background

On April 30, 2001, the petitioner [1] requested an administrative review pursuant to 19 CFR 351.213(b) for one exporter [2] included in the antidumping duty order and five exporters included in three exporter/producer combinations [3] that received zero rates in the less-than-fair-value (''LTFV'') investigation and thus were excluded from the antidumping duty order only with respect to brake rotors sold through the specified exporter/producer combinations.

On May 23, 2001, the Department initiated an administrative review covering Gren and the five exporters except with respect to excluded exporter/producer combinations (*see Initiation of Antidumping and Countervailing Duty Administrative Reviews* (66 FR 28421, May 23, 2001)).

On June 6, 2001, we issued a questionnaire to each company listed in the brake rotor initiation notice. On June 25, 2001, the Department provided the parties an opportunity to submit publicly available information for consideration in these preliminary results.

On July 13, 2001, each of the exporters that received zero rates in the LTFV investigation stated that during the period of review (''POR'') it did not make U.S. sales of brake rotors produced by companies other than those included in its respective excluded exporter/producer combination. On July 19, 2001, the petitioner submitted a letter requesting the Department to conduct a verification of: (1) The response submitted by Gren; and (2) the no-shipment claims made by the five exporters named in the three exporter/producer combinations excluded from the antidumping duty order. On July 27, 2001, Gren submitted its questionnaire response.

On August 3, 2001, the petitioner submitted a letter in which it requested that the Department investigate a potential change in ownership of the five exporters included in the three exporter/producer combinations excluded from the antidumping duty order. On August 24, 2001, the petitioner submitted another letter in which it requested that the Department also verify Laizhou Luyuan's and Shenyang Honbase's U.S. importer which held ownership during the

[1] The petitioner is the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers.

[2] The exporter is Qingdao Gren (Group) Co. (''Gren'').

[3] The excluded exporters/producer combinations are: (1) China National Automobile Industry Import & Export Corporation (''CAIEC'') or Shandong Laizhou CAPCO Industry (''Laizhou CAPCO'')/ Laizhou CAPCO; (2) Shenyang Honbase Machinery Co., Ltd. (''Shenyang Honbase'') or Laizhou Luyuan Automobile Fittings Co., Ltd. (''Laizhou Luyuan'')/ Shenyang Honbase or Laizhou Luyuan and (3) China National Machinery and Equipment Import & Export (Xinjiang) Co., Ltd. (''Xinjiang'')/Zibo Botai Manufacturing Co., Ltd. (''Zibo'').

period of investigation (''POI'') in those two companies.

On August 20, 2001, the Department issued a supplemental questionnaire to Gren, for which it received a response on September 18, 2001.

On October 2, 2001, the Department conducted a data query on brake rotor entries made during the POR from all exporters named in the excluded exporter/producer combinations in order to substantiate their claims of no shipments of subject merchandise made during the POR. As a result of the data query, the Department requested that the Customs Service confirm the actual manufacturer for specific entries associated with the excluded exporter/producer combinations.

In response to the petitioner's August 3 and 6, 2001, letters, the Department notified the petitioner on September 5, 2001, that it considered the change-in-ownership allegation with respect to the exporter/producer combinations excluded from the antidumping duty order to be outside the scope of this review.

On September 28, 2001, the petitioner submitted a letter in which it requested the Department to reconsider its decision not to investigate allegations of changes in ownership with respect to the exporter/producers combinations in this review.

After reconsidering the petitioner's November 5, 2001, request to examine any change in ownership of Laizhou Luyuan and Shenyang Honbase since the POI, the Department issued Laizhou Luyuan and Shenyang Honbase questionnaires on November 6, 2001, regarding the ownership of both companies. On November 27, 2001, Laizhou Luyuan and Shenyang Honbase submitted their responses to the supplemental questionnaire.

On December 31, 2001, the Department issued a memorandum stating that it preliminarily found no evidence that shipments of merchandise subject to the order were made by the five exporters included in the three exporter/producer combinations during the POR.

Postponement of Final Results

In accordance with section 751(a)(3)(A) of the Act, as amended, we determine that it is not practicable to complete this review within the original time frame because of the Department's decision to verify certain respondents in this review (*see* ''Verification'' section of this notice for further discussion). We are currently unable to conduct verification and allow sufficient opportunity for the submission of interested party comments, prior to the current final results deadline. Thus, in accordance with section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations, the Department is extending the time limit for completion of the final results of these reviews until no later than 300 days from the date of publication of this notice.

Scope of Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all-terrain vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States (*e.g.,* General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in the order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of the order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are currently classifiable under subheading 8708.39.5010 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Period of Review

The POR covers the period April 1, 2000, through March 31, 2001.

Verification

As provided in section 782(i)(2) of the Act and 19 CFR 351.307, we intend to verify certain information relied upon in making our final results. On August 24, 2001, the petitioner requested that the Department conduct verification of the information and statements submitted by all exporter/producer combinations excluded from this order (*i.e.,* Laizhou Luyuan and Shenyang Honbase, Xinjiang/Zibo, and CAIEC/Laizhou CAPCO), the U.S. importer MAT, and Gren. We intend to verify Laizhou Luyuan, Shenyang Honbase, and the company that purchased a significant share in Laizhou Luyuan in accordance with 19 CFR 351.307. We also intend to verify CAIEC and Laizhou CAPCO. However, we do not intend to verify Gren because we do not find just cause has been demonstrated with respect to this company. In addition, verification of this company is not statutorily required, nor, has the petitioner provided a sufficient basis for examining Laizhou Luyuan's U.S. importer's data (*i.e.,* MAT).

Preliminary Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(3), we have preliminarily determined that the exporters which are part of the three exporter/producer combinations which received zero rates in the LTFV investigation did not make shipments of subject merchandise to the United States during the POR. Specifically, (1) neither CAIEC nor Laizhou CAPCO exported brake rotors to the United States that were manufactured by producers other than Laizhou CAPCO; (2) neither Shenyang Honbase nor Laizhou Luyuan exported brake rotors to the United States that were manufactured by producers other than Shenyang Honbase or Laizhou Luyuan; and (3) Xinjiang did not export brake rotors to the United States that were manufactured by producers other than Zibo (*see* December 31, 2001, Memorandum from the case analyst to the file). In order to make this determination, we first examined PRC brake rotor shipment data maintained by the Customs Service. We then selected entries associated with each exporter and requested the Customs Service to provide documentation which would enable the Department to determine who manufactured the brake rotors included in those entries. On December 31, 2001, we placed on this record a memorandum which summarized the data provided by the Customs Service in response to our query. Based on the results of our query,

in accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the administrative review because we found no evidence that the exporters in question made U.S. shipments of the subject merchandise during the POR. Although we still have not received manufacturer confirmation on some of the entries we selected in our sample, we will continue to pursue this matter with the Customs Service and seek to obtain the necessary data for consideration in our final results.

Based on information obtained in this proceeding, we issued supplemental questionnaires to two of the excluded companies, Laizhou Luyuan and Shenyang Honbase, in order to determine if a change in ownership occurred in either company.

Based on the data submitted by Shenyang Honbase, we find that there has been no change in ownership in this company since the POI. Therefore, there is no ownership issue with respect to Shenyang Honbase. Since the LTFV investigation, another company has purchased a significant portion of Laizhou Luyuan. The petitioner claims that because brake rotors exported by this other company are covered by the order, and because it owns the majority shares in Laizhou Luyuan, the Department should consider Laizhou Luyuan and this other company as one entity. Although a change in ownership has occurred with respect to Laizhou Luyuan, we find no evidence that this change in ownership has resulted in Laizhou Luyuan exporting subject merchandise to the United States which was not produced by itself or Shenyang Honbase (*i.e.,* the conditions under which Laizhou Luyuan's entries are excluded from the order).

In order to determine whether these two companies should be treated as one entity, we examined the extent to which the export operations of Laizhou Luyuan and this other company were intertwined such that this relationship has the potential to impact pricing and export decisions pertaining to the subject merchandise and create a potential for manipulation. Based on information in the record, we find that the export activities of Laizhou Luyuan and the company that purchased a significant portion of Laizhou Luyuan are not under common control even though common ownership does exist. For example, information in Laizhou Luyuan's response indicates that Laizhou Luyuan retained the same management before and after its purchase by the other company. Thus, we preliminarily find the export operations of Laizhou Luyuan and the other company are sufficiently separate of one another such that there is no significant potential for manipulation of pricing or export decisions.

Based on our examination of record evidence, we preliminarily determine that Laizhou Luyuan has not significantly changed its (1) management, (2) production facilities, (3) supplier relationships, or (4) customer base as a result of its purchase by the other company (*see* pages 4 through 10 of Laizhou Luyuan's November 27, 2001, submission). Although the petitioner claims that Laizhou Luyuan's management, suppliers, and customers have changed significantly since the LTFV proceeding, there is no evidence that these changes were a result of the other company's purchase of Laizhou Luyuan. On the contrary, information on the record indicates that the changes mentioned by the petitioner appear to have occurred prior to the other company purchasing a significant share of Laizhou Luyuan. However, we will examine this issue further at verification.

Finally, we have no evidence at this time that the other company is exporting Laizhou Luyuan-made brake rotors which are not being assessed the PRC-wide rate upon entry into the United States or that Laizhou Luyuan is exporting brake rotors sourced through the other company.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate (*i.e.,* a PRC-wide rate).

The respondent in this review, Gren, is collectively-owned. Thus, a separate-rates analysis is necessary to determine whether this exporter is independent from government control (*see Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China (''Bicycles''*) 61 FR 56570 (April 30, 1996)).

To establish whether a firm is sufficiently independent in its export activities from government control to be entitled to a separate rate, the Department utilizes a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991) (''*Sparklers*''), and amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both de jure and de facto governmental control over export activities.

1. De Jure Control

Gren has placed on the administrative record documents to demonstrate absence of *de jure* control, including the ''The Enterprise Legal Person Registration Administrative Regulations,'' promulgated on June 3, 1988; the 1990 ''Regulation Governing Rural Collectively-Owned Enterprises of PRC;'' and the 1994 ''Foreign Trade Law of the People's Republic of China.''

As in prior cases, we have analyzed these laws and have found them to establish sufficiently an absence of *de jure* control of collectively owned enterprises. *See, e.g., Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China (''Furfuryl Alcohol''*) 60 FR 22544 (May 8, 1995), and *Preliminary Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China,* 60 FR 29571 (June 5, 1995). We have no new information in this proceeding which would cause us to reconsider this determination with regard to Gren.

2. De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide* and *Furfuryl Alcohol.* Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to the approval of, a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses (*see Silicon Carbide* and *Furfuryl Alcohol*).

Gren has asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Additionally, Gren's questionnaire responses indicate that its pricing during the POR does not suggest coordination among exporters. This information supports a preliminary finding that there is *de facto* absence of governmental control of export functions performed by Gren. *See Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Administrative Review,* 62 FR 55215 (October 23, 1997). Consequently, we have preliminarily determined that Gren has met the criteria for the application of separate rates.

Normal Value Comparisons

To determine whether sales of the subject merchandise by Gren to the United States were made at prices below normal value (''NV''), we compared its export prices to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below.

Export Price

We used export price methodology in accordance with section 772(a) of the Act because the subject merchandise was sold by the exporter directly to an unaffiliated customer in the United States prior to importation and constructed export price was not otherwise indicated.

For Gren, we calculated export price based on packed, CIF U.S. port or FOB foreign port prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, foreign brokerage and handling charges in the PRC, marine insurance, and ocean freight in accordance with section 772(c) of the Act. Because foreign inland freight, foreign brokerage and handling fees, marine insurance, and ocean freight were provided by PRC service providers or paid for in an NME currency (*i.e.,* renminbi), we based those charges on surrogate rates from India (*see* ''Surrogate Country'' section below for further discussion of our surrogate country selection). To value foreign inland trucking charges, we used a November 1999 average truck freight value based on price quotes from Indian trucking companies. To value foreign brokerage and handling expenses, we relied on public information reported in the 1997–1998 antidumping duty new shipper review of stainless steel wire rod from India. To value marine insurance, we relied on public information reported in the antidumping duty investigation of sulfur dyes, including sulfur vat dyes, from India. To value ocean freight, we used a May 2000 price quote from a U.S. shipping company.

Normal Value

A. Non-Market Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority (*see Notice of Preliminary Results of Antidumping Duty Administrative Review and Preliminary Partial Rescission of Antidumping Duty Administrative Review: Freshwater Crawfish Tail Meat From the People's Republic of China,* 66 FR 52100, 52103 (October 12, 2001). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated normal value in accordance with section 773(c) of the Act, which applies to NME countries.

B. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value a NME producer's factors of production, to the extent possible, in one or more market economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. India and Indonesia are among the countries comparable to the PRC in terms of overall economic development (*see* Memorandum from the Office of Policy to Irene Darzenta Tzafolias, dated June 21, 2001). In addition, based on publicly available information placed on the record, India is a significant producer of the subject merchandise. Accordingly, we considered India the primary surrogate country for purposes of valuing the factors of production because it meets the Department's criteria for surrogate country selection. Where we could not find surrogate values from India, we used values from Indonesia.

C. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production which included, but were not limited to: (A) Hours of labor required; (B) quantities of raw materials employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs, including depreciation. We used the factors reported by Gren which produced the brake rotors it exported to the United States during the POR. To calculate NV, we multiplied the reported unit factor quantities by publicly available Indian or Indonesian values.

The Department's selection of the surrogate values applied in this determination was based on the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the POR and quoted in a foreign currency or in U.S. dollars, we made adjustments for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics.*

To value pig iron, steel scrap, ferrosilicon, ferromanganese, limestone, lubrication oil, ball bearing cups, and coking coal, we used April 2000–February 2001 average import values from *Monthly Statistics of the Foreign Trade of India.* We relied on the factor specification data submitted by the respondent for the above-mentioned inputs in its September 18, 2001, submission for purposes of selecting surrogate values from *Monthly Statistics.* Because we could not obtain a product-specific price from India to value lug bolts, we used a January-March 1999 product-specific import value from the Indonesian government publication *Foreign Trade Statistical Bulletin* (*see Bicycles,* 61 FR at 19040 (Comment 17)). We also added an amount for loading and additional transportation charges associated with delivering coal to the factory based on June 1999 Indian price data contained in the periodical *Business Line.*

To value firewood, we used April 2000–February 2001 rather than April 1997–March 1998 average import values from *Monthly Statistics.* In its August 28, 2001, submission, the petitioner argues that the Department should value this input using data from Monthly Statistics which is less contemporaneous to the POR because new articles (*i.e.,* February 26, 2001, article from the *Times of India* and September 30, 1997, U.S. Department of Agriculture Report) submitted by the petitioner indicate that firewood values in India may have been increasing since 1997 due to a greater dependence and demand in rural areas. For these preliminary results, we have relied on the April 2000–February 2001 data from

Monthly Statistics to value this input because it is contemporaneous with the POR and we find no basis for considering this value as aberrational or unrepresentative of firewood values applicable during the POR.

We based our surrogate value for electricity on data obtained from *Conference of Indian Industries: Handbook of Statistics* (''*CII Handbook*'') and from the *Centre for Monitoring Indian Economy* (''*CMIE data*'').

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To value selling, general, and administrative (''SG&A'') expenses, factory overhead and profit, we used the 1998 financial data of Jayaswals Neco Limited and the 1998–1999 financial data of Kalyani Brakes Limited (''Kalyani'') and Rico Auto Industries Limited (''Rico''). We have not used the fiscal data obtained by the petitioner for Kalyani and Rico from the Indiainfoline.com web site because the data provided by this web site is incomplete for purposes of calculating ratios for SG&A, factory overhead profit. Specifically, the website data provided only expense data based on general categories of expenses and not on the basis of specific expenses. Specific expense data is necessary for determining whether a particular expense should be considered an overhead or selling expense and for calculating accurate surrogate value percentages.

Where appropriate, we removed from the surrogate overhead and SG&A calculations the excise duty amount listed in the financial reports. We made certain adjustments to the ratios calculated as a result of reclassifying certain expenses contained in the financial reports. For further discussion of the adjustments made, see the Preliminary Results Valuation Memorandum, dated December 31, 2001.

All inputs were shipped by truck. Therefore, to value PRC inland freight, we used a November 1999 average truck freight value based on price quotes from Indian trucking companies.

In accordance with the decision of the Court of Appeals for the Federal Circuit in *Sigma Corp.* v. *United States,* 117 F. 3d 1401 (1997), we revised our methodology for calculating source-to-factory surrogate freight for those material inputs that are valued based on CIF import values in the surrogate country. We have added to CIF surrogate values from India a surrogate freight cost using the shorter of the reported distances from either the closest PRC port of importation to the factory, or from the domestic supplier to the factory on an input-specific basis.

To value corrugated cartons, nails, paper cartons, paper cover, plastic bags, steel strip, tape, and tin clamps, we used April 2000–February 2001 average import values from *Monthly Statistics.* To value pallet wood, we used a 1998 pallet wood value from the Indonesian publication *Indonesia Foreign Trade Statistics* which the Department has used to value pallet wood in two recent antidumping duty proceedings (*see Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of 1998–1999 Administrative Review, Partial Rescission of Review, and Determination Not To Revoke Order in Part,* 66 FR 1953, 1955 (January 10, 2001) (''*TRBs*'') and accompanying decision memorandum at Comment 10, and *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review,* 65 FR 46691 (July 31, 2000)).

Preliminary Results of the Review

We preliminarily determine that the following margin exists for Gren during the period April 1, 2000, through March 31, 2001:

Manufacturer/producer/exporter	Margin percent
Qingdao Gren (Group) Co	*0.02

*De minimis.

We will disclose the calculations used in our analysis to the parties to this proceeding within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held on June 28, 2002.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in case briefs and rebuttal briefs. Case briefs from interested parties may be submitted not later than June 14, 2002. Rebuttal briefs, limited to issues raised in the case briefs, will be due not later than June 21, 2002. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 300 days after the date of publication of this notice.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. In order to estimate the entered value, we will subtract applicable movement expenses from the gross sales value. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of subject merchandise during the POR for which the importer-specific assessment rate is zero or *de minimis* (*i.e.,* less than 0.50 percent). The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review.

Cash Deposit Requirements

Upon completion of this review, for entries from Gren, we will require cash deposits at the rate established in the final results pursuant to 19 CFR 351.214(e) and as further described below.

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of brake rotors from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Gren will be the rate determined in the final results of review (except that if the rate is *de minimis, i.e.,* less than 0.50 percent, a cash deposit rate of zero will be required); (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME

entity will continue to be 43.32 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.213.

Dated: December 28, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–246 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–804]

Certain Preserved Mushrooms From Chile: Preliminary Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping administrative review.

SUMMARY: In response to a timely request from the petitioner,[1] on January 31, 2001, the Department of Commerce published a notice of initiation of an administrative review of the antidumping duty order on certain preserved mushrooms from Chile with respect to Nature's Farm Products (Chile) S.A., Ravine Foods Inc., and Compañia Envasadora del Atlantico covering the period December 1, 1999, through November 30, 2000.

We preliminarily determine that sales have been made below normal value. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 4, 2002.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Sophie E. Castro, Office 2, AD/CVD Enforcement Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–0588, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the U.S. Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2000).

Background

On October 22, 1998, the Department published in the **Federal Register** the final affirmative antidumping duty determination of sales at less than fair value (LTFV) on certain preserved mushrooms from Chile (*see Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile,* 63 FR 56613, (*LTFV Final Determination*)). We published an antidumping duty order on December 2, 1998 (*see Notice of Antidumping Duty Order: Certain Preserved Mushrooms from Chile,* 63 FR 66529).

On January 31, 2001, the Department published a notice of initiation of an administrative review of the antidumping duty order on certain preserved mushrooms from Chile with respect to Nature's Farm Products (Chile) S.A. (NFC), Ravine Foods Inc (Ravine), and Compañia Envasadora del Atlantico (CEA) (*see Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 66 FR 8378). On February 8, 2001, the Department issued the antidumping questionnaire to: NFC via its U.S. parent, Nature Farm Products, Inc. (NFP/USA); Ravine, a Canadian company; and CEA, a Colombian company.

NFP/USA advised the Department on February 13, 2001, that NFC did not export or sell the subject merchandise to the United States, nor did NFP/USA import or sell the subject merchandise to the United States. However, NFP/USA advised the Department to send a copy of the questionnaire directly to NFC (*see* Memorandum to the File dated February 13, 2001, which summarizes information received from NFP/USA), which the Department had already sent on February 12, 2001. We did not receive a response from NFC, nor did we receive a response from Ravine.

We received a questionnaire response from CEA in April 2001. We issued supplemental questionnaires in May and August 2001. CEA responded to these questionnaires in June, July, August and September 2001. On October 4, 2001, CEA's counsel confirmed in a telephone conversation that the entry of the subject merchandise reported in CEA's questionnaire response had already been liquidated by the Customs Service (*see* Memorandum to the File from Sophie Castro dated October 9, 2001).

In November 2001, we requested information concerning CEA's reported sale transaction from NFC, NFP/USA, and CEA's customer, Horley Trading Co., Ltd. (Horley). We received responses from NFP/USA and Horley; we did not receive a response from NFC.

On July 19, 2001, due to the reasons set forth in the *Notice of Extension of Time Limit for the Preliminary Results of Antidumping Administrative Review: Certain Preserved Mushrooms from Chile,* 66 FR 37640 (July 19, 2001), we extended the due date for the preliminary results to November 15, 2001, in accordance with section 751(a)(3)(A) of the Act. On November 19, 2001, we again extended the due date of the preliminary results to December 31, 2001, in accordance with section 751(a)(3)(A) of the Act (*see Notice of Extension of Time Limit for the Preliminary Results of Antidumping Administrative Review: Certain Preserved Mushrooms from Chile,* 66 FR 57937 (November 19, 2001)).

Scope of the Order

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the species Agaricus bisporus and Agaricus bitorquis. ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium,

[1] The petitioner is the Coalition for Fair Preserved Mushroom Trade which includes the American Mushroom Institute and the following domestic companies: L.K. Bowman, Inc., Nottingham, PA; Modern Mushrooms Farms, Inc., Toughkernamon, PA; Monterrey Mushrooms, Inc., Watsonville, CA; Mount Laurel Canning Corp., Temple, PA; Mushrooms Canning Company, Kennett Square, PA; Southwood Farms, Hockessin, DE; Sunny Dell Foods, Inc., Oxford, PA; United Canning Corp., North Lima, OH.

including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms''; (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified'' or ''pickled'' mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this order is currently classifiable under subheadings 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUs subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Determination of Exporter/Respondent

According to the information developed in this review, CEA purchased provisionally preserved (*i.e.,* brined) mushrooms in bulk containers from NFC. CEA reported that it subsequently retorted and repacked the subject merchandise into commercial-size cans and sold and shipped them to its U.S. customer, Horley. These cans were packed with the Nature's Farm brand on the label and the statement ''Distributed by Nature's Farm Products, Inc.'' on the label. CEA reported its sale to Horley for purposes of this review and stated that, to the best of its knowledge, NFC did not have knowledge that the merchandise was destined for the United States at the time of NFC's sale to CEA.

We have determined, based on our analysis of the information provided by CEA, NFP/USA, and Horley, that the first party with knowledge of destination was NFC and therefore the relevant transaction in accordance with section 772(a) of the Act is NFC's sale to CEA for exportation to the United States. Although CEA claims that it is the first party in the chain of distribution who had knowledge that the ultimate destination of the sale was the United States, our determination that NFC is the exporter who had knowledge of destination is based on evidence that NFC was affiliated with NFP/USA, that NFP/USA and Horley are affiliated, and that NFP/USA and Horley were engaged in sales negotiations with CEA immediately prior to or at the same time as their affiliate NFC sold subject merchandise to CEA.

Horley and NFP/USA

Horley and NFP/USA both claim to be unaffiliated with each other. They claim that Horley merely has a licensing, rental, and commission agreement with NFP/USA, which enables Horley to use the NFP/USA brand on canned mushroom labels, and that NFP/USA's senior staff members are employed with Horley only in the role of ''technical consultants.''

Among the specific ''persons'' considered in reaching an affiliated decision are officers and directors of organizations, employer and employee, and ''any person who controls any other person or such persons.'' *See* section 771(33) of the Act. Moreover, ''a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.''

The *Statement of Administrative Action,* H. Doc. No. 103–316, Vol. 1 (1994) (SAA) at 838 states that ''[t]he traditional focus on control through stock ownership fails to address adequately modern business arrangements, which often find one firm operationally in a position to exercise restraint or direction over another even in the absence of an equity relationship. A company may be in a position to exercise restraint or direction, for example, through corporate or family groupings, franchises, or joint venture agreements, debt financing, or close supplier relationships in which the supplier or buyer becomes reliant upon the other.''

There are several factors on the record which lead us to believe that NFP/USA and its officers exercise control over Horley legally or operationally. NFP/USA claims that it ceased import operations immediately prior to Horley's commencement of business operations. Horley established an office at NFP/USA's facility, and the two entities continue to share the facility to this day. Furthermore, Horley commenced negotiations on the import of the subject merchandise from CEA even before it was legally incorporated, but only after NFP/USA, who was initially contacted by CEA, referred the business to Horley. In fact, NFP/USA's president is the only person on the record identified as negotiating the sale with CEA on Horley's behalf. Furthermore, NFP/USA's president is also the only person who has provided factual information on Horley's behalf in response to our questionnaires, although NFP/USA's vice president certified Horley's December 3, 2001, factual submission under 19 CFR 351.303(g)(1). In addition, Horley's accountant also has been employed as NFP/USA's accounting manager. Besides shared managers and shared facilities, Horley also shares something much more obvious with NFP/USA—NFP/USA's name. Horley has the rights to all of NFP/USA's brand names, according to the licensing agreement submitted to the Department. Therefore, although Horley does not market itself as NFP/USA, it markets its products as NFP/USA goods. Thus, for all intents and purposes, taken as a whole, we believe that the record demonstrates that NFP/USA and its officers have shepherded and significantly controlled Horley's transactions with CEA.

In *Ta Chen Stainless Steel Pipe,* 1999 Ct. Intl. Trade LEXIS 110 (October 28, 1999) (*Ta Chen*), the Department found two companies, Ta Chen and Sun, to be affiliated. In making this determination, the Department cited a number of factors, including (a) historical ties between the companies, (b) former Ta Chen employees working for Sun; and (c) Sun's distribution solely of Ta Chen products. *See id.* at 115–117. The Court of International Trade (CIT) affirmed the Department's affiliation determination, stating, ''[e]ven if each of the individual connections between Ta Chen and Sun, standing alone, may not be sufficient to establish control, Commerce's conclusion that the numerous connections between Ta Chen and Sun were indicative of control was reasonable. Commerce did not rely on any one factor in concluding that Ta Chen and Sun were affiliated parties, rather, it determined that the combination of factors was sufficient proof of affiliation.'' *See id.*

We find that the circumstances in this case are comparable to those contemplated in the SAA and similar to those in *Ta Chen.* The totality of factors demonstrate that NFP/USA and Horley are affiliated companies. The two companies share officers, business opportunities, office space, and product brand names. Such a relationship between these two companies indicates that NFP/USA controls Horley for purposes of this review, within the meaning of section 771(33)(G) of the Act.

NFP/USA and NFC

As discussed in both the *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms From Chile,* 63 FR 41786 (August 5, 1998), and the *LTFV Final Determination,* NFP/USA and NFC are closely affiliated companies. For example, all of NFC's sales in the LTFV investigation were made through NFP/USA as constructed export price transactions. NFP/USA incurred the expense for certain NFC production activities (*see LTFV Final Determination,* 63 FR at 56614). Further, NFP/USA acknowledged that ''NFP/USA is the primary funding source of NFP's operations'' (*id.,* 63 FR at 56623). The record of this review shows no change in this status until February 2000. Accordingly, NFP/USA was clearly affiliated with NFC when NFC sold its brined mushrooms to CEA in January 2000. Furthermore, CEA indicated in its questionnaire responses that it only pursued business with NFC after it was confident that Horley would purchase canned mushrooms from CEA (see CEA's December 7, 2001, submission at page 3). Thus, Horley was in sales negotiations with CEA at the same time NFP/USA's affiliate NFC was negotiating to sell the subject merchandise to CEA. As discussed above, Horley and NFP/USA are affiliated companies. Accordingly, we believe that the weight of the evidence supports our finding that NFC had knowledge at the time of its sale to CEA, through its affiliation with NFP/USA, that the ultimate destination of its sale of brined mushrooms to CEA was the United States.

NFP/USA claims that it agreed to sever its affiliation with NFC in November 1999 (*see* NFP/USA's December 3, 2001, submission at page 5). However, NFP/USA provided no evidence on the record of such an agreement. Moreover, NFP/USA acknowledges that NFC and NFP/USA remained legally affiliated until the formal transfer of NFP/USA's stock in February 2000.

NFP/USA and NFC were legally affiliated at the time of NFC's sale of brined mushrooms to CEA through NFP/USA's equity in NFC, as well as through their strong historical ties. Given that the subject merchandise was produced by NFC, and that it ultimately arrived in the United States in Horley's, and thereby NFP/USA's, control under the Nature's Farm brand name, the record evidence leads us also to conclude that NFC had knowledge of the ultimate destination of the product when it was sold to CEA.

Use of Facts Otherwise Available

As stated above under ''Case History,'' the Department initiated an administrative review of three companies: Ravine, NFC, and CEA.

Section 776(a)(2) of the Act provides that ''if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.'' Because Ravine and NFC have provided no information, we are assigning Ravine and NFC margins on the basis of the facts available, in accordance with section 776(a) of the Act. As we have determined that CEA's sale should be considered a sale by NFC, we have included this transaction in the rate assigned to NFC.

Ravine

As noted above, Ravine did not respond to the Department's questionnaire. Therefore, the Department was unable to issue further questionnaires and review Ravine's information pursuant to sections 782(d) and 782(e) of the Act. Because of its refusal to cooperate in this review, we determine that the application of a rate based on facts available is appropriate pursuant to section 776(a)(2) of the Act.

NFC

As discussed above, NFC did not respond either to the Department's questionnaire, nor to the Department's November 2001 request for information. Thus we determine that the application of facts available is appropriate in the case of NFC.

Application of Adverse Facts Available

Because Ravine and NFC have refused to participate in this administrative review, we preliminarily determine that an adverse inference is warranted in selecting facts otherwise available, in accordance with section 776(b) of the Act (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Persulfates from The People's Republic of China*, 62 FR 27222, 27224 (May 19, 1997); and *Certain Grain-Oriented Electrical Steel From Italy: Final Results of Antidumping Duty Administrative Review*, 62 FR 2655 (January 17, 1997) (applying an adverse inference, as explained in detailed in *Preliminary Results of Antidumping Duty Administrative Review: Certain Grain-Oriented Electrical Steel From Italy*, 61 FR 36551, 36552, (July 11, 1996))).

Section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See SAA* at 870. Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27340 (May 19, 1997).

Section 776(b) of the Act authorizes the Department to use as adverse facts available information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. Under section 782(c) of the Act, a respondent has a responsibility not only to notify the Department if it is unable to provide requested information, but also to provide a ''full explanation and suggested alternative forms.''

Ravine and NFC failed to respond to our request for information in any manner, thereby failing to comply with this provision of the statute and making it impossible for the Department to conduct an administrative review of their sales or entries. Therefore, we have determined that Ravine and NFC failed to cooperate to the best of their abilities and we have made an adverse inference in applying the facts available.

In this proceeding, the only rate that has been in effect has been the rate of 148.51% calculated for NFC and All Others in the *LTFV Final Determination*. Information from prior segments of the proceeding constitutes secondary information and section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The SAA provides that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value (*see* SAA at 870).

To corroborate secondary information, the Department will, to the extent

practicable, examine the reliability and relevance of the information to be used. *See Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Review: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof from Japan,* 61 FR 57392 (November 6, 1996) (*TRBs*). However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department ''will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin'' (*id.; see* also *TRBs* and *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)).

As noted above, the highest calculated margin (and the only calculated margin) in the history of this proceeding is 148.51 percent. In the instant review, there are no circumstances indicating that this margin is inappropriate as facts available. Moreover, this rate is currently applicable to all subject merchandise. Assigning a lower rate, even if one were available, would effectively reward these companies for their failure to cooperate. Therefore, we find that the 148.51 percent rate is corroborated to the greatest extent practicable in accordance with section 776(c) of the Act.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the dumping margin for the POR is as follows:

Manufacturer/exporter	Margin (percent)
Nature's Farm Products (Chile) S.A. (including merchandise shipped by the Colombian firm Compañia Envasadora del Atlantico)	148.51
Ravine Foods	148.51

If requested, a hearing will be held 44 days after the date of publication of this notice, or the first work day thereafter.

Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. *See* 19 CFR 351.309(c) and (d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c).

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review on an importer-specific basis. We are also instructing Customs to apply a specific rate to all entries manufactured by NFC and sold to CEA.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be that established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 148.51 percent, the ''All Others'' rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with section 751(a)(1) of the Act and 19 CFR 351.221.

Dated: December 28, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–245 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–501]

Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China: Notice of Rescission of Antidumping Administrative Duty Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 4, 2002.

SUMMARY: On February 28, 2001, the Department received a timely request from the Paint Applicator Division of the American Brush Manufacturers Association (the petitioner), to conduct an administrative review of the sales of Hebei Founder Import & Export Company (Hebei Founder) and Hunan Provincial Native Products Import & Export Corp. (Hunan Provincial) on February 28, 2001. On March 22, 2001, the Department initiated an administrative review of the antidumping duty order on natural bristle paintbrushes and paint brush heads (natural paintbrushes) for the period of review (POR) of February 1, 2000 through January 31, 2001. On September 12, 2001, the Department rescinded this review with respect to Hebei Founder. We are now rescinding this review with respect to Hunan Provincial as a result of the petitioner's withdrawal of its request for review.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn, AD/CVD Enforcement Group III, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4236.

SUPPLEMENTARY INFORMATION:

Background

On February 14, 2001, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on natural paintbrushes from the People's Republic of China (PRC) (66 FR 10269). On February 28, 2001, the Department received a timely request from the petitioner for administrative reviews of Hunan Provincial and Hebei Founder in accordance with 19 CFR 351.213(b). On March 22, 2001, in accordance with 19 CFR 351.221(b)(1), the Department initiated an administrative review of the antidumping duty order on natural paintbrushes, for the period from February 1, 2000 through January 31, 2001, in order to determine whether merchandise imported into the United States is being sold at less than fair value prices. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part* (66 FR 16037).

On September 12, 2001, pursuant to 19 CFR 351.213(d)(3), the Department rescinded the administrative review with regard to Hebei Founder since we found no entries or shipments from Hebei Founder during the POR. (See 66 FR 47450.) On December 6, 2001, the petitioner withdrew its request for this review with regard to Hunan Provincial.

Recission of Antidumping Administrative Review

The Department's regulations at 19 CFR 351.213(d)(1) provide that a party may withdraw its request for review within 90 days of the date of publication of the notice of initiation of the requested review. Although the petitioner's request for withdrawal was more than 90 days from the date of initiation, consistent with the Department's past practice in the context of administrative reviews conducted under section 751(a) of the Act, the Department has discretion to extend the time period for withdrawal on a case-by-case basis. (*See e.g. Iron Construction Casings from Canada: Notice of Rescission of Antidumping Duty Administrative Review,* 63 FR 45797 (August 27, 1998).) Rescission of this review would not prejudice any party in this proceeding, as Hunan Provincial would continue to receive its company-specific cash deposit rate to which it was subject at the time of the initiation of this review. The petitioners are the only party that requested a review of Hunan Provincial's sales for the February 1, 2000 through January 31, 2001 POR. Moreover, the Department has not yet devoted extensive time and resources to this review. Therefore, we determine that it is reasonable to extend the deadline under section 351.213(d), and to rescind this review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 351.213(d).

Dated: December 27, 2001.

Richard O. Weible,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 02–243 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–828]

Notice of Final Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of the final determination of sales at less than fair value investigation: welded large diameter line pipe from Mexico.

SUMMARY: On August 15, 2001, the Department of Commerce (''Department'') published the preliminary determination in the less than fair value (''LTFV'') investigation of welded large diameter line pipe from Mexico. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe from Mexico, 66 FR 42841 (August 15, 2001) (''Preliminary Determination'').* This investigation covers one manufacturer/exporter of the subject merchandise.

Based upon our verification of the data and analysis of the comments received, we have not made changes to our margin calculations. Therefore, the final determination does not differ from the preliminary determination. The final weighted-average dumping margin is listed below in the section titled ''Continuation of Suspension of Liquidation.''

EFFECTIVE DATE: January 4, 2002.

FOR FURTHER INFORMATION CONTACT: Mesbah Motamed or Robert Bolling, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–1382 (Motamed) or 202–482–3434 (Bolling), fax 202–482–1388.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''Act'') are references to the provisions effective January 1, 1995, the effective

date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2000).

Period of Investigation

The period of investigation (''POI'') is January 1, 2000 through December 31, 2000.

Final Determination

We determine that certain welded large diameter line pipe from Mexico is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

Background

On January 30, 2001, the Department initiated the above referenced investigation. *See Notice of Initiation of Antidumping Duty Investigations: Welded Large Diameter Line Pipe from Mexico and Japan,* 66 FR 11266 (February 23, 2001). On August 15, 2001, the Department published a notice of its preliminary determination in the investigation. *See Preliminary Determination,* 66 FR 42841. From October 31, 2001 through November 5, 2001, the Department conducted a sales and cost verification for Productora Mexicana de Tuberia (''PMT''). *See Sales and Cost Verification Report* (November 14, 2001). We invited parties to comment on our Preliminary Determination. Petitioners submitted their case brief (''Petitioners' Brief'') on November 21, 2001. PMT did not submit a case brief or a rebuttal brief. The Department has conducted and completed the investigation in accordance with section 735 of the Act.

Scope of the Investigation

The product covered by this investigation is certain welded carbon and alloy line pipe, of circular cross section and with an outside diameter greater than 16 inches, but less than 64 inches, in diameter, whether or not stenciled. This product is normally produced according to American Petroleum Institute (API) specifications, including Grades A25, A, B, and X grades ranging from X42 to X80, but can also be produced to other specifications.

Specifically not included within the scope of this investigation is American Water Works Association (AWWA) specification water and sewage pipe and the following size/grade combinations of line pipe:

- Having an outside diameter greater than or equal to 18 inches and less than or equal to 22 inches, with a wall thickness measuring 0.750 inch or greater, regardless of grade.
- Having an outside diameter greater than or equal to 24 inches and less than 30 inches, with wall thickness measuring greater than 0.875 inches in grades A, B, and X42, with wall thickness measuring greater than 0.750 inches in grades X52 through X56, and with wall thickness measuring greater than 0.688 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 30 inches and less than 36 inches, with wall thickness measuring greater than 1.250 inches in grades A, B, and X42, with wall thickness measuring greater than 1.000 inches in grades X52 through X56, and with wall thickness measuring greater than 0.875 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 36 inches and less than 42 inches, with wall thickness measuring greater than 1.375 inches in grades A, B, and X42, with wall thickness measuring greater than 1.250 inches in grades X52 through X56, and with wall thickness measuring greater than 1.125 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 42 inches and less than 64 inches, with a wall thickness measuring greater than 1.500 inches in grades A, B, and X42, with wall thickness measuring greater than 1.375 inches in grades X52 through X56, and with wall thickness measuring greater than 1.250 inches in grades X60 or greater.
- Having an outside diameter equal to 48 inches, with a wall thickness measuring 1.0 inch or greater, in grades X–80 or greater.

The product currently is classified under U.S. Harmonized Tariff Schedule (''HTSUS'') item numbers 7305.11.10.30, 7305.11.10.60, 7305.11.50.00, 7305.12.10.30, 7305.12.10.60, 7305.12.50.00, 7305.19.10.30, 7305.19.10.60, and 7305.19.50.00. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

Analysis of Comments Received

All issues raised in the case briefs to this investigation are addressed in the December 28, 2001 Issues and Decision Memorandum (''Decision Memo'') from Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, Group III to Faryar Shirzad, Assistant Secretary for Import Administration, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, and other issues addressed, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the Decision Memo, a public memorandum which is on file at the U.S. Department of Commerce, in the Central Records Unit, in room B–099. In addition, a complete version of the Decision Memo can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memo are identical in content.

Use of Total Adverse Facts Available

In the preliminary determination, the Department applied facts available to the mandatory respondent. Deficiencies present in respondent's response made it impossible for the Department to appropriately calculate a preliminary antidumping duty margin. Consequently, the Department assigned PMT-Tubacero the rate of 49.86 percent, the margin calculated from information in the petition and used for initiation. The Department also applied the 49.86 percent margin as the ''All Others'' rate.

Subsequent to the preliminary determination, we have determined that the use of total adverse facts available is appropriate for the final determination for our analysis of PMT and its collapsed affiliate Tubacero, hereinafter referred to as ''PMT-Tubacero.'' For a discussion of our determination with respect to this matter, see the Decision Memo. Consequently, we have continued to apply the rate of 49.86 percent for purposes of this final determination.

All-Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or de minimis margins, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated ''all-others'' rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than facts available margins to establish the ''all others'' rate. Where the data do not permit weight-averaging such rates, the Statement of Administrative Action accompanying the URAA, H.R. Doc. No.

316, 103d Cong., 2d Sess. 870 (1994) (''SAA'') at 873 provides that we may use other reasonable methods. Because the petition contained only an estimated price-to-price dumping margin, which the Department adjusted for purposes of initiation, there are no additional estimated margins available with which to create the ''all others'' rate. Therefore, we applied the published margin of 49.86 percent as the ''all others'' rate.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from Mexico that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination* in the **Federal Register**. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

STAINLESS STEEL BUTT-WELD PIPE FITTINGS

Producer/Manufacturer/Exporter	Weighted-average margin (percent)
PMT-Tubacero	49.86
All Others	49.86

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our final determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs to assess antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: December 28, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

Appendix

Issues in the Decision Memo

1. The Department should continue to collapse respondent Productora Mexicana de Tuberia, S.A. de C.V. (''PMT'') with its affiliate, Tubacero, S.A. de C.V. (''Tubacero'').
2. The Department should apply adverse facts available in determining the antidumping duty margin.

[FR Doc. 02–244 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System: Sediment Retention System in Goat Canyon Creek and Watershed at Tijuana National Estuarine Research Reserve

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of availability of the Final Environmental Impact Statement/ Environmental Impact Report on a proposed sediment retention system in the Goat Canyon Creek and watershed at the Tijuana River National Estuarine Research Reserve, Imperial Beach, California.

SUMMARY: Pursuant to the National Environmental Policy Act and the California Environmental Quality Act, the National Ocean Service (NOS), in cooperation with California Department of Parks and Recreation and California Coastal Conservancy, has completed the preparation of a joint Final Environmental Impact Statement/ Environmental Impact Report (FEIS/ EIR) addressing the potential effects on the human and natural environment that may result from construction of sedimentation, flood control and other facilities within and adjacent to Goat Canyon, and the elevation and/or realignment of Monument Road through Border Field State Park lands. The purpose of these proposed facilities is to enhance the existing Goat Canyon Creek and its natural habitat communities, including the Tijuana River Estuary, through the management of sediment within the canyon and on the adjacent alluvial fan.

The proposed project is in conformance with the Final Goat Canyon/Cañon de los Laureles Enhancement Plan prepared by the Southwest Wetlands Interpretive Association (SWIA) and California Coastal Conservancy. As a result of the construction of sedimentation basins, it is anticipated that Goat Canyon Creek, its watershed, and the Tijuana River Estuary will be enhanced.

The Final EIS/EIR is available for public review. All comments received, including names and addresses, will become part of the administrative record and be made available to the public. NOAA is not required to respond to comments received as a result of issuance of the FEIS/EIR, however comments will be reviewed and considered for their impact on issuance of a Record of Decision (ROD). The ROD will be printed in the **Federal Register** some time after the close of the public review period.

DATES: The review period for the joint Final EIS/EIR will end on Monday, February 4, 2002. All written comments received by this deadline will be considered in the preparation of the ROD.

ADDRESSES: Written comments on the joint Final EIS/EIR should be sent to Nina Garfield, NOAA, Estuarine Reserves Division, SSMC–4, 11th Floor, 1305 East-West Highway, Silver Spring, Maryland, 20910–3281.

FOR FURTHER INFORMATION CONTACT: Mayda Winter, Goat Canyon Enhancement Project, Southwest Wetlands Interpretive Association, 925 Seacoast Drive, Imperial Beach, California, 91932, tel. (619) 575–0550.

SUPPLEMENTARY INFORMATION: Goat Canyon Creek is located in the far western portion of the greater Tijuana River Watershed approximately one mile inland from the Pacific Ocean. The watershed is characterized by steep slopes, sandy soils with cobbles,

pockets of native coastal sage scrub, riparian vegetation, and a high level of human-induced disturbance, especially during the last 20 to 30 years. A prominent result of changes in the watershed has been a significant increase in sediment yield in response to higher volumes of runoff and an increased sediment supply throughout the watershed. Increased sedimentation has adversely affected the local habitat communities of Goat Canyon and downstream within the Tijuana River Estuary. By the mid-1980s, it was estimated that erosion and sedimentation had resulted in the loss of 30 acres of intertidal wetland area in the Tijuana River Estuary. The composition and distribution of native habitat communities along the creek and on the alluvial fan have been altered, as has the morphology of the creek. Further, during storm events, sediment is deposited on Monument Road, which in turn blocks public access to Border Field State Park and impedes the U.S. Border Patrol.

On August 10, 2000, the National Ocean Service published in the **Federal Register** a Notice of Intent to prepare a joint Environmental Impact Statement/ Environmental Impact Report (Vol. 65 No. 155, 48971–48972). The stated intent of the proposed project was to enhance the existing Goat Canyon Creek and its natural habitat communities, including the Tijuana River Estuary, through the management of sediment within the canyon and on the adjacent alluvial fan. A notice announcing the availability of the draft EIS/EIR was published on October 12, 2001.

The final EIS/EIR examines the potential effects of the No Project Alternative and four project alternatives for construction of a sedimentation retention system within Goat Canyon and the alluvial fan. NOAA has identified Alternative D–1 as the Preferred Alternative based on an evaluation of the comparison of the impacts between the alternatives.

Alternative D–1 features an in-canyon diversion structure and sedimentation basin system consisting of two basins in series to capture the flow in Goat Canyon Creek. The system has been designed to contain the full 100-year flood event. The Preferred Alternative also involves construction of access roads around the basins, staging areas adjacent to the basins, a visual berm located between the basins and Monument Road, improvements to part of Monument Road and a multi-purpose trail, and creation of wetland habitat. The Preferred Alternative would be the most efficient at capturing sediment and would result in the least impacts to sensitive wetland habitats and endangered species.

Document Availability

Copies of the final EIS/EIR are available for review at the California State Parks, San Diego Coast District Office, 9609 Waples, Suite 200, San Diego, California, 92108, (858) 642–4200, the Tijuana River National Estuarine Research Reserve at 301 Caspian Way, Imperial Beach, California 91932, (619) 575–3613, and at the Imperial Beach Public Library, 810 Imperial Beach Boulevard, Imperial Beach, 91932, (619) 424–6981.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Research Reserves

Dated: December 21, 2001.

Alan Neuschatz,

Associate Assistant Administrator for Management, Ocean Services and Coastal Zone Management.

[FR Doc. 02–3 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120701C]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting and cancellation of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad Hoc Groundfish Multi-Year Management Committee (GMMC) will hold a work session, which is open to the public. A previously noticed meeting of the GMMC is canceled.

DATES: The GMMC meeting noticed for Thursday, January 10, 2002, and Friday, January 11, 2002, is cancelled (see 66 FR 64954, December 17, 2001). Instead, the GMMC will meet Thursday, January 31, 2002, from 10 a.m. until 5 p.m; and Friday, February 1, 2002, from 8 a.m. until business for the day is completed.

ADDRESSES: The work session will be held at the Pacific Fishery Management Council, West Conference Room, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220; telephone: 503–326–6352.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Waldeck or Dr. Don McIsaac, Pacific Fishery Management Council, 503–326–6352.

SUPPLEMENTARY INFORMATION: The formation of this ad hoc committee is in response to the Council's request for a committee to scope multi-year management approaches for the West Coast groundfish fishery. Multi-year management of the groundfish fishery would be synchronized with a multi-year groundfish stock assessment schedule. Full accommodation of federal notice and comment requirements would also be incorporated into the multi-year cycle. This is the second meeting of the committee, and the primary purpose of the meeting is to further develop the purpose and objectives of multi-year management, as well as alternative multi-year management approaches.

Although nonemergency issues not contained in the GMMC meeting agenda may come before the GMMC for discussion, those issues may not be the subject of formal GMMC action during the meeting. GMMC 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 GMMC'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: December 31, 2001.

Dean Swanson,

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

[FR Doc. 02–240 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Intent To Prepare an Environmental Impact Statement for Sand and Gravel Dredging on the Allegheny and Ohio Rivers, Pennsylvania

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers, Pittsburgh District (Corps), will prepare and circulate a draft Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act and 40 CFR 1500 through 1508. The overall purpose of the EIS is to evaluate the environmental, economic, and social consequences related to the issuance of Section 10 and 404 Permits for Commercial Sand and Gravel Dredging in the Allegheny and Ohio Rivers in Pennsylvania. The action area studied includes River Miles 0 to 69.5 on the Allegheny River and River Miles 0 to 40 on the Ohio River. The Corps and Pennsylvania Department of Environmental Protection (PADEP) issue permits for commercial dredging activities.

FOR FURTHER INFORMATION CONTACT: Please address questions or comments regarding this notice to Mr. Albert H. Rogalla, CELRP–OR–F, Pittsburgh District, Corps of Engineers, William S. Moorhead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222–4186. Submit electronic comments to *Irp.sandgraveleis@usace.army.mil*

SUPPLEMENTARY INFORMATION: a. The commercial dredging companies seek extensions of their Corps Dredging Permits and PADEP Water Obstruction and Encroachment Permits, and PADEP Sand and Gravel License Agreements. These permits may be issued, suspended or modified pending completion of the NEPA process.

b. The purpose of this action is the issuance of permits to extract sand and gravel from the Allegheny and Ohio Rivers for commercial sale. This material supports diverse infrastructure and construction requirements for a variety of customers in the region.

c. Alternatives to be assessed are the complete cessation of commercial river dredging within the study area following denial of permit extensions and the expiration of existing permits held by the applicants; obtaining sand and gravel from the Allegheny and Ohio Rivers by commercial dredging by granting and extending the Department of the Army Section 10 and 404 permits to commercial sand and gravel companies for the removal of sand and gravel between river miles 0–69.5 on the Allegheny River and between river miles 0–40 on the Ohio River; and using land-based operations or importation of sand and gravel from other locations to meet the regional need for this material, implying complete cessation of commercial river dredging (other than for navigational purposes) and denial to extend existing permits held by the applicants.

d. The Corps has held numerous Stakeholder meetings between 1996 and 2000 in which the scope and direction of the study were discussed. State agencies; federal agencies; a public interest organization; and sand and gravel companies directly impacted by the permit request participated in these discussions.

e. Interested parties are encouraged to send written or electronic comments concerning issues to be addressed, required studies, alternatives, procedures or other related matters or requests for information regarding the proposed study process to the point-of-contact above. All comments and information requests should be postmarked no later than 30 days after this Notice of Intent is published in the **Federal Register**.

f. The EIS will assess the impacts of sand and gravel dredging on various ecological resources including aquatic resources (fish, mussels, threatened and endangered species, and water quality), hydrology, noise, and cultural resources.

g. Appendix B, 33 CFR Part 325, provides that the Corps District Engineer may require the Permit Applicant and/or his/her consultant to provide relevant information for the Corps use in preparing an EIS. The applicants are collecting information to provide to the Corps. Prior to preparation of the Draft EIS, however, the Corps is required to solicit public input into the process.

h. The Corps will schedule a public hearing after the Draft EIS is issued.

i. The Draft EIS is expected to be available to the public no later than June 2002.

Raymond K. Scrocco,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 02–129 Filed 1–3–02; 8:45 am]

BILLING CODE 3701–85–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 February 4, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address *Karen_F._Lee@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: December 31, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.

Title: Reading Excellence Act: School and Classroom Implementation and Impact Study.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 1,035
Burden Hours: 735.

Abstract: The Reading Excellence Act School and Classroom Implementation and Impact Study (REA–SCII) is a six-year study to learn about the implementation and impact of the REA legislation on instructional practice in

reading and on student reading achievement. The Study has the following features: (1) A representative sample of 75 schools that have received REA Local Reading Initiative sub-grants; (2) a longitudinal sample of kindergarten students followed through the end of second grade; measures of student reading performance; multiple observations of classroom reading instruction in grades K–2; and surveys of and interview/focus groups with key school and district staff.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address *OCIO.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 Sheila Carey at (202) 708–5359 or via her internet address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Postsecondary Education

Type of Review: Revision of a currently approved collection.

Title: The Evaluation of Exchange, Language, International and Area Studies (EELIAS), NRC, FLAS and IIPP, UISFUL, Business and International Education Program (BIE), Centers for International Business Education Program (CIBE) and American Overseas Research Centers (AORC) (JS).

Frequency: Annually.

Affected Public: Not-for-profit institutions (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 60

Burden Hours: 2100.

Abstract: BIE, CIBE and AORC are being added for clearance to the system that already contains four other programs. Information collection assist IEGPS in meeting program planning and evaluation requirements. Program officers require performance information to justify continuation funding, and grantees use this information for self evaluations and to request continuation funding from the Department of Education.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO.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.

[FR Doc. 02–235 Filed 1–3–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Notice of Request for Public Comment on the Department of Education's Initial Plans for Implementing a Consolidated State Application and a Consolidated Annual Report Under the Reauthorized Elementary and Secondary Education Act

SUMMARY: We invite the public to submit comments on the Department's initial plans under the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001, for providing formula program grant funding to States on the basis of consolidated applications. Public comments will help the Department develop proposed criteria for submission of consolidated State applications and identify the information to be collected in the annual performance report that is required of each State. The Department expects to publish in February, for public review and comment, a separate notice in the **Federal Register** proposing criteria and procedures to govern the consolidated State application and annual State report.

DATES: Please send your comments on or before January 14, 2002.

ADDRESSES: Please address your comments to Marcia Kingman, Office of Elementary and Secondary Education, U.S. Department of Education, using one of the following methods:

1. *Internet.* We encourage you to send your comments through the Internet to the following address: *marcia.kingman@ed.gov.* You should use the term ''ESEA Consolidated Plan'' in the subject line of your electronic message.

2. *Fax Machine.* You also may submit your comments by fax machine at (202) 205–5870.

3. *Surface Mail.* Alternatively, you may submit your comments via surface mail addressed to: Marcia Kingman, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3E213, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Marcia Kingman, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3E213, Washington, DC 20202. Telephone: (202) 260–2199.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person for information identified in the preceding paragraph.

SUPPLEMENTARY INFORMATION: In mid-December of 2001, the Congress gave final approval to H.R. 1, the No Child Left Behind Act. This bill, which now awaits the President's signature, will substantially revise the Elementary and Secondary Education Act of 1965 (ESEA), offering all of America's school children the opportunity and means to achieve academic success. In particular, the bill embodies the four key measures of the President's education reform plan: (1) Stronger accountability for results, (2) expanded flexibility and local control, (3) expanded options for parents, and (4) an emphasis on teaching methods that have been proven to work, particularly in reading instruction.

These measures are designed to produce fundamental reforms in classrooms throughout America. They will provide officials and administrators at the school, school district, and State levels substantial flexibility to plan and implement school programs that will help close the achievement gap between disadvantaged and minority students and their peers. At the same time, the new law will hold school officials accountable—to parents, students, and the public—for achieving results. These and other major changes to the ESEA through the No Child Left Behind Act will redefine the federal role in K–12 education to better focus on improving the academic performance of all American students. The full text of this pending law, and the House-Senate conference report summary of the final bill, may be found on the Internet at: *http://edworkforce.house.gov/issues/107th/education/nclb/nclb.htm.*

One key way that the Department provides flexibility for States and school districts to design their own approaches for improving the academic performance of all students is by encouraging the careful development and use of consolidated plans or applications. Use of consolidated plans or applications also will help accomplish the President's goal of reducing unnecessary and burdensome paperwork and focus planning and reporting on student achievement.

Sections 9301 and 9302 of the new law, like the predecessor provisions in sections 14301 and 14302 of the ESEA, as amended in 1994 by the Improving America's Schools Act (IASA), will offer States the option of seeking funding under most ESEA formula grant programs through these consolidated plans or applications instead of through individual program plans or applications that the law otherwise would require. As expressed in the forthcoming law, a consolidated plan or application would be designed ''to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery, to provide greater flexibility to State and local authorities, and to enhance integration of [the ESEA] programs * * * with State and local programs'' (section 9301). States would submit not the information required for individual ESEA program plans or applications, but rather ''only descriptions, information, assurances, * * * and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application'' (section 9302(b)(3)). Hence, the Department will be able to provide funding to States under many ESEA formula grant programs on the basis of this single plan or application.

In addition, section 9305 of the ESEA will extend similar flexibility to local educational agencies (LEAs), continuing the authority for LEAs to receive program funding through submission of consolidated local plans or applications under individual programs that the statute would otherwise require. It also clarifies existing law to ensure that State educational agencies (SEAs) do not require local education agencies (LEAs) to submit individual program plans or applications if they wish to submit a consolidated application.

Programs that may be included in a consolidated plan or application. Sections 9101(13) and 9302(a)(1) of the ESEA, as amended by the forthcoming No Child Left Behind Act, identify the programs that a State would be able to include in a consolidated plan or application. These programs are each of those authorized by—

Title I, Part A: Improving Basic Programs Operated by Local Educational Agencies.

Title I, Part B, subpart 3: William J. Goodling Even Start Family Literacy Programs.

Title I, Part C: Education of Migrant Children.

Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk.

Title I, Part F: Comprehensive School Reform.

Title II, Part A: Teacher and Principal Training and Recruiting Fund.

Title II, Part D: Enhancing Education Through Technology.

Title III, Part A: English Language Acquisition, Language Enhancement and Academic Achievement.

Title IV, Part A: Safe and Drug-Free Schools and Communities.

Title IV, Part B: 21st Century Community Learning Centers.

Title V, Part A: Innovative Programs.

Title VI, Part B, subpart 2: Rural and Low-Income School Program.

Other programs the Secretary may designate. Each State would be free either to submit a consolidated plan or application that includes any or all of these programs, or to submit a separate program plan or application for each of the programs the ESEA would otherwise require.

The Department's Experience With Consolidated State Plans

1. *Criteria for consolidated State plans.* After the 1994 reauthorization of the ESEA, the Department developed criteria for consolidated State plans that sought to align consolidated planning of the ESEA programs included in the States' plans with comprehensive school reform efforts that States were already undertaking on their own. Therefore, the criteria for the consolidated State plans that States have provided to the Department since 1994 stressed a comprehensive description of the State's—

- Goals and objectives for achievement of all students, including the content of the State's standards and assessments system under Title I, part A of the ESEA, and performance indicators, benchmarks, and timelines it had established for meeting these goals and objectives;
- Strategies, activities, and uses of resources under which the ESEA programs the State included in its consolidated plan would help to achieve State goals and objectives, including those related to such key components as Title I, part A schoolwide programs, professional development, safe and drug-free schools, and consolidated local planning;
- Process for ensuring that the consolidated State plan would continue to be revised, as necessary, to reflect changing circumstances and continuous improvement; and
- Process for promoting and maintaining public involvement in reviewing how well the plan was being implemented.

States also provided a limited amount of fiscal information that the Department needed to review before distributing ESEA program funding to ensure program accountability. All but one State now receive ESEA State formula grant program funding on the basis of these consolidated plans.

In the guidance it issued on preparation of these consolidated State plans, the Department informed States that its approval of those plans eliminated the need, for programs included in the plan, to develop separate program planning documents that the individual program statutes otherwise required. However, the Department also stressed that its approval of the consolidated State plans did not relieve States of their responsibility to adhere to all of the operational requirements that these statutes imposed, whether or not the statutes included them as required elements of individual program plans or applications.

2. *Consolidated performance reports.* In 1998, the Department distributed an initial consolidated performance reporting instrument that States began using to report annually on the performance of all programs included in their consolidated plans. This reporting instrument (and its subsequent revision) replaced the various individual program performance reports that States had previously sent at differing times to the Department. States report in a single document information in a number of areas, in particular (a) student achievement gains (principally for Title I, part A), (b) how LEAs carried out individual programs, including participation data, and (c) how well States and LEAs met performance measures for these programs that the Department had established in accordance with requirements of the Government Performance and Results Act (GPRA).

The Department's Working Model for Consolidated Applications Under the ESEA, As Amended by the No Child Left Behind Act

1. *An overview.* Consistent with the pending No Child Left Behind Act, the Department is developing proposed consolidated application and reporting procedures that States would integrate into a comprehensive State accountability system. Information States would submit in their consolidated applications would be integral to both overall State accountability and to the Department's ability to meet its basic administrative responsibilities.

We refer to the documents as ''consolidated applications'' rather than as ''consolidated plans'' to emphasize that this information would not constitute an educational or programmatic ''plan'' or ''set of strategies.'' By this we mean that the Department has no intention of reviewing (or approving) a State's plans for achieving program-by-program goals for academic achievement of all students and most other objectives and requirements of the individual ESEA programs. Instead the Department will review a consolidated application that contains the State's overall and individual programmatic goals and objectives that relate to improved student achievement, and its descriptions of the overall State system for measuring progress in achieving them. A State would be responsible to its own students and parents—but *not to the Department*—for putting in place effective strategies for meeting those goals and objectives.

Hence, the criteria for consolidated State applications would be designed to reflect a focus on the data that States will use to demonstrate results, in particular, improved student achievement levels of all students and narrowing of ''achievement gaps.'' In the consolidated annual reports, States would provide data on their success in achieving these results. Moreover, in order to reduce burden and enable the collection of more up-to-date information, the Department will be working to make this reporting system ''web-based'' so that information might be supplied electronically rather than in paper form.

2. *Proposed key components of the new consolidated State application.* More specifically, the consolidated State application would address—

- The State's definition of adequate yearly progress under section 1111(b)(2) of the ESEA, as amended by the No Child Left Behind Act, and its timeline to ensure that all students are proficient not later that 12 school years after the end of the 2001–2002 school year as the new law will require, as it applies to both public elementary and secondary school students as a whole and the required subgroups: economically disadvantaged students, students from major racial and ethnic groups, disabled students, and limited English proficient students.
- The State's key objectives for each of the Federal programs included in the consolidated application and the populations those programs serve, as those objectives support increased achievement of all students (*e.g.,* its goals for increasing migrant-student high school completion rates, goals for reducing school violence, and goals for increasing the number of highly qualified teachers);
- So that progress can be tracked through the State's annual reports, (1) baseline data for the 2001–2002 school year for the indicators on which States would provide information in their annual reports under section 1111(h)(4), and (2) other baseline data relative to key objectives for each of the Federal programs included in the consolidated application and the populations those program serve, as those objectives support increased student achievement.
- The principal approaches the State would use, with federal and non-federal funds, to achieve adequate yearly progress for all students and the key objectives for each of the included ESEA programs and the populations they assist;
- The assessment and accountability systems the State would use for measuring whether it is successful in meeting (1) its adequate yearly progress goals for all students under sections 1111(b)(3) and (b)(2), respectively, and (2) the State's key objectives for each of the included ESEA programs; and
- Key information on specific ESEA programs that the Department needs to review in order to ensure programmatic or fiscal integrity.

3. *Other considerations.*

a. The No Child Left Behind Act of 2001 will make significant changes to the ESEA that are designed to give school officials, educators, and parents the tools they need to ensure that all students can achieve. However, this Act also will build upon school reform strategies that were begun under the previous statute and other federal and State initiatives. In this regard, provided that State plans are consistent with Department requirements, States would be able to draw upon information and data that they developed under the previous statute.

b. To gauge the success of the Nation in implementing the new Act, it is important that where possible States report their assessment data using common formats and measures. Therefore, the Department intends to work with States to determine how their data management systems may align.

c. Only a limited amount of program-specific information would be included in a consolidated State application. Yet, even if not addressed in the consolidated application, all operational and program-planning requirements of each program (as amended by the No Child Left Behind Act) included in a consolidated application are extremely important and need to be met. Many ESEA program statutes establish some of these operational and planning requirements in provisions that govern the content of individual program plans or applications. States would need to adhere to all of those requirements (as well as to those that appear elsewhere in the individual program statutes), and to maintain for public inspection documentation that confirms they have been met. (In order to help promote public dialogue on how States can most effectively implement the federal programs included in their consolidated applications, the Department also would encourage States to post on their Internet sites information on how they propose to meet key requirements of each program.)

Specific questions on which the Department seeks comment. Consolidated State applications can provide the Department with important information on how the State intends federal programs included in the application to promote increased achievement of all students. However, the principal importance of these consolidated applications (and reports) is their ability to communicate to the public, policy-makers, and others in each State the basis on which the State officials responsible for implementing the new law propose to hold themselves accountable for ensuring that no child is left behind.

It is in both of these contexts that we are interested in receiving public comment and reaction to all aspects of this proposal. However, in formulating your comments we ask that you pay particular attention to the following questions:

1. *Goals, objectives, and baseline data.* What kinds of State goals and objectives—in addition to the adequate yearly progress standards set forth in Title I, part A—might States adopt for measuring the success of programs included in the consolidated application? What baseline data might

States use to measure success in meeting these key goals and objectives? How might States measure their success in implementing each program included in the consolidated application?

2. *Phase-in process.* The Department will need to distribute FY 2002 funds to States this coming July. States will have insufficient time by then to prepare high-quality consolidated applications that would reflect all of the desired information. Consequently, the Department would establish initial procedures and criteria under which States choosing to submit consolidated applications will be able to receive FY 2002 funds in a timely manner. However, given the requirements of the pending No Child Left Behind Act, and the urgency with which all of us will be working to implement it, the Department would want all States to have submitted complete consolidated State applications by a specific deadline, no later than the beginning of the 2003–04 school year. States plainly will need to be able to submit this information to the Department in two or more phases that reflect the differing amounts of time that will be needed to prepare the different parts of their applications.

What might this phase-in process look like? Consistent with the exigencies and program-specific schedules underpinning the No Child Left Behind Act, how much time would States need to provide the different information that would be included in the complete consolidated State application? What information should States be expected to provide in each phase? In addition, while the Department would insist that each State submit all of the information to be included in its consolidated application by the end of the 2003–2004 school year, some States may be able to submit their information earlier than others. Should the Department have States submit their information on different schedules that depend on when they have their data available?

3. *Individual program requirements.* Without undermining the important purposes of consolidated State applications, how can the Department do a better job of helping to ensure State, school district, and school adherence to the requirements of the individual programs that those consolidated applications include?

4. *Consolidated performance reporting.* Consolidated performance reporting for school years 2000–01 and 2001–02 will be conducted through the Office of Management and Budget-approved reporting form the Department prepared under the previous law. Are there elements of this report that the Department should retain for reporting under the No Child Left Behind Act? Which ones?

5. *Flexibility initiatives under the new law.* What implications do the No Child Left Behind Act's flexibility initiatives have for the consolidated State application and annual reporting effort? These initiatives include:

- Transferability of program funds, allowing any SEA to transfer 50 percent of its State-level funds under certain programs to State-level activities under other programs or under Title I, and LEAs to transfer 50 percent of their funds among programs or into Title I (Title VI, Part A, Subpart 2);
- The Rural Education Achievement Program (REAP), which allows small rural LEAs to consolidate certain federal program funds (Part B of Title VI);
- The Secretary's waiver authority (Title IX, Part D), and waiver decisions available to States under the Ed-Flex Partnership Demonstration Act of 1999 (Ed-Flex);
- The State Flexibility Program (state-flex), which allows SEAs to use certain federal funds for any ESEA purpose, direct the use of funds provided under Title V, Part A (formerly Title VI of the ESEA), and enter into local performance agreements with ten LEAs in each State (Title VI, Part A, Subpart 3, Chapter A); and
- Local flexibility authority, under which up to 80 additional LEAs will receive broad authority to consolidate funds (Title VI, Part A, Subpart 3, Chapter B).

6. *Other considerations.* Are there criteria and procedures for consolidated State applications (or plans) that, consistent with the requirements of sections 9301 and 9302 of the new Act, would better promote accountability for increased academic achievement of all students and other objectives of the No Child Left Behind Act? What are they? How should they be reflected in the procedures and content for consolidated State applications or plans that the Department establishes?

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Dated: December 28, 2001.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–155 Filed 1–3–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory

Notice of Inventions Available for Licensing

AGENCY: Department of Energy (DOE) National Energy Technology Laboratory (NETL).

ACTION: Notice.

SUMMARY: The United States Department of Energy, National Energy Technology Laboratory hereby announces that the inventions listed below are available for licensing in accordance with 35 U.S.C. 207–209 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents rights have been retained on selected inventions to extend market coverage and may also be available for licensing. A copy of issued patents may be obtained, for a modest fee, from the U.S. Patent and Trademark Office, Washington, DC 20231. Address: Technology Transfer Manager, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 880, Morgantown, WV 26507–0880.

FOR FURTHER INFORMATION CONTACT: Diane Newlon, Technology Transfer Manager for U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 880, Morgantown, WV 26507–0880; Telephone (304) 285–4086; E-mail: *newlon@netl.doe.gov*

SUPPLEMENTARY INFORMATION: 35 U.S.C. 207 authorizes licensing of Government-owned inventions. Implementing regulations are contained in 37 CFR part 404. 37 CFR 404.7(a)(1) authorizes exclusive licensing of Government-owned inventions under certain circumstances, provided that notice of the invention's availability for licensing has been announced in the **Federal Register**.

Issued Patents

Number and Title

6,267,849 Method for the Photocatalytic Conversion of Gas Hydrates

6,058,709 Dynamically Balanced Fuel Nozzle and Method of Operation
6,059,560 Periodic Equivalence Ratio Modulation Method and Apparatus for Controlling Combustion Instability
6,056,125 Cross Flow Cyclonic Flotation column for Coal and Minerals Beneficiation
6,056,796 Rigid Porous Filter
6,033,794 Multi-Stage Fuel Cell System Method and Apparatus
5,948,722 Method for Producing Iron-Based Catalysts
5,895,508 Down-Flow Moving-Bed Gasifier with Catalyst Recycle
5,827,903 Separation of Catalyst from Fischer-Tropsch Slurry
5,809,769 Control of Oscillation Attenuation Via the Control of Fuel-Supply Line Dynamics
5,798,088 Method for Producing Elemental Sulfur from Sulfur-Containing Gasses
5,791,889 Combustor Oscillating Pressure Stabilization and Method
5,728,953 Cable Load Sensing Device
5,721,186 Method for Producing Catalysts from Coal
5,720,858 Method for the Photocatalytic Conversion of Methane
5,706,645 Removal of Oxides of Nitrogen from Gases in Multi-Stage Coal Combustion
5,693,588 Reduction of Spalling in Mixed Metal Oxide Desulfurization Sorbents by Addition of a Large Promoter Metal Oxide
5,456,066 Fuel Supply System and Method for Coal-Fired Prime Mover
5,449,568 Indirect-Fired Gas Turbine Bottomed with Fuel Cell
5,413,878 An Improved System and Method for Networking Electrochemical Devices
5,369,214 Method for Selective Dehalogenation of Halogenated Polyaromatic Compounds
5,348,921 Method for Reducing Sulfate Formation During Regeneration of Hot-Gas Desulfurization Sorbents
5,333,044 Fluorescent Image Tracking Velocimeter
5,325,797 Staged Fluidized-Bed Combustion and Filter System
5,214,015 Synthesis of Iron Based Hydrocracking Catalysts
5,198,002 Gas Stream Clean-Up Filter and Method for Forming Same
5,170,670 Three Axis Velocity Probe System
5,167,676 Apparatus and Method for Removing Particulate Deposits from High Temperature Filters
5,144,251 Three-Axis Particle Impact Probe
5,139,991 Oxyhydrochlorination Catalyst
5,139,958 Method and Device for the Determination of Low Concentrations of Oxygen in Carbonaceous Materials
5,130,097 Apparatus for Hot-Gas Desulfurization of Fuel Gases
5,104,520 Apparatus and Method for Separating Constituents
5,061,363 Method for Co-Processing Waste Rubber and Carbonaceous Material
5,022,892 Fine Coal Cleaning Via the Micro-Mag Process
5,020,457 Destruction of Acid Gas Emissions
4,955,942 In-Bed Tube Bank for a Fluidized-Bed Combustor
4,939,376 Light Collection Device for Flame Emission Detectors
4,867,868 Selective Flotation of Inorganic Sulfides from Coal
4,775,387 Sulfur Removal and Comminution of Carbonaceous Material
4,769,504 Process for Converting Light Alkanes to Higher Hydrocarbons
4,769,045 Method for the Desulfurization of Hot Product Gases from Coal Gasifier
4,696,680 Method and Apparatus for the Selective Separation of Gaseous Coal Gasification Products by Pressure Swing Adsorption
4,695,372 Conditioning of Carbonaceous Material Prior to Physical Beneficiation
4,667,097 Compensated Vibrating Optical Fiber Pressure Measuring Device
4,587,113 Removal of Sulfur and Nitrogen Containing Pollutants from Discharge Gases
4,526,272 Laterally Bendable Belt Conveyor
4,523,465 Wireless Remote Liquid Level Detector and Indicator for Well Testing
4,475,884 Reversed Flow Fluidized-Bed Combustion Apparatus
4,466,360 Loop-Bed Combustion Apparatus
4,465,135 Fire Flood Method for Recovering Petroleum from Oil Reservoirs of Low Permeability and Temperature
4,451,826 Single Transmission Line Data Acquisition System
4,447,297 Combined Fluidized Bed Retort and Combustor

Patent Applications Filed

Flashback Detection Sensor for Lean PreMix Fuel Nozzles
Real-Time Combustion Controls and Diagnostics Sensors

Issued: December 18, 2001.

Rita A. Bajura,

Director, NETL.

[FR Doc. 02–211 Filed 1–3–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory

Notice of Availability of a Financial Assistance Solicitation

AGENCY: National Energy Technology Laboratory, Department of Energy (DOE).

ACTION: Notice of availability of a Financial Assistance Solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Solicitation No. DE–PS26–02NT41428 entitled ''Clean Coal Power Initiative.'' A draft program solicitation, as a precursor to potentially awarding multiple financial assistance cooperative agreements, is now being developed. Following release of the draft solicitation, expected in December 2001, a comment and response session with industry and other potential partners will be conducted prior to final issuance of the program solicitation. Final issuance of the program solicitation is slated for February 18, 2002 with awards expected late in fiscal year 2003. DOE will provide between $300–$400 million to fund the program, and industry must match (or exceed) the government cost share for every project. DOE anticipates making multiple awards under this program solicitation.

DATES: The draft solicitation will be available via the DOE's Industry Interactive Procurement System (IIPS) at *http://www.netl.doe.gov/business* on or about December 21, 2001.

ADDRESSES: For the contact to submit comments, where documents can be obtained, where meetings are being held, please see the **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Jo Ann C. Zysk, MS 921–107, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 10940, E-mail Address: *zysk@netl.doe.gov*, Telephone Number: (412) 386–6600.

SUPPLEMENTARY INFORMATION: The Clean Coal Power Initiative (CCPI) is a cost-shared partnership between the government and industry to demonstrate advanced coal-based, power generation technologies. The goal is to accelerate commercial deployment of advanced technologies to ensure that the United States has clean, reliable, and affordable electricity. Electric power produced from coal is fundamental to a strong U.S. economy and to domestic energy security.

This CCPI solicitation is open to any technology advancement related to coal-based power generation that results in

efficiency, environmental, and economic improvement compared to currently available state-of-the-art alternatives. The solicitation is also open to technologies capable of producing any combination of heat, fuels, chemicals, or other useful byproducts in conjunction with power generation. Prospective projects must ensure that coal is used for at least 75% of the fuel energy input to the process. Additionally, prospective projects must show the potential for rapid market penetration upon successful demonstration of the technology or concept.

The advanced technologies to be demonstrated under this program will be vital to the role that coal and other solid fuels will play on the world power production scene. Production of more electricity while creating a cleaner environment at lower cost has the potential to raise the standard of living of not only the citizens of the United States, but of the world as a whole.

Prospective applicants who would like to be notified as soon as the draft solicitation is available should register at *http://www.netl.doe.gov/business.* Click on the ''Business Alert Registration and follow the instructions. Once you subscribe, you will receive an announcement by E-mail that the draft solicitation has been released to the public. Telephone requests, written requests, E-mail requests, or facsimile requests for a copy of the draft solicitation package will not be accepted and/or honored. The draft solicitation will be open for public comments on December 21, 2001. A public meeting/webcast will be held on January 17, 2002 and the draft solicitation will be closed to public comments on January 23, 2002.

The final solicitation will be made available on or about February 18, 2002. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The final solicitation document will allow for requests for explanation and/or interpretation.

Issued in Pittsburgh, PA on December 19, 2001.

Dale A. Siciliano,

Deputy Director, Acquisition and Assistance Division.

[FR Doc. 02–212 Filed 1–3–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

COB Energy Facility

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: This notice announces BPA's intention to prepare an EIS, under the National Environmental Policy Act (NEPA), on a proposed electrical interconnection requested by Peoples Energy Resources Corporation (Peoples Energy), to integrate electrical power from the COB Energy Facility into the Federal transmission grid. BPA proposes to execute an agreement with Peoples Energy to provide them with an interconnection.

DATES: Written comments on the NEPA scoping process are due to the address below no later than February 26, 2002. Comments may also be made at an EIS scoping open house meeting to be held on January 15, 2002, at the address below.

ADDRESSES: Send letters with comments and suggestions on the proposed scope of the Draft EIS to Communications, Bonneville Power Administration—KC–7, P.O. Box 12999, Portland, Oregon 97212. You may also call BPA's toll-free comment line at 1–800–622–4519; name this project, and record your complete name, address, and comments. Comments may also be sent to the BPA Internet address at *comment@bpa.gov.* To be placed on the project mail list, call 1–800–622–4520.

An open house will be held on January 15, 2002, 7 p.m. to 9 p.m., at Bonanza Public Library, 31703 Highway 70, Bonanza, Oregon. At this informal scoping meeting, BPA staff will answer questions and accept oral and written comments, and representatives of BPA and Peoples Energy will be available to discuss the proposed project and topics to be addressed in the EIS. Information on the proposed project will be available for review.

FOR FURTHER INFORMATION CONTACT: Thomas C. McKinney, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–4749; or e-mail *tcmckinney@bpa.gov.* Additional information can be found at BPA's web site: *www.bpa.gov.*

SUPPLEMENTARY INFORMATION: The EIS will assess the environmental consequences of the agreement which BPA proposes with Peoples Energy, and the consequences of any modifications to the transmission system needed to provide an electrical connection under the terms of the agreement. In addition to these Federal actions, the EIS will consider the environmental consequences of construction and operation of the COB Energy Facility.

The proposed project has several components. In addition to the generating facility itself (described below), other components may include: (1) An electrical connection into the BPA's electrical transmission system, (2) upgrades to existing BPA Substations, (3) a new substation on-site, (4) potential system upgrades to be defined through impact studies of the facility, (5) a natural gas pipeline, and (6) water supply and process water pipelines.

A. Proposed Action

The proposed COB Energy Facility would be a power development project beginning as a simple-cycle generation facility and expanding to a combined-cycle electric generating facility. Nominal generating capacity is 600 megawatts in the simple-cycle configuration and 1,150 megawatts in the combined-cycle configuration. The facility site would be located approximately 3 miles south of the City of Bonanza, on the east side of West Langell Valley Road No. 520 in Klamath County. The combined-cycle facility would consist of four combustion turbine generators, and each turbine generator would be coupled with a heat-recovery steam generator (HRSG) and two HRSG's will couple with a steam turbine generator.

The proposed COB Energy Facility would be fueled by natural gas from the existing Pacific Gas & Electric Gas Transmission Northwest (PG&E GTN) pipeline and delivered through a new, approximately 4.6-mile natural-gas pipeline. Natural gas would be burned in the combustion turbines. Expanding gases from combustion would turn rotors within the turbines that are connected to electric generators. The hot gases exhausted from the combustion turbines would be used to raise steam in the HRSGs. Steam from the HRSGs would be expanded through a steam turbine that drives its own electric generator. To increase steam-generating capacity, a duct burner system will be included in each HRSG. The duct burner will increase the steam generated in the HRSGs and increase the steam generator's electrical output.

Water would be needed at the facility to generate steam and cool the steam process. Water would be supplied from an existing well, known as the Babson

well, located approximately 2.8 miles from the facility. The well would draw water from the deep basalt aquifer, which is isolated from the shallow well aquifer in the area. Process water from the facility would be discharged either for land application through nearby irrigation district systems, land applied on site for irrigation, or discharged to the Lost River during periods allowed by the Oregon Department of Environmental Quality.

The COB Energy Facility would deliver electric power to the regional power grid through an interconnection to existing electric transmission lines that cross the facility site. The facility would tie into two or three of the existing electric transmission lines, owned by BPA, PacifiCorp, and Portland General Electric. A transmission planning study conducted by the three utilities will determine the optimal interconnection among the transmission lines. The study also will identify any upgrades to the existing lines or the Malin Substation that may be needed.

B. Process to Date

BPA is the lead Federal agency for the project EIS. The State of Oregon Energy Facility Siting Council is currently evaluating the Notice of Intent to Apply for a Site Certificate for the COB Energy Facility. Oregon's site evaluation process, like NEPA, provides opportunity for public participation, and a public meeting will be held by representatives from the Oregon Office of Energy at the January 15 meeting in Bonanza.

C. Alternatives Proposed for Consideration

Alternatives thus far identified for evaluation in the EIS are: (1) The proposed action and (2) no action. Other alternatives may be identified through the scoping process.

D. Public Participation and Identification of Environmental Issues

BPA intends to prepare an EIS addressing both the COB Energy Facility and the associated electric power interconnection facilities. BPA has established a 45-day scoping period during which affected landowners, concerned citizens, special interest groups, local governments, and any other interested parties are invited to comment on the scope of the proposed EIS. Scoping will help BPA ensure that a full range of issues related to this proposal is addressed in the EIS and also will identify significant or potentially significant impacts that may result from the proposed project. When completed, the Draft EIS will be circulated for review and comment, and BPA will hold a public comment meeting on the Draft EIS. BPA will consider and respond in the Final EIS to comments received on the Draft EIS.

BPA decided to prepare the EIS for the following reasons: (1) The COB Energy Facility would depend on an interconnect to existing electric transmission lines that may include a BPA line, (2) the interconnect could require upgrades to the existing BPA line, (3) the interconnection may include a new substation on the site, (4) the interconnection may require upgrades to the BPA Malin Substation, (5) the interconnect may result in other system impacts identified in the transmission study, and (6) no other Federal or State agency is currently preparing an EIS on the proposed project. Because no other EIS is being prepared, the scope of BPA's EIS will cover both the interconnection elements and the COB Energy Facility itself.

The principal issues identified thus far for consideration in the Draft EIS with respect to the COB Energy Facility are as follows: (1) Air and water quality impacts, (2) noise impacts from plant operation, (3) aesthetic impacts, (4) socioeconomic impacts created by an influx of construction workers into a sparsely populated area, (5) impacts on wildlife habitat, and (6) cultural resource impacts. The principal issues identified thus far for consideration in the Draft EIS with respect to the electric power transmission facilities are impacts of electrical interconnection on the grid system.

These issues, together with any additional significant issues identified through the scoping process, will be addressed in the EIS.

Issued in Portland, Oregon, on December 21, 2001.

Stephen J. Wright,

Acting Administrator and Chief Executive Officer.

[FR Doc. 02–210 Filed 1–3–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 271–062—Arkansas]

Entergy Arkansas, Inc.; Notice of Availability of Environmental Assessment

December 28, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for new license for the Carpenter-Remmel Hydro Project, located on the Ouachita River in Garland and Hot Springs Counties, Arkansas, and has prepared an Environmental Assessment (EA). In the EA, the Commission staff has analyzed the potential environmental effects of the project and has concluded that approval of the project, with appropriate environmental measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE., Washington, DC 20426. The EA may also be viewed on the web at *http://www.ferc.fed.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions. Please call (202) 208–2222 for assistance.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please affix ''Carpenter-Remmel Hydroelectric Project No. 271–062'' to all comments. For further information, contact Ed Lee at (202) 219–2809. Comments 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–175 Filed 1–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–44–000]

Indeck Maine Energy, L.L.C., Complainant, v. ISO New England, Inc., Respondent; Notice of Complaint

December 28, 2001.

Take notice that on December 27, 2001, Indeck Maine Energy, L.L.C. (Indeck Maine) filed a Complaint and Request for Appointment of Settlement Judgement against the ISO New England, Inc. (ISO NE) requesting that the Federal Energy Regulatory Commission (Commission) find (i) ISO-NE's actions in soliciting and

contracting for Indeck Maine's electrical energy for October 16 and 17, 1999; and October 21, 23 and 26, 1999, to support system reliability were not barred by NEPOOL Market Rule and Procedure 5 (MRP); (ii) that ISO-NE's requests were outside the scope of the real time market and the day-ahead dispatch; (iii) that MRP 17 does not apply to Indeck Maine's October 16, 1999, operations under the facts of this case; and (iv) to the extent MRP 17 did apply to the facts of this case, under the facts of this case ISO-NE did not implement MRP 17 in the manner required by the rule.

Any person desiring to be heard or to protest this 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 must be filed on or before January 16, 2002. 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. Answers to the complaint shall also be due on or before January 16, 2002. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–174 Filed 1–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–52–000]

Iroquois Gas Transmission System, L.P.; Notice of Application

December 28, 2001.

Take notice that on December 14, 2001, Iroquois Gas Transmission System, L.P. (Iroquois), One Corporate Drive, Suite 600, Shelton, Connecticut 06484, filed an application in the above-referenced docket number pursuant to section 7(c) of the Natural Gas Act and parts 157 of the Commission's rules and regulations, for a certificate of public convenience and necessity authorizing Iroquois to construct and operate its Eastern Long Island Expansion Project (ELI Project) all as more fully set forth in the application 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#'' and follow the instructions (please call 202–208–2222 for assistance).

Specifically, Iroquois requests authorization to construct and operate the following facilities: (i) 29.1 miles of 20-inch pipeline from a point offshore of Milford, Connecticut to a point in Brookhaven, Suffolk County, New York; (ii) a new compressor unit, with 20,000 (nominal) horsepower, in Milford, Connecticut; (iii) cooling facilities at the Dover, New York compressor station; (iv) various ancillary facilities at the existing Brookfield, Connecticut meter station; (v) various ancillary facilities associated with a new interconnection with the facilities of KeySpan Energy Delivery Long Island in Brookhaven, New York; and (vi) other necessary facilities, such as a tap valve in Long Island Sound, three mainline valves, pig launchers/receivers and temporary facilities, including pipe yards, storage yards, access roads and staging areas.

Iroquois states that the facilities are designed to provide approximately 175,000 dekatherms per day of firm transportation service to the eastern end of Long Island, and will be made pursuant to its Part 284 subpart G blanket certificate. Iroquois has executed precedent agreements with the following shippers:

- Consolidated Edison Energy, Inc., 10,000 dekatherms per day;
- Engage Energy America, LLC, 50,000 dekatherms per day;
- Long Island Power Authority, 160,000 dekatherms per day;
- Mirant Americas, Inc., 80,000 dekatherms per day; and
- New York Power Authority, 40,000 dekatherms per day.

Iroquois states that because the precedent agreements currently provide for firm transportation of 340,000 dekatherms per day which exceeds the capacity of the facilities, pro-ration of capacity among the shippers may be necessary; Iroquois expects to make a decision on any such pro-ration no later than March 1, 2003.

The total cost of the ELI Project is estimated to be about $105 million. Iroquois proposes to charge shippers its firm transportation rate in effect under its RTS rate schedule, plus an incremental surcharge, which, in total, is designed to recover the costs of the proposed facilities.

In order to meet a service commencement date of November 1, 2004, Iroquois requests that the Commission issue a preliminary determination on non-environmental aspects of the ELI Project by July 1, 2002, with final authorization no later than July 1, 2003.

Any questions regarding the application be directed to Jeffrey A. Bruner, Vice President, General Counsel and Secretary for Iroquois, One Corporate Drive, Suite 600, Shelton, Connecticut 06484, at 203–925–7200, or Donald F. Sanata, Jr., Troutman Saunders, LLP, 401 Ninth Street, NW, Suite 1000, Washington, DC 20004, at 202–274–2815.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before January 18, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the

Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

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.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–172 Filed 1–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–53–000]

National Fuel Gas Supply Corporation, Dominion Transmission, Inc.; Notice of Application

December 28, 2001.

Take notice that on December 13, 2001, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203 and Dominion Transmission, Inc. (Dominion), 445 West Main Street, Clarksburg, West Virginia 26301, filed a joint application pursuant to section 7 of the Natural Gas Act and part 157 of the Commission's rules and regulations for a certificate of public convenience and necessity to construct and operate facilities that will increase capacity on the jointly-owned Ellisburg, Pennsylvania to Leidy, Pennsylvania pipeline (Ellisburg-Leidy Line) all as more fully set forth in the application which is on file with the Commission and open to public inspection. 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).

Specifically, the applicants seek authorization to: (1) Install a new 8,010 horsepower compressor unit at National Fuel's Ellisburg Compressor Station in Potter County, Pennsylvania, (2) uprate the maximum allowable operating pressure of the jointly-owned pipeline (downstream of the Ellisburg Compressor Station) above the current level of 1405 psig, and (3) modify the Leidy M&R Station in Clinton County, Pennsylvania. The applicants state that these facility additions would allow an additional 150,000 Dth per day of firm capacity to the Ellisburg-Leidy Line. Of this total, 130,000 Dth per day of capacity would be allocated to National Fuel and 20,000 Dth per day would be allocated to Dominion. The applicants state that this incremental capacity, along with other capacity owned by Dominion and National Fuel, will be leased to Tennessee Gas Pipeline Company (Tennessee). The leases are the subject of other jointly-filed applications.[1] The estimated cost of the proposed facilities is $9.4 million.

Any questions regarding the application should be directed to David W. Reitz, Assistant General Counsel, National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, New York 14203 at 716–857–7949 or by E-mail at *reitzd@natfuel.com* and Sean R. Sleigh, Certificates Manager, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, West Virginia 26301 at 304–627–3462 or by E-mail at *sean_r_sleigh@dom.com.*

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before January 18, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings

[1] The lease between Tennessee and Dominion is the subject of Docket No. CP02–47–000. The lease between Tennessee and National Fuel is the subject of Docket No. CP02–48–000.

associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

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.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–173 Filed 1–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–37–000, et al.]

Madison Gas & Electric Company, et al.; Electric Rate and Corporate Regulation Filings

December 27, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Madison Gas & Electric Company

[Docket No. EC02–37–000]

Take notice that on December 19, 2001, Madison Gas and Electric Co. (MGE) and MGE Energy, Inc. (MGE Energy) filed an application with the Federal Energy Regulatory Commission (Commission), pursuant to section 203 of the Federal Power Act, for authorization of a disposition of jurisdictional facilities whereby a proposed corporate reorganization would be implemented.

MGE proposes to carry out a reorganization plan, which will result in a holding company structure under which MGE and its utility operation will be a wholly-owned subsidiary of the newly formed MGE Energy.

Comment Date: January 9, 2002.

2. Duke Energy Southaven, LLC

[Docket No. EG02–58–000]

Take notice that on December 20, 2001, Duke Energy Southaven, LLC (Duke Southaven) filed an application with the Federal Energy Regulatory Commission (the Commission) for determination of exempt wholesale generator status pursuant to section 32 of the Public Utility Holding Company Act of 1935, as amended, and part 365 of the Commission's regulations.

Duke Southaven is a Delaware limited liability company that will be engaged directly and exclusively in the business of operating all or part of one or more eligible facilities to be located in Southaven, Mississippi. The eligible facilities will consist of a simple cycle electric generation plant with a nominal capacity of 640 MW and related interconnection facilities. The output of the eligible facilities will be sold at wholesale.

Comment Date: January 17, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Wisconsin Public Service Corporation, WPS Energy Services, Inc., WPS Power Development, Inc. (and its subsidiaries)

[Docket Nos. ER95–1528–006 and ER96–1088–031]

Take notice that on December 20, 2001, Wisconsin Public Service Corporation (WPSC), WPS Energy Services, Inc. (ESI) and WPS Power Development, Inc. (and its subsidiaries) (PDI) (collectively, the WPSR Companies), submitted a three-year update of the justification for their authorization to sell power at market-based rates.

The WPSR Companies state that copies of this filing have been served on the Public Service Commissions of Wisconsin, Michigan and Maine.

Comment Date: January 10, 2002.

4. Commonwealth Chesapeake Company, LLC

[Docket Nos. ER99–415–004]

Take notice that on December 21, 2001, Commonwealth Chesapeake Company, L.L.C. (Commonwealth Chesapeake) filed with the Federal Energy Regulatory Commission (Commission) an updated market power study in accordance with the Commission's order issued December 21, 1998 in Docket No. ER99–415 conditionally accepting for filing Commonwealth Chesapeake's market-based rate tariff.

Comment Date: January 11, 2002.

5. New York Independent System Operator, Inc.

[Docket Nos. ER00–3591–010 and ER00–1969–012]

Take notice that on December 21, 2001, the New York Independent System Operator, Inc. (NYISO) filed with the Federal Energy Regulatory Commission (Commission) revisions to its Market Administration and Control Area Services Tariff in order to update the references to the formula used to calculate locational reserve prices, pursuant to the Commission's order issued on June 29, 2001, in the above-captioned dockets.

The NYISO has requested an effective date of September 30, 2001, for the filing.

The NYISO has served a copy of this filing upon parties on the official service lists maintained by the Commission for the above-captioned dockets.

Comment Date: January 11, 2002.

6. American Transmission Company LLC

[Docket No. ER01–521–002]

Take notice that on December 21, 2001, American Transmission Company LLC (ATCLLC) tendered for filing a Revised Service Agreement No. 92 with additions to the Generation-Transmission Interconnection Agreement between Wisconsin Electric Power Company and ATCLLC.

ATCLLC requests an effective date of January 1, 2001.

Comment Date: January 11, 2002.

7. Consumers Energy Company

[Docket No. ER01–1587–003]

Take notice that on December 20 2001, Consumers Energy Company (Consumers) tendered for filing with the Federal Energy Regulatory Commission (Commission) under protest the following tariff sheets as part of its FERC Electric Tariff, First Revised Volume No. 6 and the following Service Agreement under that tariff in compliance with the Commission's November 20, 2001 order issued in this proceeding:

Substitute First Revised Sheet Nos. 142 and 171 and Second Substitute Service Agreement No. 62

The sheets are to have an effective date of May 17, 2001. The Service Agreement is to have an effective date of March 21, 2001. Also included in the filing is an extra cover sheet for the Service Agreement reflecting the fact that the Service Agreement was assigned to Michigan Electric Transmission Company, effective April 1, 2001.

Copies of the filing were served upon the Michigan Public Service Commission and those on the official service list in this proceeding.

Comment Date: January 10, 2002.

8. New England Power Company

[Docket No. ER01–2156–002]

Take notice, that on December 21, 2001, New England Power Company (NEP), as successor in interest to Montaup Electric Company (Montaup) submitted for filing an errata to notices of cancellation of Montaup's FERC Electric Tariff, First Revised Volume No. 1 (Montaup Tariff No. 1) and all service agreements thereunder filed on November 8, 2001 in the above-captioned proceeding. The notices of cancellation failed to state that NEP was also canceling all amendments and supplements to Montaup Tariff No. 1.

NEP states that this filing has been served upon all persons designated on the official service list compiled by the Secretary in this proceeding and all parties affected by the cancellation.

Comment Date: January 11, 2002.

9. Mid-Continent Area Power Pool

[Docket Nos. ER01–2189–003, ER01–2744–001, ER01–3003–002, ER01–3011–001 and ER02–112–002]

Take notice that on December 21, 2001, the Mid-Continent Area Power Pool, on behalf of its public utility members, filed a refund report related to orders by the Federal Energy Regulatory Commission in the above-referenced dockets.

A copy of this filing has been served on all parties to the service lists in the above-referenced proceedings and the state commissions in the MAPP region.

Comment Date: January 11, 2002.

10. Mirant Americas Energy Marketing, LP, Mirant Bowline, LLC, Mirant California, LLC, Mirant Canal, LLC, Mirant Chalk Point, LLC, Mirant Delta, LLC, Mirant Kendall, LLC, Mirant Lovett, LLC, Mirant Mid-Atlantic, LLC, Mirant Neenah, LLC, Mirant New England, LLC, Mirant NY-Gen, LLC, Mirant Peaker, LLC, Mirant Potomas River, LLC, Mirant Potereo, LLC, Mirant Zeeland, LLC, State Line Energy, L.L.C.

[Docket No. ER01–3110–001]

Take notice that on December 18, 2001, the captioned parties filed an amendment to their September 24, 2001 filing with the Commission in the captioned docket, in accordance with the Letter Order issued November 20, 2001.

Comment Date: January 8, 2002.

11. Pleasants Energy, LLC

[Docket Nos. ER02–26–001]

Take notice that on December 20, 2001, Pleasants Energy, LLC (Pleasants Energy) tendered for filing a revised Market-Based Rate Tariff, FERC Electric Tariff, Original Volume No. 1 (Revised Tariff) to comply with a letter order issued by the Commission on December 6, 2001 in the above-captioned proceedings (Letter Order). Pleasants Energy, LLC, 97 FERC ¶ 61,259 (2001). The Letter Order allows the Revised Tariff to become effective as of December 1, 2001.

Copies of the filing were served upon the Public Service Commission of West Virginia and the Virginia State Corporation Commission.

Comment Date: January 10, 2002.

12. Carolina Power & Light Company

[Docket No. ER02–52–001]

Take notice that on December 20, 2001, Carolina Power & Light Company (CP&L) filed, pursuant to the Letter Order issued on November 20, 2001 in the above-captioned proceeding, a compliance filing making the required changes to the executed Facility Interconnection and Operating Agreement between CP&L and Dominion Person, Inc.

Comment Date: January 10, 2002.

13. Virginia Electric and Power Company

[Docket No. ER02–63–001]

Take notice that on December 20, 2001, Virginia Electric and Power Company, doing business as Dominion Virginia Power, tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Generator Interconnection and Operating Agreement (Interconnection Agreement) with Wells Fargo Bank Northwest, National Association (Wells Fargo) that complies with the Commission's November 28, 2001 order (November 28th Order) in this docket. The executed Interconnection Agreement replaces the unexecuted Interconnection Agreement that was filed on October 9, 2001 and was accepted in the November 28th Order.

Dominion Virginia Power respectfully requests that the Commission accept this filing to make the executed Interconnection Agreement effective as of December 10, 2001, the same date the Commission made the unexecuted Interconnection Agreement effective in its November 28th Order.

Copies of the filing were served upon Wells Fargo Bank Northwest, National Association and the Virginia State Corporation Commission.

Comment Date: January 10, 2002.

14. PPL Electric Utilities Corporation

[Docket No. ER02–128–003]

Take notice that on December 18, 2001, PPL Electric Utilities Corporation (PPL Electric) and Williams Generation Company—Hazleton (WGC) filed with the Federal Energy Regulatory Commission (Commission) revisions to the Interconnection Agreement originally filed with the Commission on October 18, 2001, and supplemented on October 23, 2001 and November 26, 2001. PPL Electric and WGC request an effective date of October 19, 2001 for the Interconnection Agreement, as revised.

Comment Date: January 8, 2002.

15. Dominion Nuclear Marketing II, Inc.

[Docket No. ER02–589–000]

Take notice that on December 20, 2001, Dominion Nuclear Marketing II, Inc. (the Company) respectfully

tendered for filing with the Federal Energy Regulatory Commission (Commission) the following Service Agreement by Dominion Nuclear Marketing II, Inc. to Aquila Energy Marketing Corporation, designated as Service Agreement No. 6, under the Company's FERC Market-Based Sales Tariff, Original Volume No. 1, effective on November, 24, 2000.

The Company requests an effective date of December 13, 2001, as requested by the customer.

A copy of the filing was served upon Aquila Energy Marketing Corporation, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment Date: January 10, 2002.

16. Duke Power, a Division of Duke Energy Corporation

[Docket No. ER02–590–000]

Take notice that on December 20, 2001, Duke Power (Duke), a division of Duke Energy Corporation, tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement under Duke's Wholesale Market-Based Rate Tariff Providing for Sales of Capacity, Energy, or Ancillary Services and Resale of Transmission Rights between Duke and Consumers Energy Company d/b/a Consumers Energy Traders. Duke requests that the proposed Service Agreement be permitted to become effective on December 13, 2001. Duke states that this filing is in accordance with part 35 of the Commission's Regulations, 18 CFR Pt 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment Date: January 10, 2002.

17. PSI Energy, Inc.

[Docket No. ER02–591–000]

Take notice that on December 20, 2001, PSI Energy, Inc. (PSI), tendered for filing the Transmission and Local Facilities (T&LF) Agreement Calendar Year 2000 Reconciliation between PSI and Wabash Valley Power Association, Inc. (WVPA), and between PSI and Indiana Municipal Power Agency (IMPA). The T&LF Agreement has been designated as PSI's Rate Schedule FERC No. 253.

Copies of the filing were served on Wabash Valley Power Association, Inc., the Indiana Municipal Power Agency and the Indiana Utility Regulatory Commission.

Comment Date: January 10, 2002.

18. Wolverine Power Supply Cooperative, Inc.

[Docket No. ES02–18–000]

Take notice that on December 13, 2001, Wolverine Power Supply Cooperative, Inc. (Wolverine), filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to section 204 of the Federal Power Act (16 U.S.C. 824c) seeking authorization to enter into a loan agreement with the National Rural Utilities Cooperative Finance Corporation under which Wolverine would assume up to $22,750,000 in debt, and seeking an exemption from the Commission's competitive bidding and negotiated placement issuance requirements set forth in section 34.2 of the Commission's regulations.

Comment Date: January 11, 2002.

19. American Electric Power Service Corporation

[Docket No. ER01–3141–002]

Take notice that on December 20, 2001, the American Electric Power Service Corporation (AEPSC), tendered for filing with the Federal Energy Regulatory Commission (Commission) amended service agreements in compliance with the Commission's November 20, 2001 Order Accepting Transmission Service Agreements, as Modified, 97 FERC ¶ 61,207.

AEPSC requests an effective date of September 1, 2001. A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment Date: January 10, 2002.

20. Nevada Power Company

[Docket No. ER01–3149–002]

Take notice that on December 21, 2001, Nevada Power Company (Nevada Power) filed with the Federal Energy Regulatory Commission (Commission) pursuant to the Commission's Order issued in the above-referenced docket, a compliance filing making revisions to the unexecuted Interconnection and Operation Agreement between Nevada Power and Mirant Las Vegas, LLC.

Comment Date: January 11, 2002.

21. NU Operating Companies

[Docket No. ER02–217–001]

Take notice that on December 21, 2001, in compliance with the Federal Energy Regulatory Commission's (Commission) unreported letter order dated December 4, 2001 in the above-captioned proceeding, Northeast Utilities Service Company, on behalf of the Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company, and Public Service Company of New Hampshire, tendered for filing the corrected designation for NUSCO's market-based rate tariff, designated FERC Electric Tariff Third Revised Volume No. 7.

Comment Date: January 11, 2002.

22. Cambridge Electric Light Company, Central Maine Power Company, The Connecticut Light and Power Company, New England Power Company, Public Service Company of New Hampshire, and Western Massachusetts Electric Company

[Docket No. ER02–505–002]

Take notice that on December 20, 2001, Cambridge Electric Light Company, Central Maine Power Company, The Connecticut Light and Power Company, New England Power Company, Public Service Company of New Hampshire, and Western Massachusetts Electric Company (the Sponsors) submitted submit for filing a supplement to the Notice of Cancellations filed in this docket on December 7, 2001. The supplement gives notice of cancellation of a power contract between The Connecticut Light and Power Company (Connecticut Light) and Connecticut Municipal Electric Energy Cooperative (CMEEC). The contract to be canceled is The Connecticut Light and Power Company, Rate Schedule FERC No. 221.

Notice of the proposed cancellation has been served upon each person designated on the official service list for this proceeding and all affected customers.

Comment Date: January 10, 2002.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–171 Filed 1–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–54–000, et al.]

TXU Generation Company LP, et al.; Electric Rate and Corporate Regulation Filings

December 28, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. TXU Generation Company LP

[Docket No. EG02–54–000]

Take notice that on December 18, 2001, TXU Generation Company LP (TXU Generation) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Comment Date: January 18, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Yuba City Energy Center, LLC

[Docket No. EG02–59–000]

Take notice that on December 21, 2001, Yuba City Energy Center, LLC (Yuba City) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Yuba City, a Delaware limited liability company, proposes to own and operate one 48.7 MW simple cycle natural gas-fired combustion turbine peaking unit to be located in Yuba City, California. Yuba City will sell the output at wholesale to Calpine Energy Services, L.P.

Comment Date: January 18, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. ISO New England Inc.

[Docket No. EL00–62–041]

Take notice that on December 20, 2001, ISO New England Inc. (the ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), a compliance report on its Load Response Program and the addition of new generation in New England pursuant to the Commission's November 20, 2001 Order, 96 FERC ¶ 61,234 (2001).

Comment Date: January 22, 2002.

4. System Energy Resources, Inc.

[Docket No. ER95–1042–005]

Take notice that on December 21, 2001, Entergy Services, Inc. (Entergy Services), as agent for System Energy Resources, Inc. (SERI), submitted for filing with the Federal Energy Regulatory Commission (Commission) a refund report in compliance with the Commission's July 31, 2000 Order, 92 FERC ¶ 61,119.

Comment Date: January 11, 2002.

5. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER02–592–000]

Take notice that on December 21, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed Service Agreement No. 153 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services. Allegheny Energy Supply proposes to make service available as of November 30, 2001 to Dominion Nuclear Marketing II, Inc.

Comment Date: January 11, 2002.

6. Southern Company Services, Inc.

[Docket No. ER02–593–000]

Take notice that on December 21, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company (MPC), and Savannah Electric and Power Company (collectively referred to as Southern Companies), filed eight (8) agreements for network integration transmission service between Southern Companies and Energy Marketing, a department of SCS, as agent for MPC, under the Open Access Transmission Tariff of Southern Companies (FERC Electric Tariff, Fourth Revised Volume No. 5) for the delivery of power to the following delivery points all of which are member cooperatives of South Mississippi Electric Power Association (SMEPA): (1) Coast EPA's Wellman Delivery Point; (2) Singing River EPA's Monaca Lake Substation; (3) Singing River EPA's Hamill Farm Road Delivery Point; (4) Pearl River Valley EPA's OLOH Delivery Point; (5) Singing River EPA's Martin Bluff Road Delivery Point; (6) Coast EPA's Necaise Delivery Point; (7) Pearl River Valley EPA's Hattiesburg Industrial Park Delivery Point; and (8) Singing River EPA's South Lucedale Delivery Point. These agreements are being filed in conjunction with a power sale by SCS, as agent for MPC, to SMEPA under Southern Companies' Market-Based Rate Power Sales Tariff.

Comment Date: January 11, 2002.

7. PJM Interconnection, L.L.C.

[Docket No. ER02–594–000]

Take notice that on December 21, 2001, PJM Interconnection, L.L.C. (PJM), tendered for filing the following executed agreements: (i) a non-firm point-to-point transmission service agreement with WPS Westwood Generation, L.L.C. (WPS Westwood); and (ii) a non-firm point-to-point transmission service agreement with Sunbury Generation, L.L.C. (Sunbury). Copies of this filing were served upon WPS Westwood and Sunbury, and the state commissions within the PJM control area.

PJM requests a waiver of the Federal Energy Regulatory Commission notice requirements to permit an effective date of December 7, 2001, the date the agreements were executed.

Comment Date: January 11, 2002.

8. PJM Interconnection, L.L.C.

[Docket No. ER02–595–000]

Take notice that on December 21, 2001, PJM Interconnection, L.L.C. (PJM), tendered for filing: an executed network integration transmission service agreement with FirstEnergy Solutions Corporation (FirstEnergy). Copies of this filing were served upon FirstEnergy, and the state commissions within the PJM control area.

PJM requested a waiver of the Federal Energy Regulatory Commission's notice requirements to permit an effective date for the agreement of December 1, 2001, the date service under the agreement commenced.

Comment Date: January 11, 2002.

9. Southwest Power Pool, Inc.

[Docket No. ER02–596–000]

Take notice that on December 21, 2001, Southwest Power Pool, Inc. (SPP) submitted for filing an executed service agreement for Firm Point-to-Point

Transmission Service with Southwestern Public Service Company (Transmission Customer). A copy of this filing was served on the Transmission Customer.

SPP requests an effective date of January 1, 2002 for this service agreement.

Comment Date: January 11, 2002.

10. PJM Interconnection, L.L.C.

[Docket No. ER02–597–000]

Take notice that on December 21, 2001, PJM Interconnection, L.L.C. (PJM), at the request of, and on behalf of PPL Electric Utilities Corporation (PPL Electric) submitted for filing an Attachment H–8A to the PJM Open Access Transmission Tariff (PJM Tariff) and an agency agreement between PJM and PPL Electric. Attachment H–8A supplements Attachment H–8 to the PJM Tariff and sets forth ''Other Supporting Facilities Charges'' for transmission of service to certain municipal and cooperative customers utilizing PPL Electric's facilities at the primary voltage level of 12 kV. Because PJM does not have operational control over PPL Electric's facilities at voltage levels below 69 kV, the submitted agency agreement permits PJM to act as PPL Electric's agent for the purpose of executing service agreements with customers taking transmission service using PPL Electric's facilities at the primary voltage level of 12 kV and for performing tariff administration duties relating to such service.

At PPL Electric's request, PJM requests a waiver of the Federal Energy Regulatory Commission's notice requirements to permit an effective date of February 1, 1999, or in the alternative December 1, 2001, which is thirty days of the date of the filing.

Copies of this filing were served upon all affected customers and on the Pennsylvania Public Utility Commission.

Comment Date: January 11, 2002.

11. Soyland Power Cooperative, Inc.

[Docket No. ER02–598–000]

Take notice that on December 21, 2001, Soyland Power Cooperative, Inc. (Soyland) tendered for filing with the Federal Energy Regulatory Commission (Commission) proposed changes to its Rate Schedule A, designated as Supplement No. 2 to its Rate Schedules.

Soyland requests an effective date of January 1, 2002 for the proposed changes to its Rate Schedule A. Accordingly, Soyland requests waiver of the Commission's regulations. Rate Schedule A is the formulary rate under which Soyland recovers the costs associated with it service to its Members pursuant to the Wholesale Power Contract that Soyland has with each Member.

Comment Date: January 11, 2002.

12. California Independent System Operator Corporation

[Docket No. ER02–599–000]

Take notice that the California Independent System Operator Corporation (ISO), on December 21, 2001, submitted an informational filing as to the new transmission Access Charge rates that will be in effect on January 1, 2002.

The ISO states that this filing has been served the Public Utilities Commission of California, the California Energy Commission, the California Electricity Oversight Board, and all parties, including Vernon, with effective Scheduling Coordinator Agreements under the ISO Tariff.

Comment Date: January 11, 2002.

13. Western Systems Power Pool, Inc.

[Docket No. ER02–601–000]

Take notice that on December 21, 2001, the Western Systems Power Pool, Inc. (WSPP) submitted changes to the WSPP Agreement that modified certain commercial terms pertaining to the sale of power. WSPP seeks an effective date of March 1, 2002, for these changes.

Copies of this filing have been served on all state commissions within the United States. This filing also has been posted on the WSPP homepage (*www.wspp.org*) thereby providing notice to all WSPP members.

Comment Date: January 11, 2002.

14. Delta Energy Center, LLC

[Docket No. ER02–600–000]

Take notice that on December 21, 2001, Delta Energy Center, LLC, (the Applicant) tendered for filing, under section 205 of the Federal Power Act (FPA), a request for authorization to make wholesale sales of electric energy, capacity and ancillary services at market-based rates, to reassign transmission capacity, and to resell firm transmission rights. Applicant proposes to construct, own and operate a 880-megawatt electric generation facility located in Contra Costa County, California.

Comment Date: January 11, 2002.

15. American Electric Power Service Corporation

[Docket No. ER02–602–000]

Take notice that on December 21, 2001, the American Electric Power Service Corporation (AEPSC), submitted and requested acceptance of a Notice of Cancellation for each ERCOT Ancillary Service Agreement made pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff, Second Revised Volume No. 6.

AEP respectfully requests that the Commission waive its usual minimum notice requirements, and any other requirements of its Rules and Regulations with which this filing may not comply, and accept the notices of cancellation for these agreements to be effective January 1, 2002, or the earliest permissible date thereafter.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment Date: January 11, 2002.

16. Entergy Services, Inc.

[Docket No. RT01–75–001]

Take notice that on December 20, 2001, Entergy Services, Inc., on behalf of the Entergy Operating Companies, Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively Entergy), filed a notice of withdrawal of its application for approval of the Transco transmission rate structure filed with the Federal Energy Regulatory Commission on December 29, 2000 in Docket No. RT01–75–001.

Entergy has served a copy of this filing on all parties listed on the service list in Docket No. RT01–75–001.

Comment Date: January 10, 2002.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–214 Filed 1–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2161–006 Wisconsin; Project Nos. 2192–008 and 2110–003 Wisconsin]

Rhinelander Paper Company; Consolidated Water Power; Notice of Availability of Draft Multiple Project Environmental Assessment

December 28, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486,52 FR 47879), the Office of Energy Projects has reviewed the applications for license for the Rhinelander, Stevens Point, and Biron projects, located on the Wisconsin River, in Oneida, Portage, and Wood Counties, Wisconsin, and has prepared a Draft Multiple Project Environmental Assessment (DEA) for these projects. There are no federal lands occupied by the project works or located within the project boundaries.

The DEA contains the staff's analysis of the potential environmental effects of the project and concludes that licensing the projects, with appropriate environmental measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the DEA is on file with the Commission and is available for public inspection. The DEA 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).

Any comments should be filed within 45 days from the date of this notice and should be addressed to Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix the Project No. 2161, 2192, or 2110 to the comments. Comments 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.

For further information, contact Michael Spencer at 202–219–2846.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–176 Filed 1–2–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7125–8]

Agency Information Collection Activities; Proposed Collection; Comment Request; Public Water Systems Supervision Program: Public Notification Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq., this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Public Water Systems Supervision (PWSS) Program ICR: Public Notification Amendment, EPA No. 270.41; OMB No. 2040–0090. The current Public Notification ICR approval expires on 06/30/2002. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on the existing information collection as described below.

DATES: Comments must be submitted on or before March 5, 2002.

ADDRESSES: To obtain a copy of the draft Public Notification Amendment to the PWSS ICR without charge, please contact the Safe Drinking Water Hotline (800–426–4791). Hours of operation are 9 a.m. to 5:30 p.m. (ET), Monday–Friday, excluding Federal holidays. Copies are also available from the Office of Water Resource Center (RC4100), U.S. EPA Headquarters, 401 M Street SW., Washington, DC 20460. People interested in getting information or making comments about the Public Notification Amendment to the PWSS ICR should direct inquiries or comments to the Office of Ground Water and Drinking Water, Drinking Water Protection Branch, Mail Code 4606M, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lisa Christ (202) 564–8354, fax (202) 564–3755, E-mail: *christ.lisa@epa.gov.*

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are Public Water Systems, primacy agents including regulators in the States, Puerto Rico, the U.S. Trust Territories; Indian Tribes and Alaska Native Villages, and in some instances, U. S. EPA Regional Administrators and staff.

Title: Information Collection Request for Public Water Systems Supervision Program: Public Notification Amendment. The current Public Notification ICR (EPA No. 1898.02; OMB No. 2040–0209) expires June 30, 2002.

Abstract: The 2001 PWSS Program ICR is the result of a consolidation of some rules and activities covered in the 1993 PWSS ICR and activities and rules previously covered in other OGWDW standalone ICRs. The current Public Notification ICR will be renewed as an amendment to the 2001 PWSS Program ICR. This ICR amendment revises the burden estimate for public notification regulations, as required by sections 1414(a)(1) and (a)(2) of the Safe Drinking Water Act. Public water systems are required to give notification to all persons served when a violation of EPA drinking water standards occurs and for other situations posing a risk to health. EPA regulations define the form, manner, frequency, and content of the notices. Ensuring implementation of these requirements by public water systems is principally a responsibility of the States, territories and tribe that have assumed primary enforcement responsibility (primacy) for public water systems under SDWA section 1413.

An Agency may not conduct or sponsor and a person is not required to respond to, a collection of information if it does not display a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to: (i) 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; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and, (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology

(e.g., permitting electronic submission of responses).

Burden Statement: The estimated burden for Public Notification is approximately: 51,449 responses per year; 748,811 hours per year; and $4.035 million per year of total cost.

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. Any recommendations from the drinking water community and the general public on this issue will be given consideration by the Agency.

Dated: December 21, 2001.

William R. Diamond,

Director, Drinking Water Protection Division.

[FR Doc. 02–222 Filed 1–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7125–9]

Environmental Laboratory Advisory Board (ELAB), Nominees, Meeting Dates, and Agenda

AGENCY: Environmental Protection Agency.

ACTION: Notice, correction.

SUMMARY: The Environmental Protection Agency published a document in the **Federal Register** on November 9, 2001 (66 FR 56675). The Date of the ELAB meeting has been changed. The Environmental Protection Agency (EPA) is soliciting nominees to serve on the Environmental Laboratory Advisory Board (ELAB). Nominees are being sought to fill vacancies in the following category: Field Testing. Terms of service will commence upon selection and terminate on July 27, 2003. Application forms must be submitted to provide information on experience, abilities, stakeholder interest, organizational description, and references. A copy of the application form can be obtained on the Internet (see address below).

The date for the Environmental Laboratory Advisory Board of Directors meeting has been changed to 3 PM to 6 PM on December 4, 2001 and the meetings scheduled on December 6 and 7 have been canceled. The ELAB meeting will be held at the Crystal Gateway Marriott at 1700 Jefferson Davis Highway, Arlington VA. At this meeting the ELAB board will discuss issues, ideas, and opinions previously submitted and time permitting, will take comments and questions from the public. ELAB is soliciting input from the public on issues related to the NELAC environmental laboratory accreditation program and NELAC standards. The agenda of the ELAB December 4 meeting will be based on input gathered from written comments as well as a review of recommendations and activities from earlier Board meetings.

Written comments on NELAC laboratory accreditation and standards are encouraged and should be sent to Edward Kantor DFO, PO Box 93478, Las Vegas NV 89193, or can be faxed to (702) 798–2261 or E-mailed to *kantor.edward@epa.gov.* ELAB nominee applications can be found at *http://www.epa.gov/ttn/nelac/arcmisc.html* and should be mailed, faxed, or E-mailed to the addresses previously given.

http://www.epa.gov/ttn/nelac/arcmisc.html

Dated: November 8, 2001.

John G. Lyon,

Director, Environmental Sciences Division, National Environmental Research Laboratory.

[FR Doc. 02–221 Filed 1–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6625–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa.* Weekly receipt of Environmental Impact Statements Filed December 24, 2001 Through December 28, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010538, Final EIS, FHW, WI, County Highway J/WIS 164 (I–94 to County E) Corridor Improvements Project, Funding, City of Pewaukee, Villages of Pewaukee and Sussex, Towns of Lisbon, Richfield and Polk, Waukesha and Washington Counties, WI, Wait Period Ends: January 28, 2002, Contact: Richard Madzak (608) 829–7510.

The above FHW EIS should have appeared in the December 28, 2001 **Federal Register**. The 30-day Wait Period is Calculated from December 28, 2001.

EIS No. 010539, Final EIS, COE, CA, White Slough Flood Control Study, Tidal Circulation Improvements and Section 205 Program Authorities Continuation, Vallejo Sanitation and Flood Control District, City of Vallejo, Solano County, CA, Wait Period Ends: January 28, 2002, Contact: Tamara Terry (415) 977–8545.

The above COE EIS should have appeared in the December 28, 2001 **Federal Register**. The 30-day Wait Period is Calculated from December 28, 2001.

EIS No. 010540, Draft EIS, FTA, AZ, Central Phoenix/East Valley Light Rail Transit Corridor, Construction, Operation and Maintenance, Funding, Cities of Phoenix, Tempe and Mesa, Maricopa County, AZ, Comment Period Ends: February 19, 2002, Contact: Hymie Luden (415) 744–3115.

EIS No. 010541, Draft EIS, COE, TX, Texas City's Proposed Shoal Point Container Terminal Project, Containerized Cargo Gateway Development, US Army COE Section 404 and 10 Permits Issuance, Dredged Material Placement Area (DMPA), City of Texas, Galveston County, TX, Comment Period Ends: February 19, 2002, Contact: Sharon Manella Tirpak (409) 766–3931.

EIS No. 010542, Draft Supplement EIS, AFS, MT, Clancy-Unionville Vegetation Manipulation and Travel Management Project, Updated and New Information concerning Cumulative Effects and Introduction of Alternative F, Clancy-Unionville Implementation Area, Helena National Forest, Helena Ranger District, Lewis and Clark and Jefferson Counties, MT, Comment Period Ends: February 19, 2002, Contact: Jerry Meyer (406) 449–5201.

EIS No. 010543, Final EIS, NOA, CA, Goat Canyon Enhancement Project, Sediment Basins, Staging Area and Visual Screening Berm Establishment, Tijuana River National Estuarine Research Reserve (TRNERR), Imperial Beach, City and County of San Diego, CA, Wait Period Ends: February 04, 2002, Contact: Nina Garfield (301) 563–1171.

EIS No. 010544, Final EIS, USA, CA, Oakland Army Base Disposal and Reuse Plan, Implementation, City of

Oakland, Alameda County, CA, Wait Period Ends: February 04, 2002, Contact: Theresa Persick Arnold (703) 697–0216.

Dated: December 31, 2001.

Anne Norton Miller,

Director, Office of Federal Activities.

[FR Doc. 02–227 Filed 1–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6625–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (66 FR 27647).

Draft EISs

ERP No. D–BIA–K39071–00 Rating EC2, Truckee River Water Quality Settlement Agreement and Federal Water Right Acquisition, Implementation, Truckee River, Placer County, CA and Washoe, Storey and Lyon Counties, NV.

Summary: EPA recognized the WQSA signatories work to permanently improve Truckee River water quality and reduce violations of water quality standards. EPA encouraged them to continue to work with us in achieving full compliance with water quality standards. EPA expressed concerns with alternatives, monitoring and mitigation, and cumulative impacts.

ERP No. D–BLM–K40248–AZ Rating EC2, Diamond Bar Road Improvement Project, Road Pavement and Realignment of sections through Grapevine Wash, Right-of-Way Permits Issuance, Mohave County, AZ.

Summary: EPA expressed environmental concerns with potential cumulative impacts, particularly, those from reasonably foreseeable development scenarios. EPA suggested that alternatives further minimize adverse impacts to vegetation, wildlife and cultural resources.

ERP No. D–COE–D36179–WV Rating EO2, Marlington Local Flood Protection, Flood Damage Reduction Measures Evaluation, Levee and Floodwall Construction for Knapp Creek Flood Management, Greenbrier River, Town of Marlington, Pocahontas County, WV.

Summary: EPA expressed environmental concerns that non-structional alternatives, including relocation of residential and non-residential structures to a flood safe site, were not evaluated in detail. Insufficient information is provided for a reasonably available alternative (relocation) which could reduce the environmental impacts of the proposal.

ERP No. D–NOA–L91016–AK Rating LO, American Fisheries Act Amendments 61/61/13/8: Amendment 61 Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Amendment 61 Groundfish of the Gulf of Alaska; Amendment 13 Bering Sea and Aleutian Islands King and Tanner Crab, and Amendment 8 Scallop Fishery off Alaska, Fishery Management Plans, AK.

Summary: EPA lacked objections to ending the traditional race for fish by implementing action alternatives associated with the American Fisheries Act (AFA) because it results in a safer, more efficient fishery that utilizes a higher percentage of pollock biomass harvested. EPA suggested that the fishing industry could exploit the temporal and spatial discretion afforded by AFA, and extract a greater percentage of biomass to further reduce impacts of process waste discharge to water quality.

ERP No. DS–NRC–A00150–00 Rating EC2, Decommissioning of Nuclear Facilities, Updated Information on Dealing With Decommissioning of Nuclear Power Reactors (NUREG–0586).

Summary: EPA expressed environmental concerns with this supplement to a generic EIS and requested clarifications and supplementary information on: determining when a particular decommissioning activity or site or operating condition is covered by the generic analysis; explaining the differing impact levels and the assumptions used in setting them; updating the analysis of the site's environmental condition; and, providing a more robust discussion of impacts to ground water.

Final EISs

ERP No. F–AFS–L65377–OR, South Fork Burnt River Ranger Planning Area, Development of Five New Allotment Management Plans (AMPS), Wallowa-Whitman National Forest, Unity Ranger District, Baker County, OR.

Summary: While the FEIS added additional technical information on restoration actions, EPA continued to have some environmental concerns with the project. Principally, the FEIS did not include a no-graze or reduced graze restoration alternative.

ERP No. F–COE–J64008–SD, Title VI Land Transfer South Dakota, Transfer of 91,178 Acres of Land at Lake Oahe, Lake Sharp, Lake Francise Case, and Lewis and Clark Lake, from the US Army Corps of Engineers (USACE) to the South Dakota Department of Game, Fish and Parks (SDGFP), SD.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–F50003–IL, Fox River Bridge Crossings, Construction of up to Five-Bridges across the Fox River, Funding and NPDES and US Army COE Section 10 and 404 Permits Issuance, Kane County, IL.

SUMMARY: Based upon the highway agency's commitments (on travel-related mitigation and wetland compensation), EPA had no significant environmental concerns with the preferred alternative. EPA believed that the preferred alternative can satisfy the project's purpose and need while adequately mitigating direct and indirect impacts.

ERP No. F–FRC–L05221–WA, Cowlitz River Hydroelectric Project (No. 2016–044), Relicensing of the Existing 462–Megawatt Cowlitz River Hydroelectric Project, City of Tacoma, WA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. FS–NPS–K61137–AZ, Organ Pipe Cactus National Monument General Management Plan and Development Concept Plan, Updated Information concerning Re-Analysis of Cumulative Effects of the Sonoran Pronghorn Portion of the Sonoran Desert, Pima County, AZ.

Summary: No formal comment letter was sent to the preparing agency.

Dated: December 28, 2001.

Anne Norton Miller,

Director, Office of Federal Activities.

[FR Doc. 02–228 Filed 1–3–02; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34225F; FRL–6812–6]

Diazinon; Receipt of Requests for Amendments and Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Several companies that manufacture diazinon (O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate) pesticide products

have asked EPA to cancel or amend the registrations for their end-use products containing diazinon to delete all indoor uses, certain agricultural uses and certain outdoor non-agricultural uses. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these requests. These requests for voluntary termination of the above mentioned uses through registration cancellations or amendments were submitted to EPA in July, August, September, and October 2001. EPA intends to grant these requests by issuing a cancellation order at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of these requests. Upon the issuance of the cancellation order, any distribution, sale, or use of diazinon products listed in this Notice will only be permitted if such distribution, sale, or use is consistent with the terms of that order.

DATES: Comments on the requested amendments to delete uses and the requested registration cancellations must be submitted to the address provided below and identified by docket control number OPP–34225F. Comments must be received on or before February 4, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34225F in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: John Hebert, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–6249; fax number: 703–308–7042; e-mail address: hebert.john@epa.gov.

SUPPLEMENTARY INFORMATION: This announcement consists of three parts. The first part contains general information. The second part addresses the registrants' requests for registration cancellations and amendments to delete uses. The third part proposes existing stocks provisions that will be set forth in the cancellation order that the Agency intends to issue at the close of the comment period for this announcement.

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 diazinon 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'' 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 for diazinon, go to the Home Page for the Office of Pesticide Programs or go directly to http://www.epa.gov/pesticides/op/diazinon.htm.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34225F. 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.

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–34225F in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34225F. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public

version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses

A. Background

Certain registrants requested in letters dated June, August, and September 2001, that their diazinon registrations be amended to delete all indoor uses, certain agricultural uses, and any other uses that the registrants do not wish to maintain. The requests also included deletions of outdoor non-agricultural uses from the labeling of certain end-use products so that such products would be labeled for agricultural uses only. Similarly, other diazinon end-use registrants requested voluntary cancellation of their diazinon end-use registrations with indoor use and/or certain outdoor non-agricultural uses, and any other uses that the registrants do not wish to maintain. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these requests. These requested cancellations and amendments are consistent with the requests in December 2000 by the manufacturers of diazinon technical products, and EPA's approval of such requests, to terminate all indoor uses and certain agricultural uses from their diazinon product registrations because of EPA's concern with the potential exposure risk, especially to children. The indoor uses and agricultural uses subject to cancellation are identified in List 1 below:

List 1--Uses to be Canceled

Indoor uses: Pet collars, or inside any structure or vehicle, vessel, or aircraft or any enclosed area, and/or on any contents therein (except mushroom houses), including but not limited to food/feed handling establishments, greenhouses, schools, residences, commercial buildings, museums, sports facilities, stores, warehouses and hospitals.

Agricultural uses: Alfalfa, bananas*, Bermuda grass, dried beans, dried peas, celery*, red chicory (radicchio), citrus, clover, coffee, cotton, cowpeas, cucumbers*, dandelions, forestry (ground squirrel/rodent burrow dust stations for public health use)*, kiwi, lespedeza, parsley*, parsnips*, pastures, peppers*, potatoes (Irish and sweet)*, sheep, sorghum, squash (winter and summer)*, rangeland, Swiss chard*, tobacco, and turnips (roots and tops)*. (The Agency does not intend to disapprove or cancel any 24(c) Special Local Need registrations issued for the uses designated with an asterisk).

As mentioned above, the requests announced in this **Federal Register** notice also include registration cancellations and/or amendments to terminate certain uses that the registrants do not wish to maintain. The specific requests are identified in Tables 1 and 2 of this notice.

EPA has begun the process of reviewing the requested amendments which cannot be finalized until the end of the public comment period and provided that no substantial comments need to be addressed. EPA also intends to grant the requested product and use cancellations by issuing a cancellation order at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of these requests.

B. Requests for Voluntary Cancellation of End-Use Products

The registrants and end-use product registrations containing diazinon for which cancellation was requested are identified in the following Table 1.

TABLE 1.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS

Company	Registration Number	Product
Bonide Products, Inc.	4-191 4-204 4-209 4-272 4-284 4-359 4-411 4-416 4-417	Bonide Lawn and Garden Insect Control with Diazinon 25% EC Bonide Ant Dust with Diazinon Bonide Diazinon 2 1/2 G Bonide Diazinon Soil Insect Granules Bonide Garden Soil Insecticide Diazinon 5% G Bonide Diazinon 4E Insecticide Bonide Diazinon Insect Control Ready-To-Use Bonide Lawn and Garden Spray with Diazinon Bonide Ant and Soil Insect Granules
The Scotts Company	239-2350 239-2602 239-2659 239-2660	Ortho Fruit and Vegetable Insect Control Ortho Home Pest Insect Killer Formula II Ortho Diazinon Reacy Spray Insect Killer Ortho Diazinon Lock'n Spray Insect Killer
Value Garden Supply, LLC	769-509	Diazinon 4-E
Southern Agricultural Insecticides, Inc.	829-261	SA-50 Brand Diazinon 4E Insecticide

TABLE 1.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS—Continued

Company	Registration Number	Product
Agriliance	1381-151 1381-164	Imperial 5% Diazinon Granular Insect Control Agrox DL Plus
Voluntary Purchasing Groups, Inc.	7401-86 7401-96 7401-99 7401-102 7401-103 7401-104 7401-105 7401-110 7401-214 7401-223 7401-236 7401-262 7401-277 7401-278 7401-295 7401-442	Ferti-lome® Worm Spray Ferti-lome® Lawn Insect Killer Ferti-lome® Special Cricket Spray Ferti-lome® Bagworm Spray Ferti-lome® Diazinon Chinch Bug Spray Ferti-lome® Vegetable Spray Ferti-lome® Aphid Spray Ferti-lome® Liquid Rose Spray Ferti-lome® Improved Rose Dust Ferti-lome® White Grub Spray Ferti-lome® White Grub Killer Ferti-lome® Lawn Food Containing Diazinon Ferti-lome® Wasp and Hornet Killer Ferti-lome® Ant and Roach Spray Ferti-lome® Garden Dust Hi-Yield Diazinon 4E Insect Spray
Gowan Company	10163-68 10163-103	Prokil Diazinon 4EC Gowan Diazinon 50WP
Lesco	10404-11	Diazinon 500 Insecticide
Platte Chemical Co.	34707-229 34704-288	Clean Drop Diazinon 4E Clean Drop Diazinon Seed Protectant
Hi-Yield Chemical Company	34911-3 34911-14 34911-15 34911-22 34911-24	Hi-Yield® Diazinon Insect Spray Hi-Yield® Diazinon Dust Hi-Yield® Ready-to-Use Professional Kill-A-Bug Hi-Yield® General Purpose Garden Dust Hi-Yield® Imported Fire Ant Killer
Control Solutions Inc.	53883-47	Martin's Diazinon Household Insect Spray Ready to Use

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that EPA cancel any of their pesticide registrations. Section 6(f)(1)(B) of FIFRA requires that EPA provide a 30–day period in which the public may comment before the Agency may act on the request for voluntary cancellation. In addition, 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: (1) The registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. In this case, all of the registrants have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested cancellations. Because of risk concerns posed by certain uses of diazinon, EPA intends to grant the requested cancellations at the close of the comment period for this announcement unless the Agency receives any substantive comment within the comment period that would merit its further review of these requests.

C. Requests for Voluntary Amendments to Delete Uses From the Registrations of End-Use Products

Pursuant to section 6(f)(1)(A) of FIFRA, the following companies have submitted a request to amend the registrations of their pesticide end-use products containing diazinon to delete certain uses from certain products. The following Table 2 identifies the registrants, the product registrations that they wish to amend, and the uses that they wish to delete through registration amendments.

TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS

Company	Registration Number	Product Name: Use Deletions
Value Garden Supply, LLC	192-161	Dexol Diazinon 5% Granules: Celery
Riverdale	228-177	Riverdale 5% Diazinon Insect Killer Granules
The Scotts Company	239-2364 239-2619 239-2643	Ortho Diazinon Insect Spray: Almonds Ortho Hi-Power Ant, Roach, and Spider Spray Formula II: Indoor Uses Diazinon Insect Spray 2: Almonds
Value Garden Supply, LLC	769-689	SMCP Diazinon AG500: Lawn Pest Control, Nuisance Pests in Outside Areas, and Barrier Strips

TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS—Continued

Company	Registration Number	Product Name: Use Deletions
	769-841	Miller Diazinon AG Insecticide: Field and Forage Uses, Mushroom Houses, Olives, Figs, Filberts and Pineapples
	769-954	AllPro Diazinon 50 WP Insecticide: Lawn Uses, Nuisance Pests, and Grassland Pests
Voluntary Purchasing Groups, Inc.	7401-213	Hi-Yield Diazinon AG500 Insecticide: Almonds, celery, cucumbers, parsley, parsnips, peppers, potatoes (Irish), squash (summer and winter), sweet potatoes, swiss chard, turnips, grassland insects, and lawn pest control
	7401-216	Ferti-lome® Diazinon Insect Spray: Almonds
	7401-441	Ferti-lome® Diazinon Water Base Concentrate: Almonds
Gowan Company	10163-100	Diazinon 4E: Beans, cucumbers, parsley, parsnips, peas, peppers, potatoes, squash (summer and winter), sweet potatoes, swiss chard, turnips, indoor ornamentals, lawn pest control, and nuisance pests
	10163-104	Diazinon 14G: Beans, celery, cucumbers, parsley, peas, peppers, potatoes, squash (summer and winter), sweet potatoes, swiss chard, turnips, and indoor ornamentals
	10163-116	Diazinon 5G: Beans, celery, cucumbers, parsley, peas, peppers, potatoes, squash (summer and winter), sweet potatoes, swiss chard, turnips, indoor ornamentals, and lawn pest control
	10163-163	Diazinon 50-WSB: Beans, cucumbers, parsley, parsnips, peas, peppers, potatoes, squash (summer and winter), sweet potatoes, swiss chard, turnips, grassland insects, livestock Insects, fly control in livestock structures, and indoor ornamentals
	10163-241	Diazinon 5F: Beans, cucumbers, parsley, parsnips, peas, peppers, potatoes, squash (summer and winter), sweet potatoes, swiss chard, turnips, grassland insects, lawn pest control, nuisance pests, and indoor ornamentals
Hi-Yield Chemical Co.	34911-13	Hi-Yield 5% Diazinon Insect Killer Granules: Celery
Control Solutions Inc.	53883-45	Martin's Diazinon 25E Lawn and Garden Insect Control: Almonds and Walnuts
	53883-51	Martin's 5% Diazinon Granules: Celery

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. The aforementioned companies have requested to amend their registrations and have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested amendments to delete uses. Because of risk concerns posed by certain uses of diazinon, EPA intends to grant the requested amendments to delete uses at the close of the comment period for this announcement, unless the Agency receives any substantive comment within the comment period that would merit its further review of these requests.

III. Proposed Existing Stocks Provisions

EPA received requests for voluntary cancellation of the diazinon registrations identified in Tables 1 and requests for amendments to terminate certain uses of the diazinon registrations identified in Table 2. Pursuant to section 6(f) of FIFRA, EPA intends to grant these requests by issuing a cancellation order at the end of the 30–day comment period unless the Agency receives any substantive comment within the comment period that would merit its further review of these requests. In the event that EPA issues a cancellation order, EPA intends to include in that order the existing stocks provisions set forth in this section. For purposes of that cancellation order, the term ''existing stocks'' will be defined, pursuant to EPA's existing stocks policy published in the **Federal Register** of June 26, 1991 (56 FR 29362), 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 cancellation or amendment. Any distribution, sale, or use of existing stocks after the effective date of the cancellation order that the Agency intends to issue 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.

EPA intends that the cancellation order includes the following existing stocks provisions:

1. *Distribution or sale of products bearing instructions for use on agricultural crops.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use on the agricultural crops identified in List 1 will not be lawful under FIFRA 1 year after the effective date of the cancellation order. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 1 or 2 that bears instructions for any of the agricultural uses identified in List 1 after the effective date of the cancellation order. However, it is lawful to ship such stocks for export consistent with the requirements of section 17 of FIFRA, or to properly dispose of the existing stocks in accordance with all applicable law.

2. *Distribution or sale of products bearing instructions for use on outdoor non-agricultural sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use on outdoor non-agricultural sites will not be lawful under FIFRA 1 year after the effective date of the cancellation order. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 1or 2 that bears instructions for use on outdoor non-agricultural sites after the effective date of the cancellation order. However, it is lawful to ship such stocks for export consistent with the

requirements of section 17 of FIFRA, or to properly dispose of the existing stocks in accordance with all applicable law.

3. *Distribution or sale of products bearing instructions for use on indoor sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use at or on any indoor sites (except mushroom houses), shall not be lawful under FIFRA as of the effective date of the cancellation order, except for shipping stocks for export consistent with the requirements of section 17 of FIFRA, or properly disposing of the existing stocks in accordance with all applicable law.

4. *Retail and other distribution or sale of existing stock of products for indoor use.* The distribution or sale of existing stocks by any person other than the registrants of products listed in Table 1 or 2 bearing instructions for any indoor uses except mushroom houses will not be lawful under FIFRA after December 31, 2002, except for shipping stocks for export consistent with the requirements of section 17 of FIFRA, or properly disposing of the existing stocks in accordance with all applicable law.

5. *Use of existing stocks.* EPA intends to permit the use of existing stocks of products listed in Table 1 or 2 until such stocks are exhausted, provided such use is in accordance with the existing labeling of that product.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: December 19, 2001.

Lois A. Rossi,

Director, Special Review and Registration Division, Office of Pesticide Programs.

[FR Doc. 02–225 Filed 1–3–02 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1059; FRL–6812–2]

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–1059, must be received on or before February 4, 2002.

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–1059 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, 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	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' 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–1059. 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–1059 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–1059. 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: December 17, 2001.

Peter Caulkins,

Acting 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 petitioners. 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.

PP IF06300

EPA has received a pesticide petition (IF06300) from Aventis CropScience, 2 Alexander Drive, Research Trianagle Park, NC 27709 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of fenamidone, and its metabolites RPA 412708, RPA 412636, and RPA 410193 in or on the raw agricultural commodities: Potato, 0.05 parts per million (ppm) tomato, 1.0 ppm; tomato paste, 3.5 ppm, tomato puree, 3.5 ppm, bulb vegetable crop group, 1.5 ppm; cucurbit crop group, 0.1 ppm; head lettuce, 15.0 ppm; leaf lettuce, 20.0 ppm; wheat grain, 0.05 ppm, wheat straw, 0.5 ppm; wheat forage, 0.5 ppm, and wheat hay, 0.5 ppm. Tolerances are also proposed for fenamidone and its metabolite RPA 410193 on imported wine grapes at 0.5 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The plant metabolism of fenamidone (RPA 407213) is adequately understood in four distinct crops (lettuce, tomatoes, potatoes, and grapes) to support these tolerances. In all cases, the primary residue was the parent fungicide, RPA 407213. The only significant metabolite was RPA 410193 (~17 of the total radioactive residue (TRR) in grapes, ~9% of the TRR in tomatoes, <1% of the TRR in lettuce (mostly in the wrapper leaves), and <1% of the TRR in potatoes (haulm or tubers)). RPA 412708 and RPA 412636 were minor metabolites reported in the lettuce and potato metabolism studies, and may account for part of the unidentified residue reported in the grape and tomato metabolism studies.

2. *Analytical method*. Although residue levels approaching the proposed tolerances are unlikely, independently validated enforcement methods are available for determining residues of fenamidone and relevant metabolites. Residues are first extracted from the crop matrix by blending or shaking with a mixture of acetonitrile and water. After filtration, an aliquot of the extract is rotary evaporated to near dryness; then diluted with water. Cleanup is accomplished on a HRP polymeric solid phase extraction (SPE) cartridge and an amino SPE cartridge. Residues are quantified by high performance liquid chromotography (HPLC) with tandem mass spectrometric detection (LC/MS/MS). The method limits of quantification (LOQ) are 0.02 ppm for fenamidone, and its metabolites, RPA 412636, RPA 412708, and RPA 410193 in potato tubers, and processed fractions, tomatoes and processed fractions, cucumbers, squash, cantaloupes, head and leaf lettuce, onions, spinach, and wheat raw agricultural commodities and processed fractions.

3. *Magnitude of residues*—i. *Cucurbit crops*. The magnitude and decline of residues of fenamidone were determined on cucumber, cantaloupe, and summer squash, the representative commodities for the cucurbit vegetable

crop group. Nine field trials were conducted on each crop during 1999. EXP 10623A, a suspension concentrate end use formulation containing 500 g fenamidone per liter, was applied as six broadcast applications, each at the maximum rate of 0.178 lb ai/acre (200 g ai/A/ha). Applications were made approximately 5 days apart. The target pre-harvest interval (PHI) was 14 days. Residues of fenamidone RPA 407213 were detected in two of nine trials of cucumbers at levels of 0.022 to 0.041 ppm, with the metabolite RPA 412708 measured in only one trial at 0.028 ppm. Quantifiable residues of fenamidone were measured in eight of nine trials of cantaloupes at levels ranging from 0.021 to 0.098 ppm, with no quantifiable residues of metabolites detected. Residues of parent fenamidone were found in only one of nine summer squash trials at 0.039 to 0.077 ppm with no quantifiable residues of any metabolites detected.

ii. *Tomato*. Seventeen residue trials were conducted in 1999–2000. EXP 10623A, a suspension concentrate containing 500 g fenamidone per liter, was applied as four broadcast applications of 0.268 lb ai/acre (300 g ai/ha) each or six broadcast applications of 0.178 lb ai/acre (200 g ai/A) each, for a maximum seasonal use rate of 1.068 lb ai/acre (1,200 g ai/ha). Applications were made approximately 5 days apart. The target PHI was 14 days. Cherry tomatoes were grown at 4 of the 18 trials. Trace residues of the fenamidone metabolite RPA 410193 were detected in tomatoes from only one trial, on cherry tomatoes, at levels of 0.023 to 0.028 ppm. Measurable residues of the parent fungicide, fenamidone were found in tomatoes from 15 of the 17 harvestable trials at levels ranging from 0.044 to 0.800 ppm. The residues did not seem to correlate with the application scenario. The extent of potential residue concentration in processed tomato fractions was estimated by processing tomatoes after application of fenamidone at 5X the maximum seasonal use rate. Fenamidone residues concentrated in tomato puree by a factor of about 2.2 and in tomato paste by a factor of about 3.5. When corrected to account for the exaggerated application rate, residue levels were 0.089 ppm in whole tomato fruit, 0.198 ppm in tomato puree and 0.316 ppm in tomato paste.

iii. *Lettuce*. In 2000, nine residue trials were conducted with fenamidone on leaf lettuce and nine trials were conducted on head lettuce. EXP 10623A was applied as four broadcast applications of 0.268 lb ai/acre (300 g ai/ha) each, for a maximum seasonal use rate of 1.068 lb ai/acre (1,200 g ai/ha). Applications were made approximately 5 days apart. The target PHI was 2 days. Residues of the parent fungicide, fenamidone (RPA 407213) were found in/on leaf lettuce from all nine trials at levels ranging from <LOQ to 17.5 ppm. Low levels of the metabolites RPA 410193 and RPA 412708 were found in five of the nine trials of leaf lettuce at levels up to 0.049 ppm. The metabolite RPA 412636 was found in one sample of leaf lettuce at a level of 0.031 ppm. Residues of the parent fungicide, fenamidone RPA 407213 were found in/on head lettuce from all nine trials at levels ranging from 0.815 to 11.7 ppm with the wrapper leaves, and from <LOQ to 2.90 ppm with the wrapper leaves removed. Low levels of the metabolite RPA 410193 were found in four of the nine trials of head lettuce with wrapper leaves at levels up to 0.029 ppm but not detected after the wrapper leaves were removed. Low levels of the metabolite RPA 412708 were found in five of the nine trials of head lettuce with wrapper leaves at levels up to 0.047 ppm but found in samples from only two trials after the wrapper leaves were removed. The metabolite RPA 412636 was found in head lettuce from only one trial at a level of 0.031 ppm before the wrapper leaves were removed and not at all after the wrapper leaves were removed.

iv. *Potato*. Eighteen residue trials were conducted with fenamidone on potatoes in 1999. EXP 10623A, a suspension concentrate containing 500 g fenamidone per liter, was applied as four broadcast applications of 0.268 lb ai/acre (300 g ai/ha) each or six broadcast applications of 0.178 lb ai/acre (200 g ai/ha) each, for a maximum seasonal use rate of 1.068 lb ai/acre (1200 g ai/ha). Applications were made approximately 5 days apart. The target PHI was 14 days. No quantifiable residues of fenamidone or metabolites were found in any potato tuber sample above the LOQ (0.02 ppm). The extent of potential residue concentration in processed potato fractions was estimated by processing potatoes after application of fenamidone at 5X the maximum seasonal use rate. The potato fractions included flakes, chips and wet peel. There were no measurable residues in the potato tuber or the potato chips despite the exaggerated application rate. Only parent fungicide, fenamidone RPA 407213, residues were found in the wet peel at levels of 0.043 to 0.049 ppm with an estimated concentration factor of 4.6. Trace residues of two fenamidone metabolites were found only in the potato flake fraction, RPA 412708 at 0.029 to 0036 ppm and RPA 412636 at 0.026 ppm. When corrected to account for the exaggerated application rate, residue levels of processed fractions were < the RAC LOQ of 0.02 ppm.

v. *Onions*. The magnitude and decline of fenamidone residues was determined on both dry bulb and green onions. There were eight harvestable trials of dry bulb onions and four harvestable trials of green onions. EXP 10623A, a suspension concentrate containing 500 g fenamidone per liter, was applied as six broadcast applications of 0.178 lb ai/acre (200 g ai/ha) each, for a maximum seasonal use rate of 1.068 lb ai/acre (1200 g ai/ha). Applications were made approximately 7 days apart. The target PHI was 7 days. Trace residues of the fenamidone metabolite RPA 412636 were detected in dry bulb onions from only one trial, at levels of 0.027 to 0.035 ppm. Measurable residues of the parent fungicide, fenamidone (RPA 407213), were found in dry bulb onions from only two of the eight harvestable trials at levels ranging from 0.021 to 0.126 ppm. Residues of the parent fungicide, fenamidone RPA 407213, were found in scallions collected from all four green onion trials at levels of 0.221 to 1.10 ppm. Low levels, up to 0.058 ppm, of each of the metabolites were detected in scallions from some of the four green onion trials.

vi. *Wheat*. Twenty–two residue trials were conducted with fenamidone on wheat in the 1999–2000 season. At each trial, a single broadcast application of the fenamidone was made to bare soil at 1.068 lb ai/acre (1,200 g ai/ha) in the fall (September-October 1999), which is the maximum recommended seasonal use rate. The test substance was EXP 10623A, a soluble concentrate containing 500 g fenamidone per liter. The winter wheat was planted 30 days after application and was harvested the following summer of 2000. Storage stability studies indicate that fenamidone and its metabolites are stable for the length and condition of storage (see 6.1.1 Stability of Residues During Storage of Samples for details). No quantifiable residues were found in any UTC samples. No residues of fenamidone or metabolites were found in wheat grain from any of the 22 trials. The limit of detection was 0.006 ppm. Low but quantifiable levels of the metabolite RPA 412636 were found in wheat forage from 10 of the 22 trials. The residues of RPA 412636 ranged from 0.021 to 0.071 ppm in the wheat forage tissue. Residues of the metabolite RPA 412708 were measurable 0.031 to 0.071 ppm in wheat forage from 3 of the 22 trials. Measurable levels of the metabolite RPA 412636 were found in

wheat hay from 16 of the 22 trials. The residues of RPA 412636 ranged from 0.022 to 0.321 ppm in the wheat hay tissue. Residues of the metabolite RPA 412708 were measured at the LOQ of 0.020 ppm in 1 sample of wheat hay from 44 samples from the 22 trials. Measurable residues of the metabolite RPA 412636, ranging from 0.022 to 0.200 ppm, were found in wheat straw from 14 of the 22 trials.

vii. *Wine grapes*. Seventeen residue trials were conducted with fenamidone on grapes in the 1997 and 1998 growing seasons in Western Europe. In each case, the fenamidone was applied in combination formulations to be registered in Europe (Fosetyl-Al, mancozeb, copper and/or BAY 12921F). At each trial, multiple broadcast applications of fenamidone were made to grape vines at rates of 0.083 to 0.118 lb ai/acre (93 to 133 g ai/ha) each. Applications were made approximately 7 or 14 days apart. The target PHI was 20 to 40 days. The storage stability studies indicate that fenamidone residues are stable for the length and condition of storage. No quantifiable residues were found in any UTC samples. Measurable residues of the parent fungicide, fenamidone (RPA 407213), were found in fresh grape fruit at levels ranging from 0.047 to 0.71 ppm. The metabolite, RPA 410193 was found at levels ranging from 0.026 to 0.28 ppm. The combined residue in grape fruit was calculated to be 0.067 to 0.84 ppm. Measurable residues of the parent fungicide, fenamidone (RPA 407213), were found in grape juice at levels ranging from <LOQ to 0.110 ppm. The metabolite, RPA 410193 was found at levels ranging from 0.027 to 0.074 ppm. The combined residue in grape juice was calculated to be 0.013 to 0.28 ppm. Measurable residues of the parent fungicide, fenamidone (RPA 407213), were found in grape wine at levels ranging from <LOQ to 0.027 ppm. The metabolite, RPA 410193, was found at levels ranging from <LOQ to 0.34 ppm. The combined residue in grape wine was calculated to be <LOQ to 0.40 ppm. Measurable residues of the parent fungicide, fenamidone (RPA 407213), were found in grape at levels ranging from 0.055 to 0.56 ppm. The metabolite, (RPA 410193) was found at levels ranging from 0.024 to 0.13 ppm. The combined residue in grape was calculated to be 0.11 to 0.71 ppm.

viii. *Dairy cows*. In a guideline feeding study, dairy cows were dosed twice a day for 35 days with technical fenamidone at rates of 0.8, 0.24 and 8.0 ppm based on the diet. No residues were detected in whole milk at a limit of detection of 0.003 ppm. No residues were found in muscle, liver, kidneys or fat at a limit of detection of 0.017 ppm. Based on these findings, no tolerances for fenamidone or its metabolites are proposed in animal commodities.

B. Toxicological Profile

1. *Acute toxicity*. A complete battery of acute toxicity studies for fenamidone have been conducted. The acute oral toxicity study in rats resulted in a LD_{50} of >5,000 mg/kg (males) and >2,028 mg/kg (females). The acute dermal toxicity study in rats resulted in a LD_{50} of >2,000 mg/kg for both males and females. The acute inhalation study in rats resulted in a LC_{50} of >5 mg/L for males and females. Fenamidone was not irritating in the primary eye irritation or primary dermal irritation studies. The dermal sensitization study in guinea pigs was negative.

In an acute neurotoxicity study in rats, fenamidone was not neurotoxic at doses up to the limit dose of 2,000 mg/kg. The no observed adverse effect level (NOAEL) was 500 mg/kg for males and 125 mg/kg for females.

2. *Genotoxicty*. Mutagenicity studies conducted include: A *Salmonella typhimurium* reverse mutation assay (negative at the limits of cytotoxicity and solubility with and without activation), *in vitro* unscheduled DNA synthesis test in rat liver (negative at the limits of cytotoxicity), *in vitro* chromosome aberrations test in human lymphocytes (positive at the limits of cytotoxicity and solubility), TK+/- mouse lymphoma assay (positive with activation, negative without), *in vivo* mouse micronucleus test (negative with toxicity at 2,000 mg/kg), and an *in vivo* unscheduled DNA synthesis assay in the rat (negative at up to 2,000 mg/kg with toxicity at the high dose level). Based on the data cited above, fenamidone is not considered to be mutagenic.

3. *Reproductive and developmental toxicity*. A teratology study was conducted with rats administered (orally) fenamidone on gestation days 6–15 at dose levels of 0, 25, 150, or 1,000 mg/kg/day. High dose dams had significantly decreased body weight and food consumption. High dose fetal body weights were less than controls and correlated with slightly delayed skeletal ossification secondary to maternal toxicity. The NOAEL for maternal and developmental toxicity is 150 mg/kg/day. The Lowest observed adversed effect level (LOAEL) was 1,000 mg/kg/day. A teratology study was conducted with rabbits administered (orally) fenamidone on gestation days 6–19 at dose levels of 0, 10, 30, or 100 mg/kg/day. The maternal NOAEL was 10 mg/kg/day. The developmental NOAEL was 100 mg/kg/day. The maternal LOAEL was 30 mg/kg/day, based on increased maternal liver weights at 30 and 100 mg/kg/day. Fenamidone demonstrates no potential to cause developmental toxicity in mammals.

A 2–generation definitive reproduction study was conducted with rats administered (orally) in the diet fenamidone at dose levels of 0, 3.9, 63.8, 328.3 mg/kg/day (males) and 0, 5.15, 84.4, 459.6 mg/kg/day (females). The NOAEL for maternal and off-spring toxicity was 5.15 mg/kg/day. The maternal NOAEL was based on decreased body weight and food consumption. The pup NOAEL is based on F1 pup body weight decrease. The reproductive NOAEL was >328.3 mg/kg/day (males) and >459.6 mg/kg/day (females). Fenamidone is not considered a reproductive toxicant at non-maternally toxic dose levels and shows no evidence of endocrine effects.

4. *Subchronic toxicity*. In a 13–week range-finding study, fenamidone was administered in the diets of male and female rats at dose levels of 0, 4.05, 10.41, 68.27, 343.93 mg/kg/day to males and 0, 4.81, 12, 83.33, 380.68 mg/kg/day to females. The NOAEL is 68.27 mg/kg/day (males) and 83.33 mg/kg/day (females) and the LOAEL is 343.93 mg/kg/day for males and 380.63 mg/kg/day for females based on adaptive liver changes at 68.27 mg/kg/day and increased liver and thyroid weights at the highest dose tested (HDT). In a 13–week subchronic feeding study, fenamidone was administered in the diet to mice at dose levels of 0, 11.33, 44.5, 220.2, 1,064.3 mg/kg/day to males and 0, 13.7, 54.1, 273.9, 1,375.2 mg/kg/day to females. The NOAEL is 44.5 mg/kg/day (males), and 54.1 mg/kg/day (females), and the LOAEL is 220.2 mg/kg/day (males), and 273.9 mg/kg/day (females) based on 14% increase in liver weight at the high dose. In a 28–day subchronic dermal study, fenamidone was applied to skin of male and female New Zealand white rabbits at doses of 0 or 1,000 mg/kg/day for 6 hours/day, 5 days/week. Treatment produced a slight decrease in food consumption (8–10%), and body weight (6%) in males only. In a 13–week study, fenamidone was administered in the diets of male and female dogs at 0, 10, 100, and 500 mg/kg/day. Based on clinical symptoms at the high dose, the NOAEL is 100 mg/kg/day and the LOAEL is 500 mg/kg/day.

In a subchronic neurotoxicity study, there was no evidence of neurotoxicity when fenamidone technical was administered to rats for 13 weeks at dosage levels up to 5,000 ppm (395.6–414.2 mg/kg/day), the MTD. The

NOAEL for the study was 1,000 ppm (equivalent to 74.2–83.4 mg/kg/day).

5. *Chronic toxicity*. A 1–year oral study was conducted with dogs administered fenamidone at dose levels of 0, 10, 100, and 1,000 mg/kg/day in capsules. The NOAEL is 100 mg/kg/day for both sexes, based on significantly increased liver weights and biliary hyperplasia in the high dose. The LOAEL is 1,000 mg/kg/day.

A 2–year combined chronic toxicity/carcinogenicity study was conducted with fenamidone administered in the diet to rats at doses of 0, 2.83, 7.07, 47.68, 260.13 mg/kg/day (males) and 0, 3.63, 9.24, 60.93, 335.10 mg/kg/day (females). The NOAEL for systemic toxicity is 2.83 mg/kg/day (males) and 3.36 mg/kg/day (females). The LOAEL is 7.07 mg/kg/day (males) 9.24 mg/kg/day (females). No statistically significant linear dose response was observed for any tumor incidence.

A 104–week combined carcinogenicity study in mice was conducted with mice administered fenamidone in the diet at dose levels of 0, 9.5, 47.5, 525.5, 1,100.2 mg/kg/day (males) and 0, 12.6, 63.8, 690.5, 1,393.2 mg/kg/day (females). The NOAEL was 9.5 mg/kg/day (males) and 12.6 mg/kg/day (females). The LOAEL for carcinogenicity was 47.5 mg/kg/day (males) and 63.8 mg/kg/day (females). The NOAEL is based on non-neoplastic liver changes and decreased body weight gain at the top two dose levels. Fenamidone demonstrates no potential for carcinogenic effects in mammals.

6. *Animal metabolism*. Metabolism studies conducted with goat and hen demonstrate that fenamidone is rapidly metabolized and excreted. Residue levels in edible animal tissues (meat, milk and eggs) are negligible and do accumulate in those tissues. The metabolic pathway proceeds via cleavage of the amino-phenyl group and the thiomethyl group with further metabolism by hydroxylation. There is also evidence to that glucuronide and sulfate conjugates are formed.

A single low dose (3 mg/kg), a single high dose (300 mg/kg) and a low dose (3 mg/kg) administered for 15 consecutive days were fed to rats. Fenamidone was relatively well absorbed at a nominal dose of 3 mg/kg in both sexes and intensively metabolized by phase I (oxidation, reduction and hydrolysis) and phase II (conjugation) reactions. The elimination of radiolabeled fenamidone was relatively rapid with the majority of the administered dose being excreted via the biliary route (for the low dose experiments). The comparison of the levels of radioactivity recovered in bile kinetic and ADME studies suggested that a part of the radioactivity excreted via the bile could be reabsorbed and subsequently re-excreted via the urine. High levels of radioactivity measured in blood samples from the tissue kinetics also supported this hypothesis. At the high dose level fenamidone was not very well absorbed: Some 50–60% of the radioactivity was present as parent compound in the feces. Radioactivity was widely distributed in the tissues with predominance in the thyroids, blood, liver, kidneys, fat and pancreas. Fenamidone is therefore expected to be rapidly and extensively metabolized and excreted in mammals.

7. *Metabolite toxicology*. The major dietary metabolites of fenamidone, RPA 412708, RPA 410193 and RPA 412636 were evaluated for mammalian toxicity in an acute oral toxicity study, a 90–day repeated dose study and in genotoxicity tests. The metabolites are considered to be of comparable toxicity to the parent fenamidone.

8. *Endocrine disruption*. Chronic, lifespan, and multi-generational bioassays in mammals and acute and subchronic studies on aquatic organisms and wildlife did not reveal endocrine effects. Any endocrine related effects would have been detected in this definitive array of required tests. The probability of any such effect due to agricultural uses of fenamidone is negligible.

C. Aggregate Exposure

1. *Dietary exposure*. Fenamidone is a fungicide with proposed uses on the food crops tomato, potato, head lettuce, leaf lettuce, the bulb vegetable crop group, and the cucurbit crop group. Although quantifiable residues are highly unlikely, wheat tolerances are also proposed to cover any conceivable plant back residues. An import tolerance for wine grapes is also proposed to cover imported wine. There are no residential uses proposed for fenamidone. Therefore the aggregate exposure would consist of any potential exposures to fenamidone residues from the above food crops from drinking water, and from imported wine. The chronic reference dose (RfD) of 0.03 mg/kg bwt/day is based on a NOAEL of 3 mg/kg bwt/day from a 2–year rat chronic study. There are no acute effects of concern for fenamidone and an acute analysis was not conducted.

i. *Food*. Chronic dietary exposure estimates resulting from the proposed and registered uses of fenamidone as listed above are well within acceptable limits for all sectors of the population. Potential dietary exposures from food were estimated using the chronic module of the DEEM™ software system, Version 7.62 (Novigen Sciences, Inc.), and the 1994–96 Department of Agriculture (USDA) consumption data. Anticipated residue values were calculated from the appropriate field trial studies conducted for fenamidone and its metabolites and submitted as part of the fenamidone petition. Processing factors were derived for tomato paste and puree and potato flakes and chips. For this chronic assessment, percent crop treated (PCT) values were estimated for the compound at market maturity. The PCT value for wine grapes is 20%. This assumes that all wine imported into the country (USDA FATUS tables) is made from grapes treated with fenamidone. This over estimates the risk significantly since fenamidone will only be registered on wine grapes in Western European countries. The wheat residue is included at 100% crop treated even though the actual plant back of a wheat crop behind vegetable crops (mostly potato) is estimated at 15%. Using these conservative assumptions, the most highly exposed population was children 1–6 utilizing 1.0% (0.000302 mg/kg/bwt/day) of the chronic RfD. The U.S. population utilized 0.8% (0.000236 mg/kg/bwt/day) of the RfD. Actual exposures are likely to be much less in real world situations because of the many conservative assumptions incorporated in this analysis.

ii. *Drinking water*. EPA's Standard Operating Procedure (SOP) for Drinking Water Exposure and Risk Assessments was used to perform the drinking water assessment. This SOP uses a variety of tools to conduct drinking water assessments, including water models such as SCI-GROW, FIRST, PRZMS/EXAMS, and monitoring data. If monitoring data are not available, then the models are used to predict potential residues in surface and ground water and the highest levels are assumed to be the drinking water residue. In the case of fenamidone, monitoring data do not exist, therefore SCI-GROW and FIRST were used to estimate a water residue. The calculated drinking water levels of comparison (DWLOC) for chronic exposure for all adults and children exceed the drinking water estimated concentration (DWEC) from the models. The chronic DWLOC for adults is 1,042 ppb. The chronic DWLOC for children/toddlers is 297 ppb. The DWEC for the worst case chronic scenario is 20 ppb. The drinking water levels of comparison are based on conservative dietary (food) exposures and are expected to be much higher in real world situations.

2. *Non-dietary exposure*. Fenamidone products are not labeled for residential

uses (food or non-food), thereby eliminating the potential for residential exposure or non-occupational exposure.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity. There is no available data to determine whether fenamidone has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fenamidone does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance petition, therefore, it has not been assumed that fenamidone has a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population.* Using the assumptions and data described above, based on the completeness, and reliability of the toxicity data, it is concluded that chronic dietary exposure to the proposed uses of fenamidone will utilize at most 0.8% of the chronic reference dose for the U.S. population. The actual exposure is likely to be much less as more realistic data, and models are developed. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate exposure over a lifetime will not pose appreciable risk to human health. Drinking water levels of comparison based on the dietary and aggregate exposures are greater than highly conservative estimated levels, and would be expected to be well below the 100% level of the RfD, if they occur at all. Therefore, there is a reasonable certainty that no harm will occur to the U.S. population from aggregate exposure (food and drinking water) to residues of fenamidone.

2. *Infants and children.* The relevant toxicity studies as discussed in the toxicology section above show no extra sensitivity of infants and children to fenamidone, therefore, the food quality protection act (FQPA) safety factor can be removed. Using the assumptions and data described in the exposure section above, the percent of the chronic RfD that will be used for exposure to residues of fenamidone in food for children 1–6 (the most highly exposed subgroup) is 1.0% (0.000302 mg/kg/bwt/day). Infants utilize 0.2% (0.000056 mg/kg/bwt/day) of the chronic RfD. There are no non-dietary concerns for infants and children. As in the adult situation, drinking water levels in comparison are higher than the worst case drinking water estimated concentrations, and are expected to use well below 100% of the reference dose, if they occur at all. Therefore, there is a reasonable certainty that no harm will occur to infants and children from aggregate exposure to residues of fenamidone.

F. International Tolerances

To date, no Codex, Canadian or Mexican tolerances exist for fenamidone.

[FR Doc. 02–224 Filed 1–3–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7125–7]

Valley Chemical Superfund Site/ Greenville, Mississippi; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has proposed to amend the Agreement for Recovery of Response Costs, CERCLA Docket No. CER–04–2001–3755, in settlement of claims for response costs at the Valley Chemical Superfund Site (Site) located in Greenville, Mississippi, with Valley Chemical Company. EPA will consider public comments on the proposed settlement amendment for thirty days. EPA may withdraw from or modify the proposed settlement amendment should such comments disclose facts or considerations which indicate the proposed settlement amendment is inappropriate, improper, or inadequate. Copies of the proposed settlement amendment are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comment may be submitted to Mr. Greg Armstrong at the above address within 30 days of the date of publication.

Dated: December 18, 2001.

James T. Miller,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 02–220 Filed 1–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–CN; FRL–6811–5]

Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Authorization of the Cherokee Nation's Lead-Based Paint Activities Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; final approval.

SUMMARY: On November 19, 1999, the Cherokee Nation of Oklahoma submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). Notice of the receipt of the Cherokee Nation's application, a solicitation for public comment regarding the application, and background information supporting the application were published in the **Federal Register** of January 25, 2000. Today's notice announces the approval of the Cherokee Nation's application, and authorization of the Cherokee Nation's lead-based paint program for Cherokee Nation's Tribal Trust Lands in Oklahoma, effective October 15, 2001, in lieu of the corresponding Federal program under section 402 of TSCA.

DATES: Lead-based paint activities program authorization was granted to the Cherokee Nation effective on October 15, 2001.

FOR FURTHER INFORMATION CONTACT: Jeffrey Robinson, Regional Lead Coordinator, Environmental Protection Agency, Region VI, 6PD-T, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202–2733. Telephone: 214–665–7577, e-mail address: robinson.jeffrey@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to Title IV of TSCA, Lead Exposure Reduction, 15 U.S.C. 2681-2692, and regulations promulgated thereunder, States and Tribes that choose to apply for lead-based paint activities program authorization must submit a complete application to the

appropriate Regional EPA office for review. Complete, final applications will be subject to a public comment period, and reviewed by EPA within 180 days subject to a public comment period, and reviewed by EPA within 180 days of receipt. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement, section 404(b) of TSCA. As determined by EPA's review and assessment, the Cherokee Nation's application successfully demonstrated that the Tribes' lead-based paint activities programs achieve the protectiveness and enforcement criteria, as required for Federal authorization. Furthermore, no public comments were received regarding any aspect of the Cherokee Nations' application. EPA announced solicitation for public comment regarding the application in the **Federal Register** of January 25, 2000 (65 FR 3960) (FRL–6490–1).

II. Federal Overfiling

TSCA section 404(b), 15 U.S.C. 2684(b), makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

III. Withdrawal of Authorization

Pursuant to TSCA section 404(c), 15 U.S.C. 2684(c), the Administrator may withdraw a State or Tribal lead-based paint activities program authorization, after notice and opportunity for corrective action, if the program is not being administered or enforced in compliance with standards, regulations, and other requirements established under the authorization. The procedures EPA will follow for the withdrawal of an authorization are found at 40 CFR 745.324(i).

IV. 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 certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action 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 document in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: November 28, 2001.

Carl L. Edlund,

Division Director, Multimedia Planning and Permitting, Region VI.

[FR Doc. 02–226 Filed 1–3–02 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

December 26, 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 February 4, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *jboley@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0653.

Title: Section 64.703(b) and (c), Consumer Information—Posting Requirement.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 56,200.

Estimated Time Per Response: 3.67 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Total Annual Burden: 205,566 hours.

Total Annual Cost: N/A.

Needs and Uses: As required by 47 U.S.C. Section 226(c)(1)(A), 47 CFR 64.703(b) provides that aggregators (providers of telephone to the public or transient users) must post in writing, on or near such phones, information about the pre-subscribed operator services, rates, carrier access, the FCC address to which consumers may direct complaints. Section 64.703(c) establishes a 30-day outer limit for updating the posted consumer information when an aggregator has changed the pre-subscribed operator service provider (OSP). Consumers will use this information to determine whether they wish to use the services of the identified OSP.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 02–213 Filed 1–3–02; 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, N.W., 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.: 011223–027.

Title: Transpacific Stabilization Agreement.

Parties:

A.P. Moller-Maersk Sealand
American President Lines, Ltd.
APL Co. PTE Ltd.
CMA CGM, S.A.
COSCO Container Lines Company Limited
Evergreen Marine Corp. (Taiwan) Ltd.
Hanjin Shipping Co., Ltd.
Hapag-Lloyd Container Linie GmbH
Hyundai Merchant Marine Co., Ltd.
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha
Orient Overseas Container Line Limited
P&O Nedlloyd B.V.
P&O Nedlloyd Limited
Yangming Marine Transport Corporation

Synopsis: The modification deletes references to the discontinued capacity management program, transfers authority found in Appendix C to Article 5, updates names and addresses of member lines and reorganizes and republishes the agreement.

Dated: December 28, 2001.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–151 Filed 1–3–02; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Secretary's Advisory Committee on Regulatory Reform; Request for Public Input

ACTION: Request for public input.

SUMMARY: This notice seeks input from the public—including individuals and organizations—on ways to reduce current burdens imposed by existing regulations of the Department of Health and Human Services (HHS) that inhibit the delivery of high quality, timely, and efficient health care, inhibit the development of pharmaceuticals and other medical products, or inhibit biomedical research.

FOR FURTHER INFORMATION CONTACT: Christy Schmidt, Executive Coordinator, Secretary's Advisory Committee on Regulatory Reform, Office of the Assistant Secretary for Planning and Evaluation: (202) 401–5182.

SUPPLEMENTARY INFORMATION: On June 8, 2001, Health and Human Services Secretary Tommy G. Thompson announced a department-wide initiative to reduce regulatory burdens in health care and respond faster to the concerns of patients, health care providers, state and local governments, other institutions, and other individual Americans who are affected by HHS rules. On September 4, 2001, the Department published a Notice of Intent in the **Federal Register** announcing its plans to establish an Advisory Committee on Regulatory Reform to provide findings and recommendations to the Secretary regarding potential regulatory changes. The Advisory Committee will commence its activities early in 2002.

Regulations play an important role in implementing statutes. Regulations establish and communicate rules and procedures for participation in public programs, for approval of products, and for the awarding of grants and contracts. The regulatory process also allows for public examination of proposed rules, comment on those proposals, and an explanation of how those comments were factored into final decisions by government agencies.

At the same time, in accomplishing these important tasks, regulations may impose a burden on individuals and organizations participating in public programs or seeking government approval or support. Some or most of these burdens may be necessary to carry out the statutory requirements and quite reasonable and appropriate in governing the expenditure of public funds and protecting the health and safety of individuals and the nation as a whole. But some of these burdens may be unnecessary, excessive, or inappropriate because they interfere with the operation of the programs to which they relate, are unduly intrusive, or are inconsistent with other requirements and thus unduly reduce flexibility, inhibit innovation, or impede efforts to improve quality of health care and access to health services or other rights and benefits for patients and consumers that are provided by law.

The Advisory Committee's ultimate goal is to (a) identify and prioritize regulations that impose barriers to delivering high quality, safe and effective care services, products and research, and (b) to recommend improvements or other ways to remove these barriers. To help the Committee achieve this goal, we are inviting the public to provide us with written comments on regulatory burdens created by HHS regulations. Those interested in responding to this request are asked to focus their comments on regulatory burdens in one or more of the following areas:

- Health care delivery,
- Health care operations,
- Development of pharmaceuticals and other medical products, and
- Biomedical and health services research

We encourage individuals as well as organizations to respond to this invitation, including but not limited to consumers, patients, researchers, clinicians and other health care professionals, employers, health care administrators, professional societies, trade associations, state and local governments, and universities. We encourage those who wish to respond to consider ways in which regulations or program requirements interfere with the delivery or receipt of care, innovation in health care delivery operations, or research, or the development of new products and treatments. In this regard respondents may find it helpful to consider their most recent interactions with HHS programs in order identify specific issues.

Because of the broad nature of the Committee's charge, it will be essential that comments be as specific as possible and focus on concerns related to burdens imposed by regulations or regulatory processes rather than the underlying statutes enacted by the Congress.

We ask that responses be limited to no more than five (5) one-sided, single-spaced pages and be accompanied by and IBM-compatible 3.5 inch diskette in WordPerfect or MS Word format. Additional attachments can be included but the Committee cannot guarantee that all of these materials can be read and considered. Therefore, major points should be made in the letter.

The Committee would appreciate it if those who respond would consider some or all of the following matters:

1. Which HHS regulations in the above-cited areas impose an unnecessary or unreasonable burden on individuals, groups, or organizations because these regulations:

- Are confusing;
- Impose unnecessary or excessive costs;
- Require an excessive number of reports or unreasonable record keeping;
- Impose requirements on the wrong individual or group;
- Carry excessive penalties;
- Are conflicting (examples include but are not limited to conflicts between

HHS and State regulations, public and private sectors);

- Impede access to care or impede delivery of care;
- Impede efforts to innovate
- Are obsolete; and/or
- Interfere with the public or private sector's ability to respond to and prepare for emergencies.

2. What alternative approaches could be taken to achieve or accomplish the same goal with a lesser burden? For example, are there less burdensome approaches that are used by other entities such as state governments or private companies that could be adopted by HHS to achieve its goal with less burdensome requirements?

For each of the regulations discussed, the Committee asks you to include the following whenever possible:

- Citation of regulation involved or description of the regulation in as much detail as possible.
- Citation of relevant statute on which the regulation is based.
- A clear statement of the problem or concern.
- Identification of potential solutions to this problem or concern.
- A statement of how the proposed solutions would maintain the original intent of the statute (if possible, please provide citation of the original statute).

We recognize that many individuals may not be able to provide a full or accurate citation to particular regulations or statutes. That should not stop them from commenting. However, professional organizations and institutions, will probably have access to this information and are encouraged to provide specific citations.

We would also appreciate information on how you interact with the health care system (e.g., Are you a patient/consumer, physician, nurse, researcher, university, employer, health plan, hospital, nursing home, home health agency, pharmaceutical manufacturer, medical device, manufacturer?).

We will accept comments on regulatory reform if we receive them at the appropriate address, as provided below, by 5pm on March 5, 2002.

Individuals or organizations wishing to respond to this request may do so in writing by sending their comments to: Christy Schmidt, Executive Coordinator, Regulatory Reform Initiative, Office of the Assistant Secretary for Planning and Evaluation, 200 Independence Ave., SW., Washington, DC 20201. Responses also can be made electronically on the Committee's website: *www.regreform.hh.gov.* Those who respond should recognize that their comments would be part of the public record of the Committee and, under the Freedom of Information Act, available to anyone who wishes to read them. The Committee will make attempts to segregate those comments that are of a personal nature but cannot guarantee that all such comments will be recognized.

Comments will be available for public inspection by appointment as they are received, generally beginning approximately January 25, 2002 in Room 801 of the Department's offices at 200 Independence Avenue, SW., Washington, DC on Monday through Friday of each week from 8:30 am to 5 pm. Appointments may be made by telephoning 202–401–5182.

After the close of the comment period, comments that are technically able to convert will be posted on the Regulatory Reform web site specified above.

Dated: December 26, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–239 Filed 1–3–02; 8:45 am]

BILLING CODE 4154–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–19]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. NCID is requesting an emergency clearance from the Office of Management and Budget (OMB) to collect data under the Paperwork Reduction Act. Send comments to Seleda M. Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 14 days of this notice. We are requesting that OMB respond to CDC within 21 days after receipt of the package.

Proposed Project

Requirement for a Special Permit to Import Cynomolgus, African Green, or Rhesus Monkeys into the United States (0920–0263)—Renewal—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). To receive a special permit to import cynomolgus, African green and/or rhesus monkeys, a registered importer of nonhuman primates must submit to the Director, CDC, a written plan which specifies the steps that will be taken to prevent exposure of persons and animals during the entire importation and quarantine process for the arriving nonhuman primates.

Under the special permit arrangement, registered importers must submit a plan to CDC for the importation and quarantine if they wish to import the specific monkeys covered. The plan must address disease prevention procedures to be carried out in every step of the chain of custody of such monkeys, from embarkation in the country of origin to release from quarantine. Information such as species, origin and intended use for monkeys, transit information, isolation and quarantine procedures, and procedures for testing of quarantined animals is necessary for CDC to make public health decisions. This information enables CDC to evaluate compliance with the standards and determine whether the measures being taken to prevent exposure of persons and animals during importation are adequate. Once CDC is assured, through the monitoring of shipments (normally no more than 2), that the provisions of a special permit plan are being followed by a new permit holder and that the use of adequate disease control practices is being demonstrated, the special permit is extended to cover the receipt of additional shipments under the same plan for a period of 180 days, and may be renewed upon request. This eliminates the burden on importers to repeatedly report identical information, requiring only that specific shipment itineraries and information on changes

to the plan which require approval be submitted.

Respondents are commercial or not-for-profit importers of nonhuman primates. The burden represents full submission of information and itinerary/change information respectively. There are no costs to respondents.

Respondents	Number of respondents	Number of responses/respondents	Average burden/responses (in hrs.)	Total burden (in hrs.)
Businesses (limited permit)	5	2	30/60	5
Businesses (extended permit)	1	3	10/60	.5
Organizations (limited permit)	3	2	30/60	3
Organizations (extended permit)	12	2	10/60	4
Total				12.5

Dated: December 27, 2001.

Kathy Cahill,

Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–196 Filed 1–3–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–21]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Qualitative Study of Young Men's Perceptions of An HIV Prevention Intervention—New—1—National Center for HIV, STD and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC). CDC proposes to conduct a formative research study to examine how a CDC-funded, community-level HIV intervention study is perceived by, and has affected the lives of, the target population, young men ages 15–25. The goal of the study is to gain a better understanding of the relevance of an HIV prevention intervention to young men in three communities: Milwaukee, Wisconsin; Orange County, California; and West Hollywood, California.

A total of 90 young men will be interviewed; 30 from each of the three communities. Of the 30 participants selected for the study; 15 of them will have participated in an HIV intervention activity and 15 participants will not have participated in activity. CDC plans to recruit a total of 50 participants from local venues and screened them to determine eligibility for participation in the study. The objectives of the study will be to (1) explore how young men who have participated in HIV intervention activities have incorporated the knowledge and experience gained from their participation into their daily lives and (2) identify structural barriers to HIV prevention intervention activities. All participants will be interviewed by CDC staff. Each interview is estimated to take approximately 90 minutes to complete. In addition, screening of eligible participants for recruitment in the study is estimated to take approximately 15 minutes.

There are no costs to respondents.

Respondents	Number of respondents	Number of responses per respondents	Average response/burden (in hours)	Total burden (in hours)
Eligibility screening	150	1	15/60	38
Target population	90	1	90/60	135
Total				173

Dated: December 27, 2001.

Kathy Cahill,

Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–197 Filed 1–3–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Ophthalmic Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Ophthalmic Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 17, 2002, from 9:30 a.m. to 5 p.m., and January 18, 2002, from 8:30 a.m. to 3:30 p.m.

Location: Hilton DC North—Gaithersburg, Salons A, B, and C, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Sara M. Thornton, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2053, SMT@CDRH.FDA.GOV, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12396. Please call the Information Line for up-to-date information on this meeting.

Agenda: On January 17, 2002, the committee will discuss, make recommendations, and vote on a premarket approval application (PMA) on an endocapsular tension ring for the stabilization of the lens capsular bag. On January 18, 2002, the committee will discuss, make recommendations, and vote on a PMA on an orthokeratology contact lens for corneal refractive therapy with overnight wear for the temporary reduction of myopia. Background information for each day's topic, including the agenda and questions for the committee, will be available to the public one business day before the meeting, on the Internet at http://www.fda.gov/cdrh/panelmtg.html. Material for the January 17 session will be posted on January 16, 2002; material for the January 18 session will be posted on January 17, 2002.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by January 7, 2002. On January 17, 2002, formal oral presentations from the public will be scheduled between approximately 9:45 a.m. and 10:15 a.m., and on January 18, 2002, between approximately 8:45 and 9:15 a.m. Near the end of the committee deliberations on each PMA, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Those desiring to make formal oral presentations should notify the contact person before January 7, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

FDA regrets that it was unable to publish this notice 15 days prior to the January 17 and 18, 2002, Ophthalmic Devices Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Ophthalmic Devices Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 28, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 02–152 Filed 1–3–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1631]

International Cooperation on Harmonisation of Technical Requirements for Approval of Veterinary Medicinal Products (VICH); Final Guidance for Industry on ''Studies to Evaluate the Safety of Residues of Veterinary Drugs in Human Food: Genotoxicity Testing'' (VICH GL23); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry (#116) entitled ''Studies to Evaluate the Safety of Residues of Veterinary Drugs in Human Food: Genotoxicity Testing'' (VICH GL23). This final guidance has been adapted for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH) from a guidance regarding pharmaceuticals for human use, which was adopted by the International Conference on Harmonisation of Technical Requirements for Approval of Pharmaceuticals for Human Use (ICH). This final VICH guidance document recommends a basic battery of tests that can be used to evaluate the genotoxicity of veterinary drug residues in human food in the European Union, Japan, and the United States.

DATES: Submit written or electronic comments on this final guidance at any time.

ADDRESSES: Submit written requests for single copies of the final guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine (CVM), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the final guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Comments should be identified with the full title of the final guidance and the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the final guidance.

FOR FURTHER INFORMATION CONTACT: Louis T. Mulligan, Center for Veterinary Medicine (HFV–153), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6984, e-mail: lmulliga@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the ICH for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the: European Commission; European Medicines Evaluation Agency; European Federation of Animal Health; Committee on Veterinary Medicinal Products; U.S. FDA; U.S. Department of Agriculture; Animal Health Institute; Japanese Veterinary Pharmaceutical Association; Japanese Association of Veterinary Biologics; and Japanese Ministry of Agriculture, Forestry and Fisheries.

Two observers are eligible to participate in the VICH Steering Committee: One representative from the Government of Australia/New Zealand and one representative from the industry in Australia/New Zealand. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative also participates in the VICH Steering Committee meetings.

II. Final Guidance on Genotoxicity Studies

In the **Federal Register** of December 18, 2000 (65 FR 79106), FDA published the notice of availability of the VICH draft guidance, giving interested persons until January 17, 2001, to submit comments. After consideration of comments received, the final draft guidance was changed in response to the comments and submitted to the VICH Steering Committee. At a meeting held on June 28, 2001, the VICH Steering Committee endorsed the final guidance for industry, VICH GL23. Following the endorsement of the final guidance document by the VICH Steering Committee, a change was made to the document in which the reference for each genotoxicity test in the basic battery of tests was moved and used as the heading for the paragraph describing that test. The change was of an editorial nature and did not change the scientific content or intent of the guidance document.

This guidance is one of a series of VICH guidances developed to facilitate the mutual acceptance of safety data necessary for the establishment of acceptable daily intakes for veterinary drug residues in human food by the relevant regulatory authorities. The guidance on the overall strategy for the evaluation of veterinary drug residues in human food (VICH Guidance on General Testing Approach) will be made available at a later time. This guidance was developed after consideration of the existing ICH guidances for pharmaceuticals for human use entitled ''Genotoxicity: A Standard Battery of Genotoxicity Testing of Pharmaceuticals'' and ''Guidance on Specific Aspects of Regulatory Genotoxicity Tests for Pharmaceuticals.'' Account was also taken of the Organization for Economic Cooperation and Development methodological guidances and of the current practices for evaluating the safety of veterinary drug residues in human food in the European Union, Japan, the U.S.A., Australia, and New Zealand.

This level 1 final guidance document is developed under the VICH process and is consistent with FDA's good guidance practices regulation (21 CFR 10.115). This document does not create or confer any rights for or on any person and will not operate to bind FDA or the public. An alternate method may be used as long as it satisfies the requirements of applicable statutes and regulations.

(Information collection is covered under OMB control number 0910–0117.)

III. Comments

As with all of FDA's guidances, the public is encouraged to submit written or electronic comments pertinent to this guidance. FDA will periodically review the comments in the docket and, where appropriate, will amend the guidance. The agency will notify the public of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cvm.

Dated: December 28, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–193 Filed 1–3–02; 8:45 am]

BILLING CODE 4160–02–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1630]

International Cooperation on Harmonisation of Technical Requirements for Approval of Veterinary Medicinal Products (VICH); Final Guidance on ''Safety Studies for Veterinary Drug Residues in Human Food: Reproduction Toxicity Testing'' (VICH GL22); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry (#115) entitled ''Safety Studies for Veterinary Drug Residues in Human Food: Reproduction Toxicity Testing'' (VICH GL22). This final guidance has been adapted for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH) from a guidance regarding

pharmaceuticals for human use, which was adopted by the International Conference on Harmonisation of Technical Requirements for Approval of Pharmaceuticals for Human Use (ICH). This final VICH guidance document recommends a basic battery of tests that can be used to evaluate the reproduction safety of veterinary drug residues in human food.

DATES: Submit written or electronic comments at any time.

ADDRESSES: Submit written requests for single copies of the final guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine (CVM), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the final guidance document.

Submit written comments on the final guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Comments should be identified with the full title of the final guidance and the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Louis T. Mulligan, Center for Veterinary Medicine (HFV–153), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6984, e-mail: lmulliga@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce the differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the ICH for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the: European Commission; European Medicines Evaluation Agency; European Federation of Animal Health; Committee on Veterinary Medicinal Products; U.S. FDA; U.S. Department of Agriculture; Animal Health Institute; Japanese Veterinary Pharmaceutical Association; Japanese Association of Veterinary Biologics; and Japanese Ministry of Agriculture, Forestry and Fisheries.

Two observers are eligible to participate in the VICH Steering Committee: One representative from the Government of Australia/New Zealand, and one representative from the industry in Australia/New Zealand. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative also participates in the VICH Steering Committee meetings.

II. Guidance on Reproduction Studies

In the **Federal Register** of December 19, 2000 (65 FR 79373), FDA published the notice of availability of VICH draft guidance entitled ''Safety Studies for Veterinary Drug Residues in Human Food: Reproduction Studies'' giving interested persons until February 20, 2001, to submit comments. FDA received no comments. The final guidance was submitted to the VICH Steering Committee. At a meeting held on June 28, 2001, the VICH Steering Committee endorsed the final guidance for industry entitled ''Studies to Evaluate the Safety of Residues of Veterinary Drugs in Human Food: Reproductive Toxicity Testing'' (VICH GL22).

In order to establish the safety of veterinary drug residues in human food, a number of toxicological evaluations are recommended, including the assessment of any risks to reproduction. The objective of this guidance is to ensure international harmonization of reproduction toxicity testing, which is appropriate for the evaluation of risks to reproduction from long-term, low-dose exposures, such as may be encountered from the presence of veterinary drug residues in food.

The current final guidance is one of a series of guidances developed to facilitate the mutual acceptance of safety data necessary for the determination of acceptable daily intakes for veterinary drug residues in human food by the relevant regulatory authorities. The guidance on the overall strategy for the safety evaluation of veterinary residues in human food (VICH Guidance on General Testing Approach) will be made available at a later time. VICH GL22 was developed after consideration of the existing ICH guidance for pharmaceuticals for human use on ''Detection of Toxicity to Reproduction for Medicinal Products'' and its addendum, ''Toxicity to Male Fertility,'' in conjunction with the current practices for evaluating veterinary drug residues in human food in the European Union, Japan, the United States, Australia, and New Zealand.

This final level 1 guidance document was developed under the VICH process and is consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance does not create or confer any rights for or on any person and will not operate to bind FDA or the public. An alternate method may be used as long as it satisfies the requirements of applicable statutes and regulations. (Information collection is covered under OMB Control Nos. 0910–0117 and 0910–0032.)

III. Comments

As with all of FDA's guidances, the public is encouraged to submit written or electronic comments with new data or other new information pertinent to this guidance. FDA will periodically review the comments in the docket and, where appropriate, will amend the guidance. The agency will notify the public of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Comments may also be submitted electronically on the Internet site at http://www.fda.gov/dockets/ecomments. Once on this Internet site, select 00D–1630 ''Safety Studies for Veterinary Drug Residues in Human

Food: Reproduction Toxicity Testing'' (VICH GL22) and follow the directions.

Copies of the final guidance document entitled ''Safety Studies for Veterinary Drug Residues in Human Food: Reproduction Toxicity Testing'' (VICH GL22) may be obtained on the Internet from the CVM home page at http://www.fda.gov/cvm.

Dated: December 28, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–194 Filed 1–3–02; 8:45 am]

BILLING CODE 4160–02–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4730–N–01]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: January 4, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: December 28, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 02–81 Filed 1–3–02; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permits for Incidental Take

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of 111 permits for incidental take of threatened and endangered species: Annual report.

SUMMARY: Between October 1, 2000 and September 30, 2001, Region 2 of the Fish and Wildlife Service issued 111 permits for the incidental take of threatened and endangered species, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. Of the 111 permits issued in the greater Austin, Texas area; one is for the golden-cheeked warbler (GCW) related to the Balcones Canyonlands Preserve, one is for karst invertebrates, and 109 are for the Houston toad (HT). In addition, between October 1, 2000 and September 30, 2001, 2 permits had amendments.

ADDRESSES: If you would like copies of any of the above documents, please contact the U.S. Fish and Wildlife Service, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Leslie Dierauf, Regional Habitat Conservation Plan Coordinator, at the above address, 505–248–6651. Further details of these permits may also be viewed on the Internet at *http://ecos.fws.gov.*

SUPPLEMENTARY INFORMATION: Section 9 of the Act and Federal Regulation prohibit the ''take'' of wildlife species listed as threatened or endangered species. Under the Act, the term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed wildlife, or to attempt to engage in any such conduct. The Service may, under limited circumstances, issue permits to authorize incidental take, i.e. that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Regulations governing permits for endangered species are at 50 CFR 17.22.

111 Incidental Take Permits Issued

Permittee	(State) species	Permit No.	Date of Issuance
Siefert	(TX)HT	TE–025997–0–005	10/2/00
Bastrop Seventh Day Adventist Church	(TX)HT	TE–025997–0–003	10/2/00
Becerra	(TX)HT	TE–025997–0–004	10/2/00
Kummermehr	(TX)HT	TE–025997–0–010	10/2/00
Jarrels	(TX)HT	TE–025997–0–006	10/13/00
Circle B Homes	(TX)HT	TE–025997–0–011	10/13/00
McClure	(TX)HT	TE–025997–0–014	10/13/00
McClure	(TX)HT	TE–025997–0–015	10/13/00
Schena	(TX)HT	TE–029608–0	10/27/00
MacQueen	(TX)HT	TE–025997–0–021	10/31/00
Ligon	(TX)HT	TE–025997–0–012	11/21/00
Smith	(TX)HT	TE–025997–0–024	11/21/00
Lindenau	(TX)HT	TE–025997–0–023	11/21/00
Pierson	(TX)HT	TE–025997–0–025	11/21/00
Kelley	(TX)HT	TE–025997–0–008	12/1/00
Groves	(TX)HT	TE–025997–0–026	12/21/00
Johnson	(TX)HT	TE–025997–0–027	12/21/00
Niehus	(TX)HT	TE–025997–0–029	12/21/00
Walraven	(TX)HT	TE–033185–0	1/18/01
Gilfillan	(TX)HT	TE–033887–0	1/23/01
Holter	(TX)HT	TE–025997–0–030	1/29/01
Gillespie	(TX)HT	TE–025997–0–032	1/29/01
Vavricek	(TX)HT	TE–025997–0–028	1/29/01
Steins	(TX)HT	TE–025965–0–003	2/20/01
Stobaugh	(TX)HT	TE–025965–0–002	2/20/01

Permittee	(State) species	Permit No.	Date of Issuance
Miller	(TX)HT	TE–025997–0–033	2/20/01
Nira	(TX)HT	TE–025997–0–034	2/20/01
Gardner	(TX)HT	TE–025997–0–035	2/20/01
Walters	(TX)HT	TE–025997–0–036	2/20/01
Parker	(TX)HT	TE–025997–0–037	2/20/01
Sinclair	(TX)HT	TE–025997–0–031	2/20/01
Live Oak Homes	(TX)HT	TE–025997–0–016	2/26/01
Cornerstone	(TX)HT	TE–025997–0–042	2/26/01
McClure	(TX)HT	TE–025997–0–040	2/26/01
Havens	(TX)HT	TE–025997–0–038	3/1/01
Macafee	(TX)HT	TE–025997–0–039	3/9/01
Sultan & Kahn	(TX)Karst	TE–035525–0	3/9/01
Roush	(TX)HT	TE–025997–0–041	3/9/01
Young	(TX)HT	TE–025965–0–004	3/9/01
Advantage Builders	(TX)HT	TE–025997–0–045	3/23/01
Advantage Builders	(TX)HT	TE–025997–0–046	3/23/01
Bishop	(TX)HT	TE–025997–0–049	3/23/01
McClure	(TX)HT	TE–025997–0–048	3/23/01
Miller	(TX)HT	TE–025997–0–047	3/23/01
Colter	(TX)HT	TE–025997–0–044	3/23/01
Mendoza	(TX)HT	TE–025965–0–009	4/6/01
Casey	(TX)HT	TE–025997–0–050	4/6/01
Smith	(TX)HT	TE–025965–0–008	4/6/01
Slater	(TX)HT	TE–025965–0–007	4/6/01
Mosley	(TX)HT	TE–025965–0–006	4/6/01
Hansen	(TX)HT	TE–025965–0–010	4/6/01
CT–620	(TX)HT	TE–036095–0	4/30/01
Skye/Eckhart	(TX)HT	TE–035908–0	4/30/01
Beeman	(TX)HT	TE–035919–0	4/30/01
Stobaugh	(TX)HT	TE–025965–0–011	5/10/01
Goode	(TX)HT	TE–025997–0–062	5/10/01
Phillips	(TX)HT	TE–025997–0–064	5/10/01
Shigo	(TX)HT	TE–025997–0–071	5/10/01
Haeffner/Rostetter	(TX)HT	TE–025997–0–063	5/10/01
Juarez	(TX)HT	TE–025965–0–016	5/10/01
Phillips	(TX)HT	TE–025965–0–014	5/10/01
Phillips	(TX)HT	TE–025965–0–015	5/10/01
DuCharme	(TX)HT	TE–025997–0–053	5/10/01
Phillips	(TX)HT	TE–025997–0–059	5/10/01
West	(TX)HT	TE–025997–0–056	5/10/01
Phillips	(TX)HT	TE–025997–0–060	5/10/01
Shen	(TX)HT	TE–025997–0–054	5/10/01
Phillips	(TX)HT	TE–025997–0–061	5/10/01
Hinkston	(TX)HT	TE–025997–0–057	5/10/01
Glenn	(TX)HT	TE–025997–0–055	5/10/01
Brigham	(TX)HT	TE–025997–0–075	6/15/01
Conrad	(TX)HT	TE–025997–0–073	6/15/01
Martinez	(TX)HT	TE–025997–0–080	6/15/01
Brady	(TX)HT	TE–025997–0–079	6/15/01
Ingram	(TX)HT	TE–025965–0–018	6/15/01
Alley	(TX)HT	TE–025965–0–017	6/15/01
Cornerstone	(TX)HT	TE–025997–0–076	6/15/01
Vasquez	(TX)HT	TE–037190–0	6/26/01
Bell	(TX)HT	TE–039440–0	6/28/01
Gray Mountain	(TX)GCW	TE–037888–0	6/28/01
Harding	(TX)HT	TE–036096–0	6/28/01
Wirries	(TX)HT	TE–037191–0	7/1/01
JRS Builders	(TX)HT	TE–025997–0–094	7/5/01
Kailing	(TX)HT	TE–025997–0–090	7/5/01
Ellington	(TX)HT	TE–025965–0–020	7/5/01
Wright	(TX)HT	TE–025965–0–019	7/5/01
JRS Builders	(TX)HT	TE–025997–0–093	7/5/01
City of Bastrop	(TX)HT	TE–025965–0–013	7/5/01
Greenwood	(TX)HT	TE–025997–0–096	7/27/01
Howard	(TX)HT	TE–025997–0–058	7/27/01
McClure	(TX)HT	TE–025997–0–098	7/27/01
McClure	(TX)HT	TE–025997–0–097	7/27/01
Bastrop Co WCID #2	(TX)HT	TE–025965–1–023	8/1/01
Matl	(TX)HT	TE–025997–1–101	8/1/01
Holberg	(TX)HT	TE–025997–1–100	8/1/01
Capstone	(TX)HT	TE–025965–1–021	8/3/01
Capstone	(TX)HT	TE–025965–1–022	8/3/01
Steiwig	(TX)HT	TE–025997–1–099	8/3/01

Permittee	(State) species	Permit No.	Date of Issuance
Cornerstone	(TX)HT	TE–025997–1–104	8/23/01
Fuller	(TX)HT	TE–025997–1–105	8/23/01
Whited	(TX)HT	TE–025997–1–108	8/23/01
Samaro	(TX)HT	TE–025997–1–107	8/27/01
Myers	(TX)HT	TE–025997–1–109	8/27/01
Bowman	(TX)HT	TE–025997–1–081	8/27/01
Bowman	(TX)HT	TE–025997–1–082	8/27/01
Tyre	(TX)HT	TE–025997–1–106	8/27/01
Garcia	(TX)HT	TE–025997–1–113	9/10/01
Burnham	(TX)HT	TE–025997–1–111	9/10/01
Fernandez	(TX)HT	TE–025997–1–112	9/10/01
Serna	(TX)HT	TE–025997–1–114	9/18/01
Taylor	(TX)HT	TE–025965–1–024	9/18/01
2 Amendments Issued			
Bastrop County 4 Low Quality Habitat	(TX)HT	TE–025965–1–000	7/27/01
Bastrop County 42 Medium Quality Habitat	(TX)HT	TE–025997–1–000	7/27/01

Geoffrey L. Haskett,

Regional Director, Region 2.

[FR Doc. 02–198 Filed 1–3–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Reconsidered Final Determination for Federal Acknowledgment of the Cowlitz Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: Pursuant to 25 CFR 83.11(h)(3), notice is hereby given that on December 31, 2001, the Assistant Secretary—Indian Affairs (AS–IA) Neal A. McCaleb signed a reconsidered final determination which affirms the decision of February 18, 2000, to acknowledge that the Cowlitz Indian Tribe (CIT), c/o Mr. John Barnett, 1417 15th Avenue #5, P.O. Box 2547, Longview, Washington 98632–8594, exists as an Indian tribe within the meaning of Federal law. The reconsidered final determination was issued following full consideration of those issues which the Secretary of the Interior (Secretary) requested that the AS–IA address, which had been referred previously to the Secretary by the Interior Board of Indian Appeals (IBIA). The CIT satisfies the seven criteria set forth in 25 CFR part 83 for Federal acknowledgment of Indian tribes, and therefore meets the requirements for a government-to-government relationship with the United States.

DATES: As provided by 25 CFR 83.11(h)(3), this reconsidered final determination is effective on January 4, 2002.

ADDRESSES: Requests for a copy of the reconsidered final determination should be addressed to the Office of the Assistant Secretary, Bureau of Indian Affairs, 1849 C Street, NW, Washington, DC 20240, Attention: Branch of Acknowledgment and Research, MS 4660–MIB.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Chief, Branch of Acknowledgment and Research, (202) 208–3592.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary to the AS–IA by 209 DM 8. A notice proposing to acknowledge the CIT was published in the **Federal Register** on February 27, 1997. This Proposed Finding (PF) was issued under the 25 CFR part 83 regulations. The PF found that the CIT satisfied all of the mandatory criteria set forth in 25 CFR 83.7 as modified by 25 CFR 83.8. The PF found that substantial evidence demonstrated that the Federal Government recognized the Lower Cowlitz Tribe during 1855 treaty negotiations. The PF also found that a reasonable likelihood existed that the current petitioner evolved from an amalgamation of the Lower Cowlitz tribe and the Upper Cowlitz tribe. The Upper Cowlitz tribe had not participated in treaty negotiations. The PF made no finding as to whether the Lower Cowlitz tribe was recognized at any point after 1855 or whether the Upper Cowlitz tribe was ever recognized.

The Final Determination (FD) concluded that the CIT met the mandatory criteria in 83.7, as modified by 83.8, based on a finding that the Upper and Lower Cowlitz band(s), from which the petitioner evolved, were acknowledged in 1878 and 1880, and that these bands amalgamated during the second half of the 19th century. A notice of the decision to acknowledge the CIT was published in the **Federal Register**, on February 18, 2000, (Vol. 65 at 8436). The Quinault Indian Nation filed a request for reconsideration with the IBIA, and in an opinion issued May 29, 2001, the IBIA affirmed the Final Determination. Under provisions at 83.11(f)(2), the IBIA at the same time referred three issues to the Secretary as outside of its jurisdiction. After receiving comments from the Bureau of Indian Affairs's (BIA) Branch of Acknowledgment and Research (BAR), the Quinault Indian Nation, and the CIT, the Secretary on September 4, 2001, referred one issue and part of a second issue to the AS–IA as grounds for reconsideration of the FD. Under 83.11(g)(1), the AS–IA was to issue a reconsidered determination within 120 days of the Secretary's referral.

The AS–IA signed on December 31, 2001, a reconsidered final determination, which affirms and supplements the final determination and supersedes specific points in the final determination. A brief discussion of the issues addressed in the reconsidered final determination follows.

The first issue considered by the AS–IA concerned two misstatements in the FD Technical Report. The misstatements were that Cowlitz ''métis,'' or ''mixed-bloods'' with French Canadian heritage, appeared on the 1878 and 1880 Indian censuses, when in fact it was not possible to determine whether any métis were included. The question was whether these two misstatements had an effect on BIA's analysis and ultimately on the AS–IA's decision. Because the mistakes were not on the draft technical report reviewed by the decision-maker,

but were introduced late in the surnaming process, the mistake did not affect the BIA analysis and probably did not influence decision-makers, who saw an earlier draft. Nevertheless, the signed FD did have the mistakes in it, and a reevaluation of the evidence with a correct understanding of the 1878 and 1880 censuses was made during this reconsideration.

The PF found that the Cowlitz métis were part of the Lower Cowlitz which was recognized in 1855 during treaty negotiations. The FD found also that in 1878 and 1880, the Office of Indian Affairs recognized both the Lower and Upper Cowlitz, originally separate bands which amalgamated during the second half of the 19th century. The Lower Cowlitz census of 1878 listed 66 individuals, but it only named heads of households, none of whom had ''métis'' names. This census did not name ''wives,'' ''children,'' and ''relatives in families,'' and thus, it is impossible to determine if métis ''mixed-bloods'' were among those listed as unnamed Lower Cowlitz. No names at all are available for the 1880 enumeration.

The PF, the transcripts of a technical assistance meeting held on-the-record as provided by the regulations at 83.10(j)(2), and the contextual discussion concerning the relationship between the métis mixed-bloods and the other Cowlitz in the FD, show that the Cowlitz métis were associated with the Cowlitz tribe through kinship, marriage, and association. Other evidence showed that the cultural distinctiveness of the métis was just beginning to emerge by the 1870's. Even if the OIA in the later 1800's did not specifically designate the métis as part of the tribe, the métis nonetheless interacted as part of the tribe at that time and in the following decades.

The evidence available does not define the full composition of the Lower and Upper Cowlitz bands as recognized by the Government in 1880. Further, how the Cowlitz defined their tribal members and how the government defined them may have differed. Under the regulations, the totality of the evidence is sufficient to establish by a reasonable likelihood that the Cowlitz métis were part of the Lower Cowlitz at its point of last unambiguous recognition. The misstatements concerning the 1878 and 1880 censuses do not impact the result of the FD.

The second issue considered by the AS–IA concerned whether the BIA misapplied the burden of proof under 25 CFR 83.6(d). The Secretary, however, limited her referral of this issue to ''the portion that pertains to the application of the burden of proof in the context of unambiguous previous federal recognition.'' The Quinault Indian Nation submitted comments positing that the Cowlitz métis ''half-bloods'' were not part of the 1855 Lower Cowlitz tribe nor the 1878 and 1880 Lower Cowlitz band, and therefore the CIT could not show by a reasonable likelihood that its members descended from the previously acknowledged tribe. The AS–IA determined that the CIT demonstrated by substantial evidence that the Lower Cowlitz tribe was recognized in 1855, 1878 and 1880, and that the Upper Cowlitz tribe was recognized in 1878 and 1880. The AS–IA determined also that there is a reasonable likelihood that the Cowlitz métis were part of the previously recognized tribe in 1855, as well as of the Lower Cowlitz previously recognized in 1878 and 1880. The Upper Cowlitz and Lower Cowlitz having amalgamated during the second half of the 19th century, the AS–IA determined that there is a reasonable likelihood that the current petitioner has evolved from the previously acknowledged tribes.

Even if the métis were not part of the Lower Cowlitz recognized in 1878 and 1880, the analysis under the criteria could fall back on the earlier 1855 date of previous acknowledgment for the Lower Cowlitz, while maintaining the later date for the Upper Cowlitz. The PF already demonstrated that the Lower Cowlitz tribe was federally recognized in 1855 when they participated in treaty negotiations and that the métis were members of that entity. The petitioner has established that it descends from the previously recognized tribe in 1855.

The FD demonstrated substantial evidence, including the ''Milroy'' censuses, that in 1878 and 1880, the Upper Cowlitz and Lower Cowlitz were federally acknowledged as an Indian tribe. The FD found by a reasonable likelihood that the petitioner descends from these entities recognized in 1855, 1878 and 1880 and amalgamated through actions of the OIA in the last decades of the 1800's. The reconsidered FD affirms that analysis with the knowledge that the métis were not specifically named on the 1878 censuses and presumably were not named in the 1880 OIA censuses.

The reconsidered final determination supplements the original final determination and supersedes it to the extent the original is inconsistent with the reconsidered final determination. In conjunction with the original final determination, the reconsidered final determination is an amended final determination for the CIT petitioner and effective upon publication of the notice of this reconsidered determination in the **Federal Register**.

Dated: December 31, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–299 Filed 1–2–02; 2:14 pm]

BILLING CODE 4310–02–P

DEPARTMENT OF JUSTICE

Office of Violence Against Women Office; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; New collection. Data Collection from Grantees from the Grants to Reduce Violent Crimes Against Women on Campus Program.

The Department of Justice, Office of Justice Programs, Violence Against Women Office, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by January 4, 2002. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information Regulation Affairs, (202) 395–7860, Department of Justice Desk Officer, Washington, DC 20530.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Cathy Poston, Attorney/Advisor, Violence Against Women Office, Office of Justice Programs, 810 7th Street, NW., Washington, DC 20531, or facsimile at (202) 305–2589.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Data Collection from Grantees from the Grants to Reduce Violent Crimes Against Women on Campus Program.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. Violence Against Women Office, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be as or required to respond, as well as a brief abstract:* Primary: Institutions of Higher Education. Other: None.

The Grants to Reduce Violent Crimes Against Women on Campus Program was authorized through Section 826 of the Higher Education Amendments of 1998 to make funds available to institutions of higher education to combat domestic violence, dating violence, sexual assault and stalking crimes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* The time burden of the 45 respondents to complete the data collection form is 60 minutes per application.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 45 annual burden hours.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy, Clearance Office, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, 601D Street, NW., Washington, DC 20530.

Dated: December 18, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–159 Filed 1–3–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of Information Collection Under Review; Employment Authorization Document.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request (ICR) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until March 5, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection:

(1) *Type of Information Collection: Extension of a currently approved information collection.*

(2) *Title of the Form/Collection*: Employment Authorization Document.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection*: Form I–765. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract*: Primary: Individuals or households. The information collection on this form is used by the INS to determine eligibility for the issuance of the employment document.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: 1,873,296 responses at 3.42 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection*: 6,406,672 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: December 28, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–216 Filed 1–3–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Requested

ACTION: 60-day notice of information collection under review: Reinstatement, with change, of a previously approved collection for which approval has expired: The Annual Survey of Jails, Forms CJ–5, CJ–5A, CJ–5B.

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (BJS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to

obtain comments from the public and affected agencies.

Comments are encouraged and will be accepted for ''sixty days'' until March 5, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have additional comments, suggestions, or additional information, especially regarding the estimated public burden and associated response time, please write to Lawrence A. Greenfeld, Acting Director, Bureau of Justice Statistics, 810 Seventh St. NW., Washington, DC 20531. If you need a copy of the collection instruments with instructions, or have additional information, please contact Jennifer Karberg at (202) 307–1043, or via facsimile at (202) 514–1757.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Reinstatement, with change, of a previously approved collection for which approval has expired:

(2) *The title of the Form/Collection:* The Annual Survey of Jails.

(3) *The agency form number and the applicable component of the Department sponsoring the collection:* Forms: CJ–5, CJ–5A, CJ–5B. Corrections Statistics, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Primary: County and City jail authorities and Tribal authorities. The ''Annual Survey of Jails'' (ASJ) is the only collection effort that provides an ability to maintain important jail statistics in years between jail censuses. The ASJ enables the Bureau; Federal, State, and local correctional administrators; legislators; researchers; and planners to track growth in the number of jails and their capacities nationally; as well as, track changes in the demographics and supervision status of jail population and the prevalence of crowding.

(5) *An estimate of the total number of respondents and the amount of time needed for an average respondent to respond:* There are approximately 946 respondents responding to the survey, each taking an average 1.25 hours to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,180 annual burden hours associated with this information collection.

If additional information is required, contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: December 19, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–158 Filed 1–3–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed at the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA010001 (Mar. 02, 2001)
MA010003 (Mar. 02, 2001)
MA010007 (Mar. 02, 2001)
MA010008 (Mar. 02, 2001)
MA010010 (Mar. 02, 2001)
MA010017 (Mar. 02, 2001)
MA010018 (Mar. 02, 2001)
MA010019 (Mar. 02, 2001)
MA010020 (Mar. 02, 2001)
MA010021 (Mar. 02, 2001)
New Hampshire
NH010001 (Mar. 02, 2001)
NH010005 (Mar. 02, 2001)
NH010007 (Mar. 02, 2001)
NH010011 (Mar. 02, 2001)
New Jersey
NJ010002 (Mar. 02, 2001)
NJ010003 (Mar. 02, 2001)
NJ010004 (Mar. 02, 2001)
NJ010005 (Mar. 02, 2001)
NJ010007 (Mar. 02, 2001)
NJ010009 (Mar. 02, 2001)
New York
NY010003 (Mar. 02, 2001)
NY010007 (Mar. 02, 2001)
NY010013 (Mar. 02, 2001)
NY010018 (Mar. 02, 2001)
NY010021 (Mar. 02, 2001)
NY010026 (Mar. 02, 2001)
Rhode Island
RI010001 (Mar. 02, 2001)

Volume II

District of Columbia
DC10001 (Mar. 02, 2001)
DC10003 (Mar. 02, 2001)
Delaware
DE10002 (Mar. 02, 2001)
DE10005 (Mar. 02, 2001)
Pennsylvania
PA10005 (Mar. 02, 2001)
West Virginia
WV010001 (Mar. 02, 2001)
WV010002 (Mar. 02, 2001)
WV010003 (Mar. 02, 2001)

Volume III

Alabama
AL010004 (Mar. 02, 2001)
AL010006 (Mar. 02, 2001)
AL010008 (Mar. 02, 2001)
AL010017 (Mar. 02, 2001)
AL010033 (Mar. 02, 2001)
AL010034 (Mar. 02, 2001)
Georgia
GA010003 (Mar. 02, 2001)
GA010004 (Mar. 02, 2001)
GA010006 (Mar. 02, 2001)
GA010022 (Mar. 02, 2001)
GA010023 (Mar. 02, 2001)
GA010032 (Mar. 02, 2001)
GA010044 (Mar. 02, 2001)
GA010050 (Mar. 02, 2001)
GA010055 (Mar. 02, 2001)
GA010073 (Mar. 02, 2001)
GA010085 (Mar. 02, 2001)
GA010086 (Mar. 02, 2001)
Mississippi
MS010001 (Mar. 02, 2001)
MS010003 (Mar. 02, 2001)
Tennessee
TN010001 (Mar. 02, 2001)
TN010003 (Mar. 02, 2001)
TN010005 (Mar. 02, 2001)
TN010040 (Mar. 02, 2001)
TN010041 (Mar. 02, 2001)
TN010042 (Mar. 02, 2001)
TN010043 (Mar. 02, 2001)
TN010044 (Mar. 02, 2001)
TN010045 (Mar. 02, 2001)
TN010048 (Mar. 02, 2001)
TN010062 (Mar. 02, 2001)

Volume IV

Illinois
IL010001 (Mar. 02, 2001)
IL010002 (Mar. 02, 2001)
IL010003 (Mar. 02, 2001)
IL010004 (Mar. 02, 2001)
IL010005 (Mar. 02, 2001)
IL010006 (Mar. 02, 2001)
IL010007 (Mar. 02, 2001)
IL010008 (Mar. 02, 2001)
IL010011 (Mar. 02, 2001)
IL010012 (Mar. 02, 2001)
IL010014 (Mar. 02, 2001)
IL010015 (Mar. 02, 2001)
IL010016 (Mar. 02, 2001)
IL010017 (Mar. 02, 2001)
IL010018 (Mar. 02, 2001)
IL010022 (Mar. 02, 2001)
IL010024 (Mar. 02, 2001)
IL010025 (Mar. 02, 2001)
IL010027 (Mar. 02, 2001)
IL010031 (Mar. 02, 2001)
IL010032 (Mar. 02, 2001)
IL010037 (Mar. 02, 2001)
IL010045 (Mar. 02, 2001)
IL010046 (Mar. 02, 2001)
IL010048 (Mar. 02, 2001)
IL010050 (Mar. 02, 2001)
IL010051 (Mar. 02, 2001)
IL010066 (Mar. 02, 2001)
IL010070 (Mar. 02, 2001)
Indiana
IN010001 (Mar. 02, 2001)
IN010002 (Mar. 02, 2001)
IN010005 (Mar. 02, 2001)
IN010006 (Mar. 02, 2001)
Michigan
MI010002 (Mar. 02, 2001)
MI010005 (Mar. 02, 2001)
MI010007 (Mar. 02, 2001)
MI010013 (Mar. 02, 2001)
MI010062 (Mar. 02, 2001)
MI010081 (Mar. 02, 2001)
MI010082 (Mar. 02, 2001)
MI010084 (Mar. 02, 2001)
MI010088 (Mar. 02, 2001)

Volume V

Arkansas
AR010003 (Mar. 02, 2001)
Iowa
IA010002 (Mar. 02, 2001)
IA010004 (Mar. 02, 2001)
IA010008 (Mar. 02, 2001)
IA010014 (Mar. 02, 2001)
Nebraska
NE010003 (Mar. 02, 2001)
NE010004 (Mar. 02, 2001)
NE010007 (Mar. 02, 2001)
NE010009 (Mar. 02, 2001)
NE010010 (Mar. 02, 2001)
NE010011 (Mar. 02, 2001)
NE010021 (Mar. 2, 2001)
NE010025 (Mar. 2, 2001)
NE010041 (Mar. 2, 2001)

Volume VI

Alaska
AK010001 (Mar. 2, 2001)
Idaho
ID010001 (Mar. 2, 2001)
ID010003 (Mar. 2, 2001)
ID010004 (Mar. 2, 2001)
ID010005 (Mar. 2, 2001)
ID010013 (Mar. 2, 2001)
ID010014 (Mar. 2, 2001)
North Dakota
ND010010 (Mar. 2, 2001)
ND010011 (Mar. 2, 2001)
Oregon
OR010001 (Mar. 2, 2001)
OR010004 (Mar. 2, 2001)
OR010007 (Mar. 2, 2001)
OR010017 (Mar. 2, 2001)
Washington
WA010001 (Mar. 2, 2001)
WA010002 (Mar. 2, 2001)
WA010003 (Mar. 2, 2001)
WA010006 (Mar. 2, 2001)
WA010008 (Mar. 2, 2001)
WA010010 (Mar. 2, 2001)
WA010011 (Mar. 2, 2001)

Volume VII

California
CA010001 (Mar. 2, 2001)
CA010002 (Mar. 2, 2001)
CA010028 (Mar. 2, 2001)
CA010030 (Mar. 2, 2001)
CA010031 (Mar. 2, 2001)
CA010033 (Mar. 2, 2001)
CA010039 (Mar. 2, 2001)
Hawaii
HI010001 (Mar. 2, 2001)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage determinations Issued Under the David-Bacon And Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon.*

They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov) of* the

National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

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Signed at Washington, DC this 27th day of December 2001.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 02–46 Filed 1–3–02; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL INDIAN GAMING COMMISSION

Paperwork Reduction Act

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: The National Indian Gaming Commission (NIGC), in accordance with the Paperwork Reduction Act of 1995, is submitting to the Office of Management and Budget (OMB) a request to review and extend approval for the information collection activity associated with the submission of an annual audit report pursuant to 25 CFR 542.3(d) by Indian tribes conducting gaming under the Indian Gaming Regulatory Act. The OMB will consider comments from the public on this information collection activity.

DATES AND ADDRESSES: Comments regarding the NIGC's evaluation of the information collection activity and its request to OMB to extend approval for the information collection must be received by February 4, 2002. When providing comment, a respondent should specify the particular collection activity to which the comment pertains. Send comments to: Office of Information and Regulatory Affairs (Attn: Desk Officer for the National Indian Gaming Commission), Office of Management and Budget, 725 17th Street NW., Washington, DC 20503. The NIGC regulation to which the information collection pertains is available on the NIGC Web site, *www.nigc.gov.* The regulation is also available by written request to the NIGC (Attn: Michele Mitchell), 1441 L Street NW., Suite 9100, Washington, DC, 20005, or by telephone request at (202) 632–7003. This is not a toll-free number. All other requests for information should be submitted to Michele Mitchell at the above address for the NIGC.

SUPPLEMENTARY INFORMATION:

Title: Minimum Internal Control Standards.

OMB Number: 3141–0009.

Abstract: The Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq., authorizes the NIGC to promulgate regulations sufficient to shield Indian gaming from corrupting influences, to ensure that the tribes are the primary beneficiaries of gaming and to assure that Indian gaming is fair and honest. The NIGC's Minimum Internal Control standards provide a baseline from which to gauge whether a tribe has implemented controls sufficient to protect the assets of its gaming operation(s). The information required by 25 CFR 542.3(d) is essential to the Commission's ability to fulfill its oversight responsibilities. This evaluation may be completed within the annual financial audit of the gaming operation and does not require a separate audit of the gaming operation's internal control system.

Respondents: Indian tribal gaming operations.

Estimated Number of Respondents: 315.

Estimated Annual Responses: 315.

Estimated Annual Burden Hours per Respondent: 120 hrs.

Estimated Total Annual Burden on Respondents: 37,800 hours.

Estimated Total Annual Cost Burden: $3,780,000.

Richard Schiff,

Deputy Chief of Staff.

[FR Doc. 02–182 Filed 1–3–02; 8:45 am]

BILLING CODE 7565–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8502]

COGEMA Mining Incorporated

AGENCY: Nuclear Regulatory Commission.

ACTION: Final finding of no significant impact; notice of opportunity for hearing.

SUMMARY: The U. S. Nuclear Regulatory Commission (NRC) proposes to amend NRC Source Material License SUA–1341 to authorize the licensee, COGEMA Mining Incorporated (COGEMA) to conduct surface (land and structures) decommissioning according to the submitted plan.

An Environmental Assessment (EA) was performed by the NRC staff in support of its review of COGEMA's license amendment request, in accordance with the requirements of 10 CFR part 51. The conclusion of the Environmental Assessment is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Brummett, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U. S. Nuclear Regulatory Commission, Mail Stop T8–A33, Washington, DC 20555–0001. Telephone 301/415–6606.

SUPPLEMENTARY INFORMATION:

Background

The COGEMA Irigaray and Christensen Ranch In Situ Leach facilities are licensed by the U. S. Nuclear Regulatory Commission (NRC) under Source Materials License SUA–1341 to possess byproduct material in the form of uranium waste as well as other radioactive wastes generated by past uranium processing operations.

Summary of the Environmental Assessment

The NRC staff performed an appraisal of the environmental impacts associated with the surface decommissioning plan, in accordance with 10 CFR Part 51, Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions. The license amendment would authorize COGEMA to decontaminate structures (such as buildings) and equipment, remove contaminated soil and equipment for disposal, and restore the land according to the procedures and criteria present in the submitted plan. Ground water restoration has been addressed in a previous licensing action. The technical

aspects of the surface decommissioning plan are discussed separately in a Technical Evaluation Report (TER) that will accompany the agency's final licensing action.

The results of the staff's appraisal of potential environmental impacts are documented in an EA placed in the docket file. Based on its review, the NRC staff has concluded that there are no significant environmental impacts associated with the proposed action.

Conclusions

The NRC staff has examined actual and potential impacts associated with the decommissioning plan, and has determined that the requested amendment of Source Material License SUA–1341, authorizing implementation of the surface decommissioning plan, will: (1) be consistent with requirements of 10 CFR part 40, Appendix A; (2) not be inimical to the public health and safety; and (3) not have long-term detrimental impacts on the environment. The following statements summarize the conclusions resulting from the staff's environmental assessment, and support the FONSI:

1. An acceptable environmental and effluent monitoring program is in place to monitor effluent releases and to detect if applicable regulatory limits are exceeded. Radiological effluents resulting from decommissioning activities are expected to remain below the regulatory limits.

2. Present and potential health risks to the public and risks of environmental damage from the proposed decommissioning were assessed. Given the remote location, limited activities requested, small area of impact, and past activities on the site, the staff determined that the risk factors for health and environmental hazards are insignificant.

Alternatives to the Proposed Action

The proposed action is to amend NRC Source Material License SUA–1341, for decommissioning of surface structures (buildings, well heads, piping) and land by removing the residual byproduct material to meet regulatory criteria and NRC recommended levels. The principal alternatives available to NRC are to:

1. Approve the license amendment request as submitted; or

2. Amend the license with such additional conditions as are considered necessary or appropriate to protect public health and safety and the environment; or

3. Deny the amendment request.

Based on its review, the NRC staff has concluded that the environmental impacts associated with the proposed action do not warrant either the limiting of COGEMA's plans necessary for license termination (all uranium recovery operations have ceased) or the denial of the license amendment. Additionally, in the TER prepared for this action, the staff has reviewed the licensee's proposed action with respect to the criteria for decommissioning, specified in 10 CFR 40.42 and Part 40, Appendix A, and has no basis for denial of the proposed action. Therefore, the staff considers that Alternative 1 is the appropriate alternative for selection.

Finding of No Significant Impact

The NRC staff has prepared an EA for the proposed renewal of NRC Source Material License SUA–1341. On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The EA and other documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of 10 CFR Part 2, Subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operators Licensing Proceedings,'' of the Commission's Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(d), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, COGEMA Mining Incorporated, P.O. Box 730, Mills, WY 82644;

(2) The NRC staff, by delivery to the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or

(3) By mail addressed to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

In addition to meeting other applicable requirements of 10 CFR part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

Any hearing that is requested and granted will be held in accordance with the Commission's ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings'' in 10 CFR part 2, subpart L.

Dated at Rockville, Maryland, this 26th day of December, 2001.

For The Nuclear Regulatory Commission.

Melvyn Leach,

Chief, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–232 Filed 1–3–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–10, 50–237, and 50–249]

Exelon Generation Company, LLC, Dresden Nuclear Power Station, Units 1, 2, and 3; Exemption

1.0 Background

The Exelon Generation Company, LLC, (Exelon, or the licensee) is the holder of Facility Operating License Nos. DPR–2, DPR–19, and DPR–25, which authorizes operation of the Dresden Nuclear Power Station (DNPS), Units 1, 2, and 3. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory

Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of Unit 1, which is permanently defueled, and Units 2 and 3, which are both operating boiling water reactors. The facility is located in Grundy County, Illinois.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), part 50, appendix E, section IV.F.2.c. requires that offsite emergency plans at each site be exercised every 2 years with full or partial participation by each offsite response organization (ORO) having a role under the plan. Normally during such biennial full-participation exercises, the NRC evaluates onsite, and the Federal Emergency Management Agency (FEMA) evaluates offsite, emergency preparedness activities.

The licensee conducted a biennial exercise on May 26, 2001, but participation by the OROs was curtailed due to the need to respond to emergency conditions caused by flooding within the State. The licensee rescheduled the ORO participation for September 18, 2001, but the national emergency preempted the conduct of that exercise. By letter dated December 18, 2001, the licensee requested an exemption to postpone the remaining portions of ORO participation into an exercise to be conducted in 2002. The last full participation exercise for DNPS was conducted on May 26, 1999. The period between exercises could be as long as 42 months if the exercise were conducted in December of 2002. This is outside the period of time normally allowed for the scheduling of biennial exercises. However, it is recognized that rescheduling the exercise is a challenge to the licensee. This being the case, a schedular exemption for conducting the remaining portions of the offsite exercise before the end of the third quarter of 2002 is appropriate. This could result in a maximum interval between FEMA-evaluated exercises of about 39 months if the licensee conducted the exercise in September of 2002. While this interval is longer than the 36 month period allowed by regulations, it is consistent with other exemptions recently granted due to the national emergency.

Exelon is among several licensees requesting exercise exemptions in the wake of the national emergency of September 11, 2001. It is recognized that it was not appropriate to conduct an exercise during the period of disruption and heightened security after the national emergency. The State of Illinois was initially involved with the recovery response to the national emergency and continues to respond to heightened security needs. Considering the extraordinary circumstances, a schedular exemption is acceptable. However, in this period of heightened security concerns regarding nuclear plant vulnerability, it is prudent to conduct the exercise as soon as practicable to maintain and demonstrate readiness. The following evaluation addresses the technical issues necessary to grant a schedular exemption from the requirements of 10 CFR Part 50, Appendix E, section IV.F.2.c, to conduct an evaluated biennial exercise.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Under 10 CFR 50.12(a)(2)(v), special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

The exemption only provides temporary relief from the applicable regulation, in that the licensee has committed to conduct the exercise during the next calendar year (2002) and has not requested any permanent changes in future exercise scheduling. The staff has also determined that conduct of the exercise as early as practicable in 2002 is prudent, but the exemption is not predicated on the licensee following this recommendation.

The licensee has stated that due to the number of Exelon nuclear facilities in the area around DNPS, most of the OROs have participated in other biennial exercises. There are three counties responsible for offsite emergency preparedness in support of DNPS. Will County participated in the Braidwood Exercise of March 1, 2000, and Grundy County participated in the LaSalle exercise of October 4, 2000. Kendall County, which is located in the five-to-ten mile portion of the DNPS emergency planning zone, has not participated in an exercise during the last two years. The Illinois Department of Nuclear Safety (IDNS) participated in the May 26, 2001, DNPS exercise (and four others during the last two years) and the Illinois Emergency Management Agency (IEMA) participated with various Exelon sites as follows: Braidwood, March 1, 2000; LaSalle, October 4, 2000; Clinton, August 28, 2001; and Byron, November 28, 2001.

The licensee stated that all past exercises were conducted using the Exelon standard evaluation techniques. Weaknesses and deficiencies were identified and entered into the corrective action program and are tracked to completion. Future exercises are to be conducted in the same manner. The licensee stated that an appropriate level of emergency preparedness is being maintained as evidenced by ORO participation.

For this exemption request, the special circumstances described in Section 50.12(a)(2) of 10 CFR 50 are present:

> 50.12(a)(2)(v) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made a good faith effort to comply with the regulation.

The national emergency of September 11, 2001, and the subsequent recovery and security responses prevented the OROs from participating in the re-scheduled biennial exercise. The licensee made a good faith effort to comply with regulations through the conduct of an exercise on May 26, 2001, and the rescheduling of the ORO participation aspects of that exercise for September 18, 2001. The circumstances dictating the request for exemption are beyond the licensee's control. Additionally, the licensee's exercise program includes multiple opportunities for the participation of OROs and is a compensating measure contributing to justification of the exemption. The exemption only provides temporary relief from the applicable regulation, in that the licensee has committed to conduct the remaining portions of the offsite exercise during the next calendar year (2002) and has not requested any permanent changes in future exercise scheduling. The staff has determined that conduct of the exercise as early as practicable in 2002, but no later than the end of the third quarter, is prudent even though the licensee is expected to conduct another full or partial participation exercise in 2003.

4.0 Conclusion

The staff finds that granting the licensee's request for a one-time schedular exemption from the requirement of section IV.F.2.c. of appendix E to 10 CFR part 50 to conduct a full participation emergency preparedness exercise in 2001 will not present an undue risk to the public health and safety, is consistent with the

common defense and security, and that special circumstances are present as set forth in 10 CFR 50.12(a)(2). This conclusion is based on the expectation that the licensee will conduct the remaining offsite portions of the postponed exercise before the end of the third quarter 2002.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 66948).

This exemption is effective upon issuance and expires on September 30, 2002.

Dated at Rockville, Maryland, this 28th day of December, 2001.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–229 Filed 1–3–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–08794]

Notice of Consideration of Amendment Request for Molycorp, Inc., York, PA, Site and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Source Materials License SMB–1408 issued to Molycorp, Inc., (Molycorp), to defer the second round of sampling groundwater monitoring wells in 2001 at the Molycorp, York, PA, site until the completion of its decommissioning activities in 2002. Molycorp's license requires that samples are to be drawn from designated wells biannually. One round of groundwater sampling results was submitted to NRC in March 2001, with the reported data below levels of concern. Molycorp then plugged and abandoned all existing groundwater wells on site in order to proceed with decommissioning. Due to the increased volume of contaminated soil encountered during the decommissioning of the York facility, and the extension of decommissioning activities, Molycorp will not be able to reinstall and sample the monitoring wells in 2001. Prior to installing the new wells, Molycorp has committed to confer with both NRC and the Pennsylvania Department of Environmental Protection to ensure that the new well locations are satisfactory. Molycorp shall install the new wells following the completion of decommissioning activities in 2002, and will sample the new wells on a biannual basis until its license is terminated. Molycorp's request is contained in a letter to NRC dated November 19, 2001.

If the NRC approves this request, the approval will be documented in a license amendment to NRC License SMB–1408. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a safety evaluation report and an environmental assessment.

NRC hereby provides notice that this is a proceeding on an application for an amendment of a license falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules of practice for domestic licensing proceedings in 10 CFR part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for ahearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary by mail or facsimile (301–415–1101) addressed to: The Rulemaking and Adjudications Staff of the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally, or by mail, to:

1. The applicant, Molycorp, Inc., 300 Caldwell Avenue, Washington, PA 15301, Attention: George Dawes, and,

2. The NRC staff, General Counsel, by mail, addressed to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

In addition to meeting other applicable requirements of 10 CFR part 2 of NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and,

4. The circumstance establishing that the request for a hearing is timely in accordance with § 2.1205(d).

FOR FURTHER INFORMATION CONTACT: The application for the license amendment and supporting documentation are available for inspection at NRC's Public Electronic Reading Room at *http://www.nrc.gov/NRC/ADAMS/index.html.* Any questions with respect to this action should be referred to Tom McLaughlin, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Telephone: (301) 415–5869. Fax: (301) 415–5398.

Dated at Rockville, Maryland, this 27th day of December 2001.

For the Nuclear Regulatory Commission.

Tom McLaughlin,

Project Manager, Facilities Decommissioning Section, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–230 Filed 1–3–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8905]

Quivira Mining Company

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of receipt of a request from Quivira Mining Company to revise a site-reclamation milestone in License No. SUA–1473 for the Ambrosia Lake, New Mexico facility and notice of opportunity for a hearing.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated November 6, 2001, a request from Quivira Mining Company to amend License Condition (LC) 40 B.(1) of Source Material License SUA–1473 for the Ambrosia Lake, New Mexico, facility. The license amendment request proposes to modify LC 40 B.(1) to change the completion date for placement of the erosion protection on the pile to December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Jill Caverly, Project Manager, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T–8 A33, Washington, D.C. 20555. Telephone (301) 415–6699, e-mail *jsc1@nrc.gov.*

SUPPLEMENTARY INFORMATION: The portion of LC 40 B.(1) with the proposed change would read as follows:

40 B. Reclamation, to ensure required longevity of the covered tailings and groundwater protection, shall be completed as expeditiously as is reasonably achievable, in accordance with the following target dates for completion:

(1) Placement of erosion protection as part of reclamation to comply with Criterion 6 of Appendix A of 10 CFR part 40—

For impoundment No. 1—December 31, 2001

For impoundment No. 2, excluding portions used for approved byproduct material disposal—December 31, 2003

Quivira's request to amend LC 40 B.(1) of Source Material License SUA–1473, which describes the proposed changes to the license condition and the reason for the request, is being made available for public inspection at the NRC's Public Document Room at NRC Headquarters in Rockville, Maryland.

The NRC hereby provides notice of an opportunity for a hearing on the license amendment under the provision of 10 CFR part 2, subpart L, ''Informal Hearing Procedures for Adjudications of Materials and Operator Licensing Proceedings.'' Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**. The request for a hearing must be filed with the Office of the Secretary, either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch.

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, Quivira Mining Company, 6305 Waterford Blvd., Suite 325, Oklahoma City, Oklahoma 73118, Attention: William Paul Goranson; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceedings, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's area of concern about the licensing activity that is the subject matter of the proceedings; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

In addition, members of the public may provide comments on the subject application within 30 days of the publication of this notice in the **Federal Register**. The comments may be provided to Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Rockville, Maryland, this 27th day of December 2001.

For the Nuclear Regulatory Commission.

Melvyn N. Leach,

Chief, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–231 Filed 1–3–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC—25346]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

December 28, 2001.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of December 2001. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549–0102 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 22, 2002, and should be accompanied by proof of service on the applicant, 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 who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549–0506.

Somerset Exchange Fund [File No. 811–7703]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 2, 2001, applicant's shareholders approved a proposal to convert applicant from a closed-end investment company to an open-end investment company. Shareholders of applicant were informed in proxy materials that following conversion to an open-end investment company, applicant would seek to deregister under the Act if redemptions caused the number of applicant's beneficial owners to fall below 100. Applicant will continue to operate as an unregistered pooled investment vehicle in reliance on section 3(c)(1) or section 3(c)(7) of the Act.

Filing Dates: The application was filed on November 13, 2001, and amended on December 20, 2001.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08536.

Kemper National Tax-Free Income Series [File No. 811–2353]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 11, 2001, applicant's two series, Kemper Municipal Bond Fund and Kemper Intermediate Municipal Bond Fund, transferred their assets and liabilities to Scudder Managed Municipal Bonds, a series of Scudder Municipal Trust, and Scudder Medium Term Tax Free Fund, a series of Scudder Tax Free Trust, based on net asset value. Expenses of $315,583 incurred in connection with the reorganization were paid by applicant and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

Kemper Income Trust [File No. 811–8983]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On May 29, 2001, applicant transferred its assets to Scudder High Yield Fund (formerly Kemper High Yield Fund), a series of Scudder High Yield Series (formerly Kemper High Yield Series), based on net asset value. Expenses of $42,990 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

Kemper Asian Growth Fund [File No. 811–7731]

Kemper International Fund [File No. 811–3136]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On May 29, 2001 and June 18, 2001, respectively, each applicant transferred its assets to a series of Scudder International Fund, Inc., based on net asset value. Expenses of $39,129 and $360,873, respectively, incurred in connection with the reorganizations were paid by applicants and Zurich Scudder Investments, Inc., investment adviser to the applicants.

Filing Date: The applications were filed on December 5, 2001.

Applicants' Address: 222 South Riverside Plaza, Chicago, IL 60606.

PaineWebber Investment Series [File No. 811–5259]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 9, 2001, applicant transferred its assets to PACE Global Fixed Income Investments, a series of PaineWebber PACE Select Advisors Trust, based on net asset value. Expenses of $161,041 incurred in connection with the reorganization were paid by applicant's investment adviser, Brinson Advisors, Inc.

Filing Date: The application was filed on December 17, 2001.

Applicant's Address: 51 West 52nd St., New York, NY 10019–6114.

Scudder California Tax Free Trust [File No. 811–3729]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 18, 2001, applicant transferred its assets to Scudder California Tax-Free Income Fund (formerly Kemper California Tax-Free Income Fund), a series of Kemper State Tax-Free Income Series, based on net asset value. Expenses of $94,058 incurred in connection with the reorganization were paid by applicant, the acquiring fund and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: Two International Place, Boston, MA 02110–4103.

Farmers Investment Trust [File No. 811–9085]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 9, 2001, applicant's five portfolios, Farmers Income Portfolio, Farmers Income with Growth Portfolio, Farmers Balanced Portfolio, Farmers Growth with Income Portfolio and Farmers Growth Portfolio, transferred their assets and liabilities to corresponding portfolios of Scudder Pathway Series based on net asset value. All expenses incurred in connection with the reorganization were paid by Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: Two International Place, Boston, MA 02110–4103.

AARP Tax Free Income Trust [File No. 811–4050]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 11, 2000, applicant's two series, AARP Insured Tax Free General Bond Fund and AARP High Quality Tax Free Money Fund, transferred their assets and liabilities to Scudder Managed Municipal Bonds, a series of Scudder Municipal Trust, and Scudder Tax-Free Money Fund, respectively, based on net asset value. Expenses of $626,383 incurred in connection with the reorganization were paid by applicant, Scudder Tax-Free Money Fund, and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: Two International Place, Boston, MA 02110–4103.

AARP Managed Investment Portfolios Trust [File No. 811–7933]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 25, 2000, applicant's two series, AARP Diversified Income with Growth Portfolio and AARP Diversified Growth Portfolio, transferred their assets and liabilities to corresponding series of Scudder Pathway Series, based on net asset value. Expenses of $149,688 incurred in connection with the reorganization were paid by Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: Two International Place, Boston, MA 02110–4103.

Scudder GNMA Fund [File No. 811–3699]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 17, 2000, applicant transferred its assets to Scudder GNMA Fund (formerly AARP GNMA and U.S. Treasury Fund), a series of Scudder Income Trust (formerly AARP Income Trust), based on net asset value. Expenses of $838,829 incurred in connection with the reorganization were paid by applicant and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: Two International Place, Boston, MA 02110–4103.

Kemper Global Income Fund [File No. 811–5829]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 18, 2001, applicant transferred its assets to Scudder Global Bond Fund, a series of Global/International Fund, Inc., based on net asset value. Expenses of $48,049 incurred in connection with the reorganization were paid by applicant and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

Mercury Internet Strategies Fund, Inc. [File No. 811–9853]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By May 23, 2001, applicant's sole shareholder redeemed its shares at net asset value. Expenses of $3,000 incurred in connection with the liquidation were paid by applicant.

Filing Dates: The application was filed on November 28, 2001, and amended on December 18, 2001.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08536.

Master Internet Strategies Trust [File No. 811–9851]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 15, 2001, applicant transferred its assets to Merrill Lynch Global Technology Fund, Inc. based on net asset value. Applicant incurred no expenses in connection with the reorganization.

Filing Dates: The application was filed on November 28, 2001, and amended on December 18, 2001.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08536.

Kemper Income and Capital Preservation Fund [File No. 811–2305]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 25, 2001, applicant transferred its assets to Scudder Income Fund, a series of Scudder Portfolio Trust, based on net asset value. Expenses of $173,273 incurred in connection with the reorganization were paid by applicant and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

Kemper Short-Term U.S. Government Fund [File No. 811–5195]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 25, 2001, applicant transferred its assets to Scudder Short Term Bond Fund, a series of Scudder Funds Trust, based on net asset value. Expenses of $55,843 incurred in connection with the reorganization were paid by applicant and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

Kemper Horizon Fund [File No. 811–7365]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 11, 2001, applicant transferred its assets to Scudder Total Return Fund (formerly Kemper Total Return Fund), based on net asset value. Expenses of $933,275 incurred in connection with the reorganization were paid by applicant, the acquiring fund and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

Kemper Securities Trust [File No. 811–8393]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 11, 2001, applicant transferred its assets to Scudder Growth and Income Fund, a series of Investment Trust, based on net asset value. Expenses of $31,147 incurred in connection with the reorganization were paid by applicant and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

MCG Capital Corporation [File No. 811–10587]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company as of December 4, 2001, the date applicant elected to be regulated as a business development company.

Filing Dates: The application was filed on December 4, 2001, and amended on December 17, 2001.

Applicant's Address: 1100 Wilson Blvd., Suite 800, Arlington, VA 22209.

AARP Cash Investment Funds [File No. 811–3650]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 11, 2000, applicant's two series, AARP Premium Money Fund and AARP High Quality Money Fund, transferred their assets and liabilities to Scudder Money Market Series, a series of Scudder Money Market Trust, and Scudder Cash Investment Trust, respectively, based on net asset value. Expenses of $478,645 incurred in connection with the reorganization were paid by applicant, the surviving funds, and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 4, 2001.

Applicant's Address: Two International Place, Boston, MA 02110–4103.

Trust for Financial Institutions [File No. 811–7067]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By April 7, 1995, applicant's shareholders had voluntarily redeemed their shares at net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on September 4, 2001.

Applicant's Address: 5800 Corporate Dr., Pittsburgh, PA 15237–7000.

Merrill Lynch Internet Strategies Fund, Inc. [File No. 811–9783]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 15, 2001, applicant transferred its assets to Merrill Lynch Global Technology Fund, Inc. based on net asset value. Expenses of $714,832 incurred in connection with the reorganization were paid by the surviving fund.

Filing Date: The application was filed on November 28, 2001.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08536.

Mercury Senior Floating Rate Fund, Inc. [File No. 811–10023]

Summary: Applicant, a feeder fund in a master-feeder structure, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on December 4, 2001.

Applicant's Address: Merrill Lynch Investment Managers, L.P., 800 Scudders Mill Rd., Plainsboro, NJ 08536.

Blue Ridge Total Return Fund [File No. 811–8391]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 15, 2001, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of approximately $26,700 incurred in connection with the liquidation were paid by applicant and its investment adviser, Colonial Asset Management, Inc.

Filing Date: The application was filed on December 4, 2001.

Applicant's Address: 116 South Franklin St., P.O. Box 69, Rocky Mount, NC 27802–0069.

Mentor Funds [File No. 811–6550]

Cash Resource Trust [File No. 811–7862]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On September 21, 2001, each applicant made a liquidating distribution to its shareholders based on net asset value. Total expenses of $1,794,983 incurred in connection with both liquidations were paid by Wachovia Corporation, parent of the investment adviser to all series of the applicants.

Filing Dates: The applications were filed on October 1, 2001, and amended on December 7, 2001.

Applicants' Address: Evergreen Funds, 200 Berkeley St., Boston, MA 02116.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–177 Filed 1–3–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45207; File No. SR–OPRA–2001–03]

Options Price Reporting Authority; Notice of Filing of Amendment to OPRA Plan To Exclude Foreign Currency Options From the Calculation of Capacity Allocation Provided for in the OPRA Plan

December 28, 2001.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 10, 2001, the Options Price Reporting Authority (''OPRA''),[2] submitted to the Securities and Exchange Commission (''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan''). The amendment would exclude foreign currency options (''FCOs'') from the calculation of capacity allocation provided for in the OPRA Plan. The Commission is publishing this notice to solicit comments on the proposed amendment from interested persons.

I. Description and Purpose of the Amendment

The proposed amendment would revise certain provisions of section III, ''Definitions'' and section V(d), ''Quarterly Calculation of Capacity Allocation'' in order to exclude FCOs from the calculation of system capacity allocation that is provided for in the OPRA Plan and make available exclusively for the processing and dissemination of FCO market data a fixed amount of system capacity as determined by OPRA from time to time. The proposed amendment provides that the capacity available for FCO market data will be capable of handling at least 350 messages per second (''mps''), the amount currently assigned by OPRA to FCO market data. OPRA represents that such capacity is sufficient to meet the anticipated needs of the FCO market. OPRA represents that the proposed amendment would make no substantive change to the provisions of the OPRA Plan.

II. Implementation of Plan Amendment

OPRA intends to make the proposed amendment to the OPRA Plan effective immediately upon approval of the amendment by the Commission pursuant to Rule 11Aa3–2 under the Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed plan amendment 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, and all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment between the Commission and any person, other than those 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 the filing will also be available at the principal offices of OPRA. All submissions should refer to File No. SR–OPRA–2001–03 and should be submitted by January 22, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret F. McFarland,

Deputy Secretary.

[FR Doc. 02–215 Filed 1–3–02; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45199; File No. SR–MSRB–2001–09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Rule A–4, on Meetings of the Board

December 27, 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 December 13, 2001, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. The MSRB has designated the proposed rule change as concerned solely with the administration of the Board under section 19(b)(3)(A) of the Act, which renders the proposed rule change effective upon receipt by the Commission. 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 MSRB has filed with the Commission a proposed rule change to amend rule A–4, on meetings of the Board, to include E-mail as a method of contacting and polling Board members. The text of the proposed rule change is set forth below. Additions are italicized; deletions are bracketed.

Rule A–4. Meetings of the Board

(a) No change.

(b) Notice of Meetings. Notice of the time and place of special meetings of the Board shall be mailed to each member, at such member's address appearing in the records of the Board, not later than the seventh calendar day preceding the date on which the

[1] 17 CFR 240.11Aa3–2.

[2] OPRA is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act, 15 U.S.C. 78k–1, and Rule 11Aa3–2 thereunder, 17 CFR 240.11Aa3–2. *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The five signatories to the OPRA Plan that currently operate an options market are the American Stock Exchange, the Chicago Board Options Exchange, the International Securities Exchange, the Pacific Exchange, and the Philadelphia Stock Exchange. The New York Stock Exchange is a signatory to the OPRA Plan, but sold its options business to the Chicago Board Options Exchange in 1997. *See* Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

[3] 17 CFR 200.30–3(a)(29).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

meeting is to be held, or by telephone, [telegraph,] *E-mail* or personal delivery not later than the third calendar day preceding the date on which the meeting is to be held. Written notice of special meetings of the Board shall be signed by the Secretary to the Board. Notice of a special meeting shall also set forth the purpose or purposes of the meeting and the name or names of the person or persons at whose request the meeting is being called. Notice of a special meeting need not be given to any member who submits a signed waiver of notice before or after the meeting, or who attends the meeting without protesting, prior thereto or at the commencement thereof, the lack of notice to such member. No notice of regular meetings of the Board shall be required.

(c) No change.

(d) Action Without a Meeting. Action by the Board may be taken without a meeting by written consent of the Board setting forth the action so taken or by telephone *or E-mail* poll of all members of the Board, provided that, in the case of action taken by telephone *or E-mail* poll, the Board, at a meeting, or the chairman of the Board authorizes the action to be taken by such means. The Executive Director shall transmit to each Board member, as soon as practicable after a telephone *or E-mail* poll is taken, a written statement setting forth the question or questions with respect to which the telephone *or E-mail* poll was taken and the results of the telephone *or E-mail* poll. Such statement shall also be entered in the minutes of the next Board meeting. In the case of action taken without a meeting by written consent, [or] telephone *or E-mail* poll, an affirmative vote of a majority of the whole Board is required.

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 Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board 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

Rule A–4, on meetings of the Board, establishes the procedures and requirements for holding Board meetings, the notice of the time and place required for special meetings, the quorum and voting requirements, and the procedures for taking action without a Board meeting.

Rule A–4(b), on notice of meetings, provides that notice of the time and place of special meetings of the Board shall be mailed to each Board member not later than the seventh calendar day preceding the date on which the meeting is to be held, or by telephone, telegraph or personal delivery not later than the third calendar day preceding the date on which the meeting is to be held. Notice of a special meeting shall also set forth the purposes or purposes of the meeting and the name or names of the person or persons at whose request the meeting is being called.

Rule A–4(d), on action without a meeting, provides that action by the Board may be taken without a meeting by written consent of the Board or by telephone poll of all members of the Board, provided that certain administrative procedures are followed.[3]

The proposed rule change amends rules A–4(b) and A–4(d) to include E-mail as a method of contacting and polling Board members. The amendment to rule A–4(b) provides that notification of special meetings of the Board may be made by e-mail and it removes notification of such meetings by the use of telegraph. The amendment to rule A–4(d) provides that e-mail may be used in conducting a poll of the Board for action taken without a meeting.

2. Basis

The MSRB has adopted the proposed rule change pursuant to section 15B(b)(2)(I) of the Act, which authorizes the MSRB to adopt rules that provide for the operation and administration of the Board.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it only applies to the operation and administration of the MSRB.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The MSRB has designated the proposed rule change as concerned solely with the administration of the MSRB under section 19(b)(3)(A) of the Act, which renders the proposed rule change effective upon receipt by the Commission. At any time within 60 days of filing of the proposed rule change, the Commission may summarily abrogate the proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submissions, 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 the filing will also be available for inspection and copying at the MSRB's principal offices. All submissions should refer to File No. SR–MSRB–2001–09 and should be submitted by January 25, 2002.

[3] The administrative procedures contained in rule A–4(d) are:

* * * in the case of action taken by telephone poll, the Board, at a meeting, or the chairman of the Board authorizes the action to be taken by such means. The Executive Director shall transmit to each Board member, as soon as practicable after a telephone poll is taken, a written statement setting forth the question or questions with respect to which the telephone poll was taken and the results of the telephone poll. Such statement shall also be entered in the minutes of the next Board meeting. In the case of action taken without a meeting by written consent or telephone poll, an affirmative vote of a majority of the whole Board is required.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–180 Filed 1–3–02; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45206; File No. SR–NASD–2001–76]

Self-Regulatory Organizations; Order Granting Accelerated Approval to a Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Amending NASD Rules 4510, 4520 and 4530 Relating to Issuer Entry and Annual Fee Schedules

December 28, 2001.

I. Introduction

On October 31, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Association Rules 4510, 4520, and 4530 pertaining to issuer entry and annual fee schedules for The Nasdaq National and The Nasdaq SmallCap Markets for both domestic and non-U.S. listings as well as additional conforming changes. On November 21, 2001, Nasdaq filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on November 30, 2001.[4] No comments were received regarding the proposed rule change, as amended. This order approves the proposed rule change, as amended, on an accelerated basis.

II. Description of the Proposed Rule Change

The NASD proposed to amend the Association Rules 4510, 4520, 4530 pertaining to issuer entry and annual fees on The Nasdaq National Market and The Nasdaq SmallCap Market for both domestic and foreign listings. It has been approximately ten years since the NASD amended the entry and annual fees for SmallCap[5] and American Depository Receipts (''ADR'') listings,[6] and four years since it amended The Nasdaq National Market entry and annual fees.[7]

The NASD proposed to increase entry and annual fees for The Nasdaq National Market, including ADRs. The Nasdaq National Market entry fees would be split into two fee schedules: one schedule for all U.S. issuers and foreign issuers raising capital in conjunction with their listing on Nasdaq; and another schedule for foreign issuers that are not raising capital in connection with their listing. This second schedule has somewhat lower fees for foreign listings under 5 million shares, in recognition of the fact that these listings are non-capital raising and generally represent secondary market listings. The NASD will also increase its existing annual fee structure for The Nasdaq National Market.

The NASD proposed to increase entry and annual fees for The Nasdaq SmallCap Market as well. ADRs on The Nasdaq SmallCap Market will follow the same annual fee schedule as domestic and foreign issues. Finally, the NASD intends to add a new fee schedule to the NASD Rule 4500 Series for Other Securities qualified under NASD Rule 4420(f). Finally, the NASD requested that the new fees apply as of January 1, 2002 in order to be consistent with the expectations of Nasdaq listed companies and to ease administration of the fees.[8]

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[9] In particular, the Commission finds that the proposed rule change, as amended, is consistent with section 15A(b)(6) of the Act[10] because it is designed to promote just and equitable principles of trade. In addition, the Commission finds that the proposed rule change, as amended, is consistent with section 15A(b)(5) of the Act[11] because it provides for the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using any facility or systems which the association operates. Specifically, the increase reflects additional costs that Nasdaq has represented it incurs for services provided to issuers. As represented by the NASD, it has committed increased resources to provide regulatory oversight, client coverage, and professional services to listed companies. The Nasdaq represents that additional resources were committed to fund regulatory costs associated with the institution of corporate governance requirements on The Nasdaq SmallCap Market in 1997. Furthermore, Nasdaq represents that it has made several market improvements such as Nasdaq Online, the Nasdaq Marketsite, and enhancements to Nasdaq.com, as well as market quality improvements such as decimalization, SuperSOES, and the development of SuperMontage. In addition, Nasdaq has represented that it also intends to allocate resources to fund service enhancements requested by Nasdaq companies, such as creating a telephone and technology-based corporate-client information center to provide Nasdaq companies with a range of integrated products and services in a more centralized and timely manner.[12]

Nasdaq seeks to implement the proposed fees on January 1, 2002. In order to be consistent with the expectations of Nasdaq listed companies and to ease administration of the fees, Nasdaq has requested that the Commission find good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after publication in the **Federal Register**. The Commission notes that the proposed rule change and Amendment No. 1 were noticed for the full 21-day comment period and the Commission received no comments regarding the proposed rule change, as amended. The Commission believes that granting accelerated approval to the proposed rule change will allow Nasdaq to implement the new fees by January 1, 2002, and will provide issuers with notice and an opportunity to budget for the additional costs. Accordingly, the Commission finds good cause, consistent with

[4] 17 CFR 200.30–3(a)(12)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Sara Nelson Bloom, Associate General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated November 21, 2001 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 45101 (November 23, 2001), 66 FR 59827.

[5] *See* Securities Exchange Act Release No. 30143 (January 2, 1992), 57 FR 726 (January 8, 1992).

[6] *See* Securities Exchange Act Release No. 28731 (January 2, 1991), 59 FR 906 (January 9, 1991).

[7] *See* Securities Exchange Act Release No. 39613 (February 2, 1998), 63 FR 6789 (February 10, 1998).

[8] *See* Amendment No. 1, *supra* note 3.

[9] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78*o*–3(b)(6).

[11] 15 U.S.C. 78*o*–3(b)(5).

[12] *See* Amendment No. 1, *supra* note 3.

section 15A(b)[13] and section 19(b)(2) of the Act[14] to approve the proposed rule change, as amended, on an accelerated basis.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposal, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[15] that the proposed rule change (SR–NASDA–2001–76), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–178 Filed 1–3–02; 8:45 am]

BILLING CODE

[13] 15 U.S.C. 78*o*-3(b).

[14] 15 U.S.C. 78s(b)(2).

[15] *Id.*

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45184; File No. SR–Phlx–2001–98]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendments No. 1 and 2 Relating to the Establishment of a Remote Specialist Program

December 21, 2001.

On October 22, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish a remote specialist program.

The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on November 12, 2001.[3] No comments were received on the proposal. The proposal was amended on November 29, 2001.[4] In this order, the Commission is approving the proposed rule change, as amended.

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[5] and, in particular, with the requirements of section 6(b)(5).[6]

The Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act[7] because it is designed to perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. The Commission believes that a remote specialist program will assist the Exchange in maintaining an efficient and open market.

The Commission approves this proposed rule change provided that the Exchange meet the following conditions: (i) The Exchange shall have place specific information barrier policies and surveillance policies that are consistent with the Exchange's existing rules and that are acceptable be the Commission's Office of Compliance Inspections and Examinations (''OCIE''); (ii) each remote PACE terminal shall be individually identified and associated with (an) authorized and qualified specialist(s) and/or registered clerk(s) and will require a non-transferable Remote Authorization; and (iii) all registered specialists and clerks, except those currently operating as floor specialists and clerks, must complete a floor training program.[8] The training may be waived by the Exchange for people in exceptional circumstances if other arrangements are made with and approved by the Exchange. However, a waiver will only be permitted if the Exchange is assured that the person requesting the waiver has made other arrangements that ensure that the person meet all of the training requirements. The training may not be waived for easily remedied reasons such as geographical location or inconvenience.

The Commission finds good cause for approving Amendment No. 2 prior to the thirtieth day after notice of the publication in the **Federal Register**. Amendment No. 2 makes minor technical changes to the proposed rule language, dealing with non-transferability of the remote authorizations. The Commission therefore finds that acceleration of Amendment No. 2 is appropriate.

Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether the proposed amendments are 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 amendments that are filed with the Commission, and all written communications relating to the amendments between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–98 and should be submitted by January 25, 2002.

It Is Therefore Ordered, pusuant to section 19(b)(2) of the Act,[9] that the proposed rule change (SR–Phlx–2001–98), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–179 Filed 1–3–02; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45014 (November 2, 2001), 66 FR 56888.

[4] *See* letter from Carla Behnfeldt, Director, Legal Department New Product Development Group, Phlx to John Riedel, Attorney Adviser, Division of Market Regulation (''Division''), Commission, dated November 28, 2001 (''Amendment No. 2''). In Amendment No. 2, several technical edits are made to subsection (n) of proposed rule 461 that do not need to be published for comment.

[5] 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).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(5).

[8] The floor training must include, among other things: communication procedures with Floor Brokers, PACE Desk, Surveillance, Systems Support, and ITS coordination with the Floor; remote/competing specialist program and Unlisted Trading Privilege applications and procedures, stock allocation procedures; trading halt procedures; and books and records/reports available.

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3873]

Exchange Visitor Program Designation Staff, Bureau of Educational and Cultural Affairs; 30-Day Notice of Proposed Information Collection: Certificate of Eligibility for Exchange Visitor (J–1) Status; Control No. 1405–0119; Department of State Form DS–2019 and IAP–66P

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Submit comments to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Extension of a currently approved collection.

Originating Office: Exchange Visitor Program Designation Staff, Bureau of Educational and Cultural Affairs (ECA/EC/ECD).

Title of Information Collection: Certificate of Eligibility for Exchange Visitor (J–1) Status.

Frequency: On occasion.

Form Numbers: DS–2019 and IAP–66P.

Respondents: U.S. Department of State designated Exchange Vistor Program sponsors and exchange visitors.

Estimated Number of Respondents: 300,000.

Average Hours Per Response: 45 minutes.

Total Estimated Burden: 1,350,000 hours.

Public comments are being solicited to permit the agency to:

- 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 collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from the Exchange Visitor Program Designation Staff (ECA/EC/PS), Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, 301 Fourth Street, SW., Room 734, U.S. Department of State, Washington, DC 20520; telephone: 202–401–9810. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: December 6, 2001.

James D. Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 02–237 Filed 1–3–02; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 3872]

Privacy Act of 1974, as Amended: New System of Records

Notice is hereby given that the Department of State proposes to create a new system of records, STATE–40, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a(r)), and the Office of Management and Budget Circular No. A–130, Appendix I. The Department's report was filed with the Office of Management and Budget on December 18, 2001.

This system of records is being implemented by the Department of State to facilitate an electronic database of official, publicly accessible locator information for all Department of State personnel, domestic and overseas; overseas employees of other foreign affairs agencies receiving payroll services from the Department; and contractors. Emergency contact information is also maintained, but is not publicly available.

Any persons interested in commenting on this system of records may do so by submitting comments in writing to Margaret Peppe, Chief; Programs and Policies Division; Office of IRM Programs and Services; A/RPS/IPS/PP; U.S. Department of State, SA–2; Washington, D.C. 20522–6001 or by fax at 202–261–8571.

This system of records will be effective 40 days from the date of publication, unless we receive comments that will result in a contrary determination.

The new system description, ''Electronic Telephone Directory (e*Phone), STATE–40'' will read as set forth below.

Dated: December 18, 2001.

William A. Eaton,

Assistant Secretary for the Bureau of Administration.

State–40

SYSTEM NAME:

Electronic Telephone Directory (e*Phone).

SECURITY CLASSIFICATION:

Sensitive but Unclassified (SBU).

SYSTEM LOCATION:

Department of State; 2201 C Street, NW; Washington, DC 20520.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current Civil Service (CS) and Foreign Service (FS) direct hire employees of the Department of State, domestic and overseas, regardless of employee type (i.e., full-time, part-time); direct hire overseas employees of other foreign affairs agencies who receive payroll services from the Department, regardless of employee type; direct hire personal service contractors, domestic and overseas; and all other contractor staff, domestic and overseas.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information in this system contains employees' and contractors' public and private contact information. Information, deemed part of the public domain, includes employee name, organization, office room number and building, and office phone number. Private information includes supervisor's name, e-mail address, date of birth, gender, marital status, category of employee, home address and home phone number for the individual, as well as emergency contact information, including name, home and work phone numbers of the contact, and the contact's relationship to the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 (Management of the Department of State);

22 U.S.C. 2581 (General Authority of Secretary of State); 22 U.S.C. 2651a (Organization of the Department of State).

PURPOSE(S):

The information contained in this system of records is collected and maintained by the Bureau of Information Resources Management in the administration of its responsibility for maintaining the Department's centralized database of official, publicly accessible locator information for all

personnel, both domestic and overseas, as well as contractors. Further, home and designated emergency contact information, not publicly accessible, is maintained for emergency use only.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information in this system may be used by any Department employee or contractor who needs an office address, including room number and building location as applicable, or office phone number for any other employee or contractor. Home and designated emergency contact information is provided on a need-to-know basis to specific, authorized Department of State officials in the event of an individual or general emergency, where such contact needs to be notified of the well-being of said employee(s) or contractor(s).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation and contractors have background investigations in accordance with their contracts. Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. The database server is located in a restricted area, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with published record schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street NW., Washington, DC 20522–6001 or by fax at 202–261–8571.

SYSTEM MANAGER AND ADDRESS:

Executive Director; Bureau of Information Resources Management; Department of State; 2201 C Street NW., Washington, DC 20520.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Bureau of Information Resources Management might have records pertaining to themselves should write to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street NW., Washington, DC 20522–6001 or send by fax at 202–161–8571. The individual must specify that he/she wishes the Electronic Telephone Directory (e*Phone) to be checked. At a minimum, the individual should include: name; date and place of birth; current mailing address and zip code; signature; and preferably his/her social security number; a brief description of the circumstances that caused the creation of the record, and the approximate dates which give the individual cause to believe that he/she is/was listed in the Electronic Telephone Directory (e*Phone).

RECORD ACCESS AND AMENDMENT PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should log on to e*Phone using their user-id and password to make updates/amendments. You may also request access or amendments by writing to the Director; Office of IRM Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information about employees that is automatically fed into e*Phone via a weekly interface with the Department's Human Resources System (Global Employment Management System). Information not publicly available is provided by the individual who is the subject of these records. Information regarding contractors and any other direct hire information is added by request of the individual, by the Post Administrative Office or the IRM Executive Office.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 02–236 Filed 1–3–02; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Henry Tift Myers Airport, Tifton, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from the Tift County Airport Authority to waive the requirement that a 9.246-acre parcel of surplus property, located at the Henry Tift Myers Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before February 4, 2002.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, 1701 Columbia Ave, Suite 2–260, Campus Building, College Park, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed to Dr. Greg Anderson, Authority Chairman, of the Tift County Airport Authority at the following address: PO Box 826, Tifton, GA 31793–0826.

FOR FURTHER INFORMATION CONTACT: Rusty Nealis, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave, Suite 2–260, Campus Building, College Park, GA 30337–2747, (404) 305–7142. The Application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by Tift County Airport Authority to release 9.246 acres of surplus property at the Henry Tift Myers Airport. The property will be purchased by Georgia Department of Transportation and will used as their maintenance facility as it has been for over 20 years. The use of this property as a maintenance facility has never adversely effected the airport's operations and is considered compatible. The property fronts State Route 125 and is adjacent and east of the existing National Guard Facility. The net proceeds from the sale of this property will be used for airport purposes.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the request, notice and other documents germane to the

request in person at the Tift County Airport Authority.

Issued in Atlanta, Georgia, on November 20, 2001.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 02–167 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice and Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Seattle-Tacoma International Airport under the provisions of 49 U.S.C. Sec. 47503(a) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing the proposed noise compatibility program that was submitted for Seattle-Tacoma International Airport under part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before April 26, 2002.

EFFECTIVE DATE: The effective date of the FAA's determination on the Seattle-Tacoma International Airport noise exposure maps and the start of its review of the associated noise compatibility program is October 29, 2001. The public comment period ends December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM–611, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps for Seattle-Tacoma International Airport are in compliance with applicable requirements for part 150, effective October 29, 2001. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before April 26, 2002. This notice also announces the availability of this program for public review and comment.

Under 49 U.S.C. 47503(a), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. 49 U.S.C. 47503(a)(1) requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) part 150, promulgated pursuant to 49 U.S.C. 47503(a) may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The Manager of the Airfield Line of Business for Seattle-Tacoma International Airport submitted to the FAA noise exposure maps, descriptions and other documentation which were produced during an airport Noise Compatibility Study. It was requested that the FAA review the noise exposure compatibility program under 49 U.S.C. 47504.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Seattle-Tacoma International Airport. The specific maps under consideration are Figures C40 and F1 in the submission. The FAA has determined that these maps for Seattle-Tacoma International Airport are in compliance with applicable requirements. This determination is effective on October 29, 2001. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the maps were developed in accordance with the procedures contained in Appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under 49 U.S.C. 47503, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of 49 U.S.C. 47507. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under 49 U.S.C. 47503(a)(1). The FAA has relied on the certification by the airport operator, under section 150.21 of the FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Seattle-Tacoma International Airport, also effective on October 29, 2001. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before April 26, 2002.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, paragraph 150.33.

The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to the local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 621, Washington, DC.

Federal Aviation Administration, Airports Division, Suite 315, 1601 Lind Avenue, SW., Renton, Washington.
Federal Aviation Administration, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington.
Seattle-Tacoma International Airport, Noise Abatement Office, Main Terminal, Room 6619, Mezzanine Level, Seattle, Washington.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Renton, Washington, October 29, 2001.

Lowell H. Johnson,

Manager, Airports Division, ANM–600, Northwest Mountain Region.

[FR Doc. 02–260 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aging Transport Systems Rulemaking Advisory Committee Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aging Transport Systems Rulemaking Advisory Committee (ATSRAC).

DATES: The FAA will hold the meeting on January 23 and 24, 2002 from 9 a.m. to 4 p.m. on the first day and from 8 a.m. to 3:30 p.m. on the second day.

ADDRESSES: Northwest Airlines Training Facility, 1000 Inner Loop Road, Atlanta, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Shirley Stroman, Office of Rulemaking, ARM–208, FAA, 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 267–7470; fax (202) 267–5075; or e-mail *shirley.stroman@faa.gov.*

SUPPLEMENTARY INFORMATION: This notice announces a meeting of the Aging Transport Systems Rulemaking Advisory Committee, which will be held at the Northwest Airlines Training Facility, 1000 Inner Loop Road, Atlanta, Georgia 30337.

The agenda topics for the meeting will include the following:

Day One

- Aging Affects on Engine Wiring
- Small Transport Aircraft Study Plan
- Enhanced Airworthiness Program for Airplane Systems Update
- Research and Development Update
- Flammability Presentation
- FAA Economist Overview
- Intrusive Inspection Recommendations Status

Day Two

- Standard Wire Practice Manual Working Group and Enhanced Training Program for Wire Systems Working Group Interim Reports
- Wire System Certification Requirements Working Group and Enhance Maintenance Criteria for Systems Working Group Status Reports

Meeting attendance is open to the public. However, space will be limited by the size of the available meeting room. The FAA will provide teleconference services to individuals who wish to participate by telephone and who submit their requests before January 15th. If you use the teleconference service from within the Washington, DC metropolitan calling area, the call would be considered local. However, callers from outside this calling area will be responsible for paying long-distance charges.

In addition to teleconferencing services, we will provide sign and oral interpretation, as well as a listening device if requests are made within 7 calendar days before the meeting. You may arrange for these services by contacting the person listed under the **FOR FURTHER INFORMATION CONTACT** heading of this notice.

The public may present written statements to the Committee by providing 20 copies to the Committee's Executive Director or by bringing the copies to the meeting. Public statements will only be considered if time permits.

Issued in Washington, DC on December 31, 2001.

Ida M. Klepper,

Acting Director, Office of Rulemaking.

[FR Doc. 02–259 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 213X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Wise County, VA

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.66-mile line of railroad between mileposts LT–0.0 and LT–0.66 at Banner, Wise County, VA. The line traverses United States Postal Service ZIP Code 24293.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 5, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 14, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 24, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by a $1000 filing fee. *See* 49 CFR 1002.2(f)(25).

contains false or misleading information, the exemption is void *ab initio.*

NSR has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by January 11, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historical preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by January 4, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: December 27, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–102 Filed 1–3–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 17, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before February 4, 2002.

Internal Revenue Service

OMB Number: 1545–1554.

Form Number: IRS Form MTQ/941.

Type of Review: Extension.

Title: Montana Quarterly Tax Report/ Employer's Quarterly Federal Tax Return.

Description: Form MTQ/941 is used by employers to report payments made to employees subject to income and Social Security and Medicare taxes and the amounts of these taxes. The state of Montana and the Simplified Tax and Wage Reporting System (STAWRS) have formed a partnership to explore the potential of combining Montana's quarterly reports for state withholding, Old Fund Liability tax, and Unemployment Insurance with the Employer's Quarterly Federal Tax Return (Form 941). One form will satisfy both State and Federal requirements and will make employer filing faster and easier.

Respondents: Business or other for-profit, Individual or households, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 710.

Estimated Burden Hours Per Respondent/Recordkeeper:

For Form 941:

Recordkeeping—9 hr., 34 min.

Learning about the law or the form—30 min.

Preparing the form—40 min.

Copying, assembling, and sending the form to the IRS—16 min.

For Form 941 TeleFile:

Recordkeeping—5 hr., 16 min.

Learning about the law or the Tax Record—18 min.

Preparing the Tax Record—23 min.

TeleFile phone call—11 min.

Frequency of Response: Quarterly.

Estimated Total Reporting/ Recordkeeping Burden: 30,661 hours.

Clearance Officer: George Freeland, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 02–168 Filed 1–3–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 18, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before February 4, 2002 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545–0047.

Form Number: IRS Form 5300 and Schedule Q (Form 5300).

Type of Review: Extension.

Title: Application for Determination for Employee Benefit Plan, Schedule Q (Form 5300); and Elective Determination Requests (Schedule Q).

Description: IRS needs certain information on the financing and operating of employee benefit and employee contribution plans set up by employers. IRS uses Form 5300 to obtain the information needed to determine whether the plans qualify under Code sections 401(a) and 501(a). Schedule Q provides information related to the manner in which a plan satisfies certain qualification requirements relating to minimum participation, coverage, and nondiscrimination.

Respondents: Individual or households, Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 185,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form/schedule	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS
Form 5300	41 hr., 7 min	7 hr., 54 min	13 hr., 34 min	1 hr., 20 min.
Schedule Q (Form 5300)	6 hr., 13 min	9 hr., 14 min	9 hr., 45 min.	

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 17,955,750 hours.

OMB Number: 1545–0200.

Form Number: IRS Form 5307.

Type of Review: Extension.

Title: Application for Determination of Adopters of Master or Prototype or Volume Submitter Plans.

Description: This form is filed by employers or plan administrators who have adopted a master or prototype plan approved by the IRS District Director to obtain a ruling that the plan adopted is qualified under Internal Revenue Code sections 401(a) and 501(a). It may not be used to request a letter for a multiple employer plan.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 100,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—27 hr., 58 min.
Learning about the law or the form—6 hr., 40 min.
Preparing the form—10 hr., 12 min.
Copying, assembling, and sending the form to the IRS—48 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 538,250 hours.

OMB Number: 1545–0229.

Form Number: IRS Form 6406.

Type of Review: Extension.

Title: Short Form Application for Determination for Minor Amendment of Employee Benefit Plan.

Description: This form is used by certain employee plans who want a determination letter or an amendment to the plan. The information gathered will be used to decide whether the plan is qualified under section 401(a).

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 25,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—14 hr., 21 min.
Learning about the law or the form—2 hr., 13 min.
Preparing the form—4 hr., 25 min.
Copying, assembling, and sending the form to the IRS—32 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 538,250 hours.

Clearance Officer: George Freeland, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 02–169 Filed 1–3–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary; List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the bet information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Bahrain
Iraq
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Dated: December 20, 2001.

Barbara Angus,

International Tax Counsel (Tax Policy).

[FR Doc. 02–170 Filed 1–3–02; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease Development of Property at the Department of Veterans Affairs Medical Center, Batavia, NY

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Designation and Intent to Award.

SUMMARY: The Secretary of the Department of Veterans Affairs (VA) is designating the Department of Veterans Affairs Medical Center, Batavia, NY, for an enhanced-use leasing development. The Department intends to enter into a 50-year lease of real property with a competitively selected lessee/developer who will finance, design, develop, maintain and manage a transitional housing and homeless services facility, all at no cost to VA.

FOR FURTHER INFORMATION CONTACT: Jake Gallun, Office of Asset Enterprise Management (004B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8862.

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: December 27, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 02–181 Filed 1–3–02; 8:45 am]

BILLING CODE 8320–01–M

Notices

Federal Register
Vol. 67, No. 3
Friday, January 4, 2002

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

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Evaluation of the 14 State Summer Food Service Program Pilot Project

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Nutrition Service's intention to request Office of Management and Budget approval of the data collection instruments for the Evaluation of the 14 State Summer Food Service Program Pilot Project.

DATES: Written comments on this notice must be received by March 4, 2002 to be assured of consideration.

ADDRESSES: Comments may be sent to Jay Hirschman, Director, Special Nutrition Staff, Office of Analysis, Nutrition, and Evaluation, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate, automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval of the information collection. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection forms should be directed to Jay Hirschman, (703) 305–2117.

SUPPLEMENTARY INFORMATION: *Title:* Evaluation of the 14 State Summer Food Service Program Pilot Project.

OMB Number: Not yet assigned.

Expiration Date: N/A.

Type of Request: New collection of information.

Abstract: Subsection 18 (f) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1769 (f)), added by section 1(a)(4) of the Consolidated Appropriations Act, 2001 (Pub. L. 106–554, December 21, 2000), authorized the Secretary of Agriculture, through the Administrator of the Food and Nutrition Service (FNS), to conduct a pilot in each eligible State to increase the number of children participating in the Summer Food Service Program (SFSP) in that State. Definition of ''eligible State'' was provided in the authorizing legislation. Fourteen States, specifically Alaska, Arkansas, Idaho, Indiana, Iowa, Kansas, Kentucky, Nebraska, New Hampshire, North Dakota, Oklahoma, Puerto Rico, Texas and Wyoming, met the eligibility criteria and are participating in the pilot, which began in fiscal year (FY) 2001 and will continue through FY 2003. For SFSP purposes, Puerto Rico is defined as a ''State'' in section 13(a)(1) of the NSLA, 42 U.S.C. 1761(a)(1).

The authorizing legislation also requires FNS to conduct an evaluation of the pilot project to describe (a) any effect on participation by children and service institutions in the SFSP in the pilot States; (b) any effect of the pilot on the quality of meals and supplements served in the pilot States; and (c) any effect of the pilot on program integrity. OMB approval will be requested for the data collection instruments to be used for evaluating the impact of the 14 State SFSP Pilot Project on the three areas specified in the law.

Respondents: Respondents include: (a) State government SFSP staff; (b) continuing sponsors who were sponsoring SFSP before the pilot started; (c) new sponsors who began sponsoring the program since the pilot began; (d) former sponsors who did not participate in SFSP in FY 2000, 2001 or 2002; and (e) school food service directors of non-participating school districts with 50% or more enrolled students certified to receive free and reduced price school meals.

Estimated Number of Respondents: (a) up to 54 State government employees that administer SFSP; (b) 166 continuing sponsors; (c) up to 150 new sponsors; (d) up to 150 former sponsors; and (e) up to 150 school food service directors of non-participating school districts.

Estimated Number of Responses per Respondent: One response per respondent with the exception of the 14 State Administrators who may be asked follow-up questions about program participation in FY 2003.

Estimate of Burden: Public reporting burden is estimated to range from 15 minutes for school food service directors of non-participating school districts to 120 minutes for State government SFSP administration staff.

Estimated Total Annual Burden on Respondents: 383.5 hours. (a) State government SFSP administration staff (54×120 minutes) = 108 hours; (b) continuing sponsors (166×30 minutes) = 83 hours; (c) new sponsors (150×30 minutes)= 75 hours; (d) former sponsors (150×20 minutes + 30×60 minutes for focus groups) = 80 hours; and (e) school food service directors of non-participating school districts (150×15 minutes) = 37.5 hours.

Dated: December 28, 2001.

Alberta C. Frost,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 02–156 Filed 1–3–02; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Summer Food Service Program for Children Program Reimbursement for 2002

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the annual adjustments to the reimbursement rates for meals served in the Summer Food Service Program for Children (SFSP). These adjustments reflect changes in the Consumer Price Index and are required by the statute governing the Program. In addition, further adjustments are made to these rates to reflect the higher costs of providing meals in the States of Alaska and Hawaii, as authorized by the William F. Goodling Child Nutrition Reauthorization Act of 1998.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Melissa A. Rothstein, Section Chief, Summer Food Service Program and Child and Adult Care Food Program, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302, (703) 305–2620.

SUPPLEMENTARY INFORMATION: This program is listed in the Catalog of Federal Domestic Assistance under No. 10.559 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3518), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This notice is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act. Additionally, this notice has been determined to be exempt from review by the Office of Management and Budget under Executive Order 12866.

Definitions

The terms used in this Notice shall have the meaning ascribed to them in the regulations governing the Summer Food Service Program for Children (7 CFR part 225).

Background

In accordance with section 13 of the National School Lunch Act (NSLA)(42 U.S.C. 1761) and the regulations governing the SFSP (7 CFR part 225), notice is hereby given of adjustments in Program payments for meals served to children participating in the SFSP in 2002. Adjustments are based on changes in the food away from home series of the Consumer Price Index (CPI) for All Urban Consumers for the period November 2000 through November 2001.

Section 104(a) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105–336) amended section 12(f) of the NSLA (42 U.S.C. 1760(f)) to allow adjustments to SFSP reimbursement rates to reflect the higher cost of providing meals in the SFSP in Alaska and Hawaii. Therefore, this notice contains adjusted rates for Alaska and Hawaii. This change was made in an effort to be consistent with other Child Nutrition Programs, such as the National School Lunch Program and the School Breakfast Program, which already had the authority to provide higher reimbursement rates for programs in Alaska and Hawaii.

The 2002 reimbursement rates, in dollars, for all States excluding Alaska and Hawaii:

MAXIMUM PER MEAL REIMBURSEMENT RATES FOR ALL STATES (NOT AK OR HI)

	Operating costs	Administrative costs	
		Rural or self-preparation sites	Other types of sites
Breakfast	$1.32	$.1300	$.1025
Lunch or Supper	2.30	.2400	.2000
Supplement	.53	.0650	.0525

The 2002 reimbursement rates, in dollars, for Alaska:

MAXIMUM PER MEAL REIMBURSEMENT RATES FOR ALASKA ONLY

	Operating costs	Administrative costs	
		Rural or self-preparation sites	Other types of sites
Breakfast	$2.14	$.2125	$.1675
Lunch or Supper	3.73	.3900	.3225
Supplement	.87	.1050	.0850

The 2002 reimbursement rates, in dollars, for Hawaii:

MAXIMUM PER MEAL REIMBURSEMENT RATES FOR HAWAII ONLY

	Operating costs	Administrative costs	
		Rural or self-preparation sites	Other types of sites
Breakfast	$1.54	$.1525	$.1200
Lunch or Supper	2.69	.2825	.2325
Supplement	.62	.0775	.0600

The total amount of payments to State agencies for disbursement to Program sponsors will be based upon these Program reimbursement rates and the number of meals of each type served. The above reimbursement rates, for both operating and administrative reimbursement rates, represent a 3.17 percent increase during 2001 (from 170.4 in November 2000 to 175.8 in November 2001) in the food away from home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. The Department would like to point out that the SFSP administrative reimbursement rates continue to be adjusted up or down to the nearest quarter-cent, as has previously been the case. Additionally, operating reimbursement rates have been rounded down to the nearest whole cent, as required by section 11(a)(3)(B) of the NSLA (42 U.S.C. 1759 (a)(3)(B)).

Authority: Secs. 9, 13 and 14, National School Lunch Act, as amended (42 U.S.C. 1758, 1761, and 1762a).

Dated: December 28, 2001.

Alberta Frost,

Acting Administrator.

[FR Doc. 02–238 Filed 1–3–02; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Idaho Panhandle Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Idaho Panhandle National Forests' Idaho Panhandle Resource Advisory Committee will meet Friday, January 18, 2002 in Coeur d'Alene, Idaho for a business meeting. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Ranotta K. McNair, Forest Supervisor and Designated Federal Officer, at (208) 765–7210.

SUPPLEMENTARY INFORMATION: The business meeting on January 18, begins at 10:00 AM, at the Forest Supervisor's Office of the Idaho Panhandle National Forests, 3815 Schreiber Way, Coeur d'Alene, Idaho 83815. Agenda topics will include election of Chairperson, develop criteria for reviewing project proposals, how to solicit projects, review project proposals, if available, and establishment of future meeting schedule. Due to unforeseen circumstances this document will be published less than 15 days before the meeting date.

Dated: December 28, 2001.

Pat Aguilar,

Deputy Forest Supervisor.

[FR Doc. 02–242 Filed 1–3–02; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 4, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Administrative/General Support Services

Minerals Management Service, DOI, 381 Elden Street, Herndon, Virginia
NPA: ServiceSource, Inc., Alexandria, Virginia
Government Agency: Department of the Interior

Base Supply Center, Fort Meade, Maryland
NPA: Blind Industries & Services of Maryland, Baltimore, Maryland
Government Agency: Fort Meade, Maryland

Customization & Distribution of Air Force Sales Promotional Items

HQ Air Force Recruiting Service, 550 D Street West, Suite 1, Randolph AFB, Texas
NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin
Government Agency: HQ Air Force Recruiting Service

Food Service Attendant

Air National Guard-Iowa, 3100 McKinley Avenue, Des Moines, Iowa
NPA: Progress Industries, Newton, Iowa
Government Agency: Air National Guard—Iowa

Hospital Housekeeping Services

Great Lakes Naval Hospital, Great Lakes, Illinois
NPA: Relief Enterprise, Inc., Austin, Texas
Government Agency: Great Lakes Naval Hospital

Janitorial/Custodial

Veterans Affairs Medical Center, OI Services Center, Edward Hines Jr., 1st Avenue, Bldg 20, Hines, Illinois
NPA: Jewish Voc. Service & Employment Center, Chicago, Illinois
Government Agency: VA Medical Center—Brecksville, Ohio

Laundry Service

VA Medical Center, At the following locations:
Denver, Colorado
Pueblo, Colorado
Cheyenne, Wyoming
NPA: Goodwill Industrial Services Corporation, Colorado Springs, Colorado
Government Agency: VA Medical Center,

Denver, Colorado

G. John Heyer,

General Counsel.

[FR Doc. 02–233 Filed 1–3–02; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia, Maryland and Virginia State Advisory Committees

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia, Maryland and Virginia Advisory Committees to the Commission will convene at 9:30 a.m. and adjourn at 1:00 p.m. on January 9, 2002, at the Fifth Floor Conference Room, 624 9th Street, NW., Washington, DC 20001. The Inter-SAC Committee will plan necessary details for the forthcoming Forum on the aftermath of 9–11 attacks.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 28, 2001.

Debra A. Carr,

Deputy General Counsel, Office of the General Council.

[FR Doc. 01–32259 Filed 12–31–01; 10:44 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Preliminary Results, Preliminary Partial Rescission, and Postponement of Final Results of the Fourth Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results, partial rescission, and postponement of final results of fourth antidumping duty administrative review.

SUMMARY: The Department of Commerce is currently conducting an administrative review of the antidumping duty order on brake rotors from the People's Republic of China covering the period April 1, 2000, through March 31, 2001. This administrative review examines one exporter and five exporters included in three exporter/producer combinations.

We have preliminarily determined that sales have not been made below normal value by Qingdao Gren (Group) Co., the exporter under review. If these preliminary results are adopted for the final results of this review, we will instruct the Customs Service to assess no antidumping duties on entries of the subject merchandise during the period of review from this exporter. We are also preliminarily rescinding the review with respect to five exporters included in three exporter/producer combinations, because none of those respondents made shipments of the subject merchandise during the period of review.

Interested parties are invited to comment on these preliminary results. We will issue the final results of this review no later than 300 days from the date of publication of this notice.

EFFECTIVE DATE: January 4, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Terre Keaton, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–1280, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2001).

SUPPLEMENTARY INFORMATION:

Background

On April 30, 2001, the petitioner [1] requested an administrative review pursuant to 19 CFR 351.213(b) for one exporter [2] included in the antidumping duty order and five exporters included in three exporter/producer combinations [3] that received zero rates in the less-than-fair-value (''LTFV'') investigation and thus were excluded from the antidumping duty order only with respect to brake rotors sold through the specified exporter/producer combinations.

On May 23, 2001, the Department initiated an administrative review covering Gren and the five exporters except with respect to excluded exporter/producer combinations (*see Initiation of Antidumping and Countervailing Duty Administrative Reviews* (66 FR 28421, May 23, 2001)).

On June 6, 2001, we issued a questionnaire to each company listed in the brake rotor initiation notice. On June 25, 2001, the Department provided the parties an opportunity to submit publicly available information for consideration in these preliminary results.

On July 13, 2001, each of the exporters that received zero rates in the LTFV investigation stated that during the period of review (''POR'') it did not make U.S. sales of brake rotors produced by companies other than those included in its respective excluded exporter/producer combination. On July 19, 2001, the petitioner submitted a letter requesting the Department to conduct a verification of: (1) The response submitted by Gren; and (2) the no-shipment claims made by the five exporters named in the three exporter/producer combinations excluded from the antidumping duty order. On July 27, 2001, Gren submitted its questionnaire response.

On August 3, 2001, the petitioner submitted a letter in which it requested that the Department investigate a potential change in ownership of the five exporters included in the three exporter/producer combinations excluded from the antidumping duty order. On August 24, 2001, the petitioner submitted another letter in which it requested that the Department also verify Laizhou Luyuan's and Shenyang Honbase's U.S. importer which held ownership during the

[1] The petitioner is the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers.

[2] The exporter is Qingdao Gren (Group) Co. (''Gren'').

[3] The excluded exporters/producer combinations are: (1) China National Automobile Industry Import & Export Corporation (''CAIEC'') or Shandong Laizhou CAPCO Industry (''Laizhou CAPCO'')/ Laizhou CAPCO; (2) Shenyang Honbase Machinery Co., Ltd. (''Shenyang Honbase'') or Laizhou Luyuan Automobile Fittings Co., Ltd. (''Laizhou Luyuan'')/ Shenyang Honbase or Laizhou Luyuan and (3) China National Machinery and Equipment Import & Export (Xinjiang) Co., Ltd. (''Xinjiang'')/Zibo Botai Manufacturing Co., Ltd. (''Zibo'').

period of investigation (''POI'') in those two companies.

On August 20, 2001, the Department issued a supplemental questionnaire to Gren, for which it received a response on September 18, 2001.

On October 2, 2001, the Department conducted a data query on brake rotor entries made during the POR from all exporters named in the excluded exporter/producer combinations in order to substantiate their claims of no shipments of subject merchandise made during the POR. As a result of the data query, the Department requested that the Customs Service confirm the actual manufacturer for specific entries associated with the excluded exporter/producer combinations.

In response to the petitioner's August 3 and 6, 2001, letters, the Department notified the petitioner on September 5, 2001, that it considered the change-in-ownership allegation with respect to the exporter/producer combinations excluded from the antidumping duty order to be outside the scope of this review.

On September 28, 2001, the petitioner submitted a letter in which it requested the Department to reconsider its decision not to investigate allegations of changes in ownership with respect to the exporter/producers combinations in this review.

After reconsidering the petitioner's November 5, 2001, request to examine any change in ownership of Laizhou Luyuan and Shenyang Honbase since the POI, the Department issued Laizhou Luyuan and Shenyang Honbase questionnaires on November 6, 2001, regarding the ownership of both companies. On November 27, 2001, Laizhou Luyuan and Shenyang Honbase submitted their responses to the supplemental questionnaire.

On December 31, 2001, the Department issued a memorandum stating that it preliminarily found no evidence that shipments of merchandise subject to the order were made by the five exporters included in the three exporter/producer combinations during the POR.

Postponement of Final Results

In accordance with section 751(a)(3)(A) of the Act, as amended, we determine that it is not practicable to complete this review within the original time frame because of the Department's decision to verify certain respondents in this review (*see* ''Verification'' section of this notice for further discussion). We are currently unable to conduct verification and allow sufficient opportunity for the submission of interested party comments, prior to the current final results deadline. Thus, in accordance with section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations, the Department is extending the time limit for completion of the final results of these reviews until no later than 300 days from the date of publication of this notice.

Scope of Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all-terrain vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States (*e.g.,* General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in the order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of the order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are currently classifiable under subheading 8708.39.5010 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Period of Review

The POR covers the period April 1, 2000, through March 31, 2001.

Verification

As provided in section 782(i)(2) of the Act and 19 CFR 351.307, we intend to verify certain information relied upon in making our final results. On August 24, 2001, the petitioner requested that the Department conduct verification of the information and statements submitted by all exporter/producer combinations excluded from this order (*i.e.,* Laizhou Luyuan and Shenyang Honbase, Xinjiang/Zibo, and CAIEC/Laizhou CAPCO), the U.S. importer MAT, and Gren. We intend to verify Laizhou Luyuan, Shenyang Honbase, and the company that purchased a significant share in Laizhou Luyuan in accordance with 19 CFR 351.307. We also intend to verify CAIEC and Laizhou CAPCO. However, we do not intend to verify Gren because we do not find just cause has been demonstrated with respect to this company. In addition, verification of this company is not statutorily required, nor, has the petitioner provided a sufficient basis for examining Laizhou Luyuan's U.S. importer's data (*i.e.,* MAT).

Preliminary Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(3), we have preliminarily determined that the exporters which are part of the three exporter/producer combinations which received zero rates in the LTFV investigation did not make shipments of subject merchandise to the United States during the POR. Specifically, (1) neither CAIEC nor Laizhou CAPCO exported brake rotors to the United States that were manufactured by producers other than Laizhou CAPCO; (2) neither Shenyang Honbase nor Laizhou Luyuan exported brake rotors to the United States that were manufactured by producers other than Shenyang Honbase or Laizhou Luyuan; and (3) Xinjiang did not export brake rotors to the United States that were manufactured by producers other than Zibo (*see* December 31, 2001, Memorandum from the case analyst to the file). In order to make this determination, we first examined PRC brake rotor shipment data maintained by the Customs Service. We then selected entries associated with each exporter and requested the Customs Service to provide documentation which would enable the Department to determine who manufactured the brake rotors included in those entries. On December 31, 2001, we placed on this record a memorandum which summarized the data provided by the Customs Service in response to our query. Based on the results of our query,

in accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the administrative review because we found no evidence that the exporters in question made U.S. shipments of the subject merchandise during the POR. Although we still have not received manufacturer confirmation on some of the entries we selected in our sample, we will continue to pursue this matter with the Customs Service and seek to obtain the necessary data for consideration in our final results.

Based on information obtained in this proceeding, we issued supplemental questionnaires to two of the excluded companies, Laizhou Luyuan and Shenyang Honbase, in order to determine if a change in ownership occurred in either company.

Based on the data submitted by Shenyang Honbase, we find that there has been no change in ownership in this company since the POI. Therefore, there is no ownership issue with respect to Shenyang Honbase. Since the LTFV investigation, another company has purchased a significant portion of Laizhou Luyuan. The petitioner claims that because brake rotors exported by this other company are covered by the order, and because it owns the majority shares in Laizhou Luyuan, the Department should consider Laizhou Luyuan and this other company as one entity. Although a change in ownership has occurred with respect to Laizhou Luyuan, we find no evidence that this change in ownership has resulted in Laizhou Luyuan exporting subject merchandise to the United States which was not produced by itself or Shenyang Honbase (*i.e.,* the conditions under which Laizhou Luyuan's entries are excluded from the order).

In order to determine whether these two companies should be treated as one entity, we examined the extent to which the export operations of Laizhou Luyuan and this other company were intertwined such that this relationship has the potential to impact pricing and export decisions pertaining to the subject merchandise and create a potential for manipulation. Based on information in the record, we find that the export activities of Laizhou Luyuan and the company that purchased a significant portion of Laizhou Luyuan are not under common control even though common ownership does exist. For example, information in Laizhou Luyuan's response indicates that Laizhou Luyuan retained the same management before and after its purchase by the other company. Thus, we preliminarily find the export operations of Laizhou Luyuan and the other company are sufficiently separate of one another such that there is no significant potential for manipulation of pricing or export decisions.

Based on our examination of record evidence, we preliminarily determine that Laizhou Luyuan has not significantly changed its (1) management, (2) production facilities, (3) supplier relationships, or (4) customer base as a result of its purchase by the other company (*see* pages 4 through 10 of Laizhou Luyuan's November 27, 2001, submission). Although the petitioner claims that Laizhou Luyuan's management, suppliers, and customers have changed significantly since the LTFV proceeding, there is no evidence that these changes were a result of the other company's purchase of Laizhou Luyuan. On the contrary, information on the record indicates that the changes mentioned by the petitioner appear to have occurred prior to the other company purchasing a significant share of Laizhou Luyuan. However, we will examine this issue further at verification.

Finally, we have no evidence at this time that the other company is exporting Laizhou Luyuan-made brake rotors which are not being assessed the PRC-wide rate upon entry into the United States or that Laizhou Luyuan is exporting brake rotors sourced through the other company.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate (*i.e.,* a PRC-wide rate).

The respondent in this review, Gren, is collectively-owned. Thus, a separate-rates analysis is necessary to determine whether this exporter is independent from government control (*see Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China (''Bicycles''*) 61 FR 56570 (April 30, 1996)).

To establish whether a firm is sufficiently independent in its export activities from government control to be entitled to a separate rate, the Department utilizes a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991) (''*Sparklers*''), and amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both de jure and de facto governmental control over export activities.

1. De Jure Control

Gren has placed on the administrative record documents to demonstrate absence of *de jure* control, including the ''The Enterprise Legal Person Registration Administrative Regulations,'' promulgated on June 3, 1988; the 1990 ''Regulation Governing Rural Collectively-Owned Enterprises of PRC;'' and the 1994 ''Foreign Trade Law of the People's Republic of China.''

As in prior cases, we have analyzed these laws and have found them to establish sufficiently an absence of *de jure* control of collectively owned enterprises. *See, e.g., Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China (''Furfuryl Alcohol''*) 60 FR 22544 (May 8, 1995), and *Preliminary Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China,* 60 FR 29571 (June 5, 1995). We have no new information in this proceeding which would cause us to reconsider this determination with regard to Gren.

2. De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide* and *Furfuryl Alcohol.* Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to the approval of, a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses (*see Silicon Carbide* and *Furfuryl Alcohol*).

Gren has asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Additionally, Gren's questionnaire responses indicate that its pricing during the POR does not suggest coordination among exporters. This information supports a preliminary finding that there is *de facto* absence of governmental control of export functions performed by Gren. *See Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Administrative Review,* 62 FR 55215 (October 23, 1997). Consequently, we have preliminarily determined that Gren has met the criteria for the application of separate rates.

Normal Value Comparisons

To determine whether sales of the subject merchandise by Gren to the United States were made at prices below normal value (''NV''), we compared its export prices to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below.

Export Price

We used export price methodology in accordance with section 772(a) of the Act because the subject merchandise was sold by the exporter directly to an unaffiliated customer in the United States prior to importation and constructed export price was not otherwise indicated.

For Gren, we calculated export price based on packed, CIF U.S. port or FOB foreign port prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, foreign brokerage and handling charges in the PRC, marine insurance, and ocean freight in accordance with section 772(c) of the Act. Because foreign inland freight, foreign brokerage and handling fees, marine insurance, and ocean freight were provided by PRC service providers or paid for in an NME currency (*i.e.,* renminbi), we based those charges on surrogate rates from India (*see* ''Surrogate Country'' section below for further discussion of our surrogate country selection). To value foreign inland trucking charges, we used a November 1999 average truck freight value based on price quotes from Indian trucking companies. To value foreign brokerage and handling expenses, we relied on public information reported in the 1997–1998 antidumping duty new shipper review of stainless steel wire rod from India. To value marine insurance, we relied on public information reported in the antidumping duty investigation of sulfur dyes, including sulfur vat dyes, from India. To value ocean freight, we used a May 2000 price quote from a U.S. shipping company.

Normal Value

A. Non-Market Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority (*see Notice of Preliminary Results of Antidumping Duty Administrative Review and Preliminary Partial Rescission of Antidumping Duty Administrative Review: Freshwater Crawfish Tail Meat From the People's Republic of China,* 66 FR 52100, 52103 (October 12, 2001). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated normal value in accordance with section 773(c) of the Act, which applies to NME countries.

B. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value a NME producer's factors of production, to the extent possible, in one or more market economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. India and Indonesia are among the countries comparable to the PRC in terms of overall economic development (*see* Memorandum from the Office of Policy to Irene Darzenta Tzafolias, dated June 21, 2001). In addition, based on publicly available information placed on the record, India is a significant producer of the subject merchandise. Accordingly, we considered India the primary surrogate country for purposes of valuing the factors of production because it meets the Department's criteria for surrogate country selection. Where we could not find surrogate values from India, we used values from Indonesia.

C. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production which included, but were not limited to: (A) Hours of labor required; (B) quantities of raw materials employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs, including depreciation. We used the factors reported by Gren which produced the brake rotors it exported to the United States during the POR. To calculate NV, we multiplied the reported unit factor quantities by publicly available Indian or Indonesian values.

The Department's selection of the surrogate values applied in this determination was based on the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the POR and quoted in a foreign currency or in U.S. dollars, we made adjustments for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics.*

To value pig iron, steel scrap, ferrosilicon, ferromanganese, limestone, lubrication oil, ball bearing cups, and coking coal, we used April 2000–February 2001 average import values from *Monthly Statistics of the Foreign Trade of India.* We relied on the factor specification data submitted by the respondent for the above-mentioned inputs in its September 18, 2001, submission for purposes of selecting surrogate values from *Monthly Statistics.* Because we could not obtain a product-specific price from India to value lug bolts, we used a January-March 1999 product-specific import value from the Indonesian government publication *Foreign Trade Statistical Bulletin* (*see Bicycles,* 61 FR at 19040 (Comment 17)). We also added an amount for loading and additional transportation charges associated with delivering coal to the factory based on June 1999 Indian price data contained in the periodical *Business Line.*

To value firewood, we used April 2000–February 2001 rather than April 1997–March 1998 average import values from *Monthly Statistics.* In its August 28, 2001, submission, the petitioner argues that the Department should value this input using data from Monthly Statistics which is less contemporaneous to the POR because new articles (*i.e.,* February 26, 2001, article from the *Times of India* and September 30, 1997, U.S. Department of Agriculture Report) submitted by the petitioner indicate that firewood values in India may have been increasing since 1997 due to a greater dependence and demand in rural areas. For these preliminary results, we have relied on the April 2000–February 2001 data from

Monthly Statistics to value this input because it is contemporaneous with the POR and we find no basis for considering this value as aberrational or unrepresentative of firewood values applicable during the POR.

We based our surrogate value for electricity on data obtained from *Conference of Indian Industries: Handbook of Statistics* (''*CII Handbook*'') and from the *Centre for Monitoring Indian Economy* (''*CMIE data*'').

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To value selling, general, and administrative (''SG&A'') expenses, factory overhead and profit, we used the 1998 financial data of Jayaswals Neco Limited and the 1998–1999 financial data of Kalyani Brakes Limited (''Kalyani'') and Rico Auto Industries Limited (''Rico''). We have not used the fiscal data obtained by the petitioner for Kalyani and Rico from the Indiainfoline.com web site because the data provided by this web site is incomplete for purposes of calculating ratios for SG&A, factory overhead profit. Specifically, the website data provided only expense data based on general categories of expenses and not on the basis of specific expenses. Specific expense data is necessary for determining whether a particular expense should be considered an overhead or selling expense and for calculating accurate surrogate value percentages.

Where appropriate, we removed from the surrogate overhead and SG&A calculations the excise duty amount listed in the financial reports. We made certain adjustments to the ratios calculated as a result of reclassifying certain expenses contained in the financial reports. For further discussion of the adjustments made, see the Preliminary Results Valuation Memorandum, dated December 31, 2001.

All inputs were shipped by truck. Therefore, to value PRC inland freight, we used a November 1999 average truck freight value based on price quotes from Indian trucking companies.

In accordance with the decision of the Court of Appeals for the Federal Circuit in *Sigma Corp.* v. *United States,* 117 F. 3d 1401 (1997), we revised our methodology for calculating source-to-factory surrogate freight for those material inputs that are valued based on CIF import values in the surrogate country. We have added to CIF surrogate values from India a surrogate freight cost using the shorter of the reported distances from either the closest PRC port of importation to the factory, or from the domestic supplier to the factory on an input-specific basis.

To value corrugated cartons, nails, paper cartons, paper cover, plastic bags, steel strip, tape, and tin clamps, we used April 2000–February 2001 average import values from *Monthly Statistics.* To value pallet wood, we used a 1998 pallet wood value from the Indonesian publication *Indonesia Foreign Trade Statistics* which the Department has used to value pallet wood in two recent antidumping duty proceedings (*see Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of 1998–1999 Administrative Review, Partial Rescission of Review, and Determination Not To Revoke Order in Part,* 66 FR 1953, 1955 (January 10, 2001) (''*TRBs*'') and accompanying decision memorandum at Comment 10, and *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review,* 65 FR 46691 (July 31, 2000)).

Preliminary Results of the Review

We preliminarily determine that the following margin exists for Gren during the period April 1, 2000, through March 31, 2001:

Manufacturer/producer/exporter	Margin percent
Qingdao Gren (Group) Co	*0.02

*De minimis.

We will disclose the calculations used in our analysis to the parties to this proceeding within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held on June 28, 2002.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in case briefs and rebuttal briefs. Case briefs from interested parties may be submitted not later than June 14, 2002. Rebuttal briefs, limited to issues raised in the case briefs, will be due not later than June 21, 2002. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 300 days after the date of publication of this notice.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. In order to estimate the entered value, we will subtract applicable movement expenses from the gross sales value. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of subject merchandise during the POR for which the importer-specific assessment rate is zero or *de minimis* (*i.e.,* less than 0.50 percent). The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review.

Cash Deposit Requirements

Upon completion of this review, for entries from Gren, we will require cash deposits at the rate established in the final results pursuant to 19 CFR 351.214(e) and as further described below.

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of brake rotors from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Gren will be the rate determined in the final results of review (except that if the rate is *de minimis, i.e.,* less than 0.50 percent, a cash deposit rate of zero will be required); (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME

entity will continue to be 43.32 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.213.

Dated: December 28, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–246 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–804]

Certain Preserved Mushrooms From Chile: Preliminary Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping administrative review.

SUMMARY: In response to a timely request from the petitioner,[1] on January 31, 2001, the Department of Commerce published a notice of initiation of an administrative review of the antidumping duty order on certain preserved mushrooms from Chile with respect to Nature's Farm Products (Chile) S.A., Ravine Foods Inc., and Compañia Envasadora del Atlantico covering the period December 1, 1999, through November 30, 2000.

We preliminarily determine that sales have been made below normal value. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 4, 2002.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Sophie E. Castro, Office 2, AD/CVD Enforcement Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–0588, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the U.S. Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2000).

Background

On October 22, 1998, the Department published in the **Federal Register** the final affirmative antidumping duty determination of sales at less than fair value (LTFV) on certain preserved mushrooms from Chile (*see Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile,* 63 FR 56613, (*LTFV Final Determination*)). We published an antidumping duty order on December 2, 1998 (*see Notice of Antidumping Duty Order: Certain Preserved Mushrooms from Chile,* 63 FR 66529).

On January 31, 2001, the Department published a notice of initiation of an administrative review of the antidumping duty order on certain preserved mushrooms from Chile with respect to Nature's Farm Products (Chile) S.A. (NFC), Ravine Foods Inc (Ravine), and Compañia Envasadora del Atlantico (CEA) (*see Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 66 FR 8378). On February 8, 2001, the Department issued the antidumping questionnaire to: NFC via its U.S. parent, Nature Farm Products, Inc. (NFP/USA); Ravine, a Canadian company; and CEA, a Colombian company.

NFP/USA advised the Department on February 13, 2001, that NFC did not export or sell the subject merchandise to the United States, nor did NFP/USA import or sell the subject merchandise to the United States. However, NFP/USA advised the Department to send a copy of the questionnaire directly to NFC (*see* Memorandum to the File dated February 13, 2001, which summarizes information received from NFP/USA), which the Department had already sent on February 12, 2001. We did not receive a response from NFC, nor did we receive a response from Ravine.

We received a questionnaire response from CEA in April 2001. We issued supplemental questionnaires in May and August 2001. CEA responded to these questionnaires in June, July, August and September 2001. On October 4, 2001, CEA's counsel confirmed in a telephone conversation that the entry of the subject merchandise reported in CEA's questionnaire response had already been liquidated by the Customs Service (*see* Memorandum to the File from Sophie Castro dated October 9, 2001).

In November 2001, we requested information concerning CEA's reported sale transaction from NFC, NFP/USA, and CEA's customer, Horley Trading Co., Ltd. (Horley). We received responses from NFP/USA and Horley; we did not receive a response from NFC.

On July 19, 2001, due to the reasons set forth in the *Notice of Extension of Time Limit for the Preliminary Results of Antidumping Administrative Review: Certain Preserved Mushrooms from Chile,* 66 FR 37640 (July 19, 2001), we extended the due date for the preliminary results to November 15, 2001, in accordance with section 751(a)(3)(A) of the Act. On November 19, 2001, we again extended the due date of the preliminary results to December 31, 2001, in accordance with section 751(a)(3)(A) of the Act (*see Notice of Extension of Time Limit for the Preliminary Results of Antidumping Administrative Review: Certain Preserved Mushrooms from Chile,* 66 FR 57937 (November 19, 2001)).

Scope of the Order

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the species Agaricus bisporus and Agaricus bitorquis. ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium,

[1] The petitioner is the Coalition for Fair Preserved Mushroom Trade which includes the American Mushroom Institute and the following domestic companies: L.K. Bowman, Inc., Nottingham, PA; Modern Mushrooms Farms, Inc., Toughkernamon, PA; Monterrey Mushrooms, Inc., Watsonville, CA; Mount Laurel Canning Corp., Temple, PA; Mushrooms Canning Company, Kennett Square, PA; Southwood Farms, Hockessin, DE; Sunny Dell Foods, Inc., Oxford, PA; United Canning Corp., North Lima, OH.

including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms''; (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified'' or ''pickled'' mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this order is currently classifiable under subheadings 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUs subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Determination of Exporter/Respondent

According to the information developed in this review, CEA purchased provisionally preserved (*i.e.,* brined) mushrooms in bulk containers from NFC. CEA reported that it subsequently retorted and repacked the subject merchandise into commercial-size cans and sold and shipped them to its U.S. customer, Horley. These cans were packed with the Nature's Farm brand on the label and the statement ''Distributed by Nature's Farm Products, Inc.'' on the label. CEA reported its sale to Horley for purposes of this review and stated that, to the best of its knowledge, NFC did not have knowledge that the merchandise was destined for the United States at the time of NFC's sale to CEA.

We have determined, based on our analysis of the information provided by CEA, NFP/USA, and Horley, that the first party with knowledge of destination was NFC and therefore the relevant transaction in accordance with section 772(a) of the Act is NFC's sale to CEA for exportation to the United States. Although CEA claims that it is the first party in the chain of distribution who had knowledge that the ultimate destination of the sale was the United States, our determination that NFC is the exporter who had knowledge of destination is based on evidence that NFC was affiliated with NFP/USA, that NFP/USA and Horley are affiliated, and that NFP/USA and Horley were engaged in sales negotiations with CEA immediately prior to or at the same time as their affiliate NFC sold subject merchandise to CEA.

Horley and NFP/USA

Horley and NFP/USA both claim to be unaffiliated with each other. They claim that Horley merely has a licensing, rental, and commission agreement with NFP/USA, which enables Horley to use the NFP/USA brand on canned mushroom labels, and that NFP/USA's senior staff members are employed with Horley only in the role of ''technical consultants.''

Among the specific ''persons'' considered in reaching an affiliated decision are officers and directors of organizations, employer and employee, and ''any person who controls any other person or such persons.'' *See* section 771(33) of the Act. Moreover, ''a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.''

The *Statement of Administrative Action,* H. Doc. No. 103–316, Vol. 1 (1994) (SAA) at 838 states that ''[t]he traditional focus on control through stock ownership fails to address adequately modern business arrangements, which often find one firm operationally in a position to exercise restraint or direction over another even in the absence of an equity relationship. A company may be in a position to exercise restraint or direction, for example, through corporate or family groupings, franchises, or joint venture agreements, debt financing, or close supplier relationships in which the supplier or buyer becomes reliant upon the other.''

There are several factors on the record which lead us to believe that NFP/USA and its officers exercise control over Horley legally or operationally. NFP/USA claims that it ceased import operations immediately prior to Horley's commencement of business operations. Horley established an office at NFP/USA's facility, and the two entities continue to share the facility to this day. Furthermore, Horley commenced negotiations on the import of the subject merchandise from CEA even before it was legally incorporated, but only after NFP/USA, who was initially contacted by CEA, referred the business to Horley. In fact, NFP/USA's president is the only person on the record identified as negotiating the sale with CEA on Horley's behalf. Furthermore, NFP/USA's president is also the only person who has provided factual information on Horley's behalf in response to our questionnaires, although NFP/USA's vice president certified Horley's December 3, 2001, factual submission under 19 CFR 351.303(g)(1). In addition, Horley's accountant also has been employed as NFP/USA's accounting manager. Besides shared managers and shared facilities, Horley also shares something much more obvious with NFP/USA—NFP/USA's name. Horley has the rights to all of NFP/USA's brand names, according to the licensing agreement submitted to the Department. Therefore, although Horley does not market itself as NFP/USA, it markets its products as NFP/USA goods. Thus, for all intents and purposes, taken as a whole, we believe that the record demonstrates that NFP/USA and its officers have shepherded and significantly controlled Horley's transactions with CEA.

In *Ta Chen Stainless Steel Pipe,* 1999 Ct. Intl. Trade LEXIS 110 (October 28, 1999) (*Ta Chen*), the Department found two companies, Ta Chen and Sun, to be affiliated. In making this determination, the Department cited a number of factors, including (a) historical ties between the companies, (b) former Ta Chen employees working for Sun; and (c) Sun's distribution solely of Ta Chen products. *See id.* at 115–117. The Court of International Trade (CIT) affirmed the Department's affiliation determination, stating, ''[e]ven if each of the individual connections between Ta Chen and Sun, standing alone, may not be sufficient to establish control, Commerce's conclusion that the numerous connections between Ta Chen and Sun were indicative of control was reasonable. Commerce did not rely on any one factor in concluding that Ta Chen and Sun were affiliated parties, rather, it determined that the combination of factors was sufficient proof of affiliation.'' *See id.*

We find that the circumstances in this case are comparable to those contemplated in the SAA and similar to those in *Ta Chen.* The totality of factors demonstrate that NFP/USA and Horley are affiliated companies. The two companies share officers, business opportunities, office space, and product brand names. Such a relationship between these two companies indicates that NFP/USA controls Horley for purposes of this review, within the meaning of section 771(33)(G) of the Act.

NFP/USA and NFC

As discussed in both the *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms From Chile,* 63 FR 41786 (August 5, 1998), and the *LTFV Final Determination,* NFP/USA and NFC are closely affiliated companies. For example, all of NFC's sales in the LTFV investigation were made through NFP/USA as constructed export price transactions. NFP/USA incurred the expense for certain NFC production activities (*see LTFV Final Determination,* 63 FR at 56614). Further, NFP/USA acknowledged that ''NFP/USA is the primary funding source of NFP's operations'' (*id.,* 63 FR at 56623). The record of this review shows no change in this status until February 2000. Accordingly, NFP/USA was clearly affiliated with NFC when NFC sold its brined mushrooms to CEA in January 2000. Furthermore, CEA indicated in its questionnaire responses that it only pursued business with NFC after it was confident that Horley would purchase canned mushrooms from CEA (see CEA's December 7, 2001, submission at page 3). Thus, Horley was in sales negotiations with CEA at the same time NFP/USA's affiliate NFC was negotiating to sell the subject merchandise to CEA. As discussed above, Horley and NFP/USA are affiliated companies. Accordingly, we believe that the weight of the evidence supports our finding that NFC had knowledge at the time of its sale to CEA, through its affiliation with NFP/USA, that the ultimate destination of its sale of brined mushrooms to CEA was the United States.

NFP/USA claims that it agreed to sever its affiliation with NFC in November 1999 (*see* NFP/USA's December 3, 2001, submission at page 5). However, NFP/USA provided no evidence on the record of such an agreement. Moreover, NFP/USA acknowledges that NFC and NFP/USA remained legally affiliated until the formal transfer of NFP/USA's stock in February 2000.

NFP/USA and NFC were legally affiliated at the time of NFC's sale of brined mushrooms to CEA through NFP/USA's equity in NFC, as well as through their strong historical ties. Given that the subject merchandise was produced by NFC, and that it ultimately arrived in the United States in Horley's, and thereby NFP/USA's, control under the Nature's Farm brand name, the record evidence leads us also to conclude that NFC had knowledge of the ultimate destination of the product when it was sold to CEA.

Use of Facts Otherwise Available

As stated above under ''Case History,'' the Department initiated an administrative review of three companies: Ravine, NFC, and CEA.

Section 776(a)(2) of the Act provides that ''if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.'' Because Ravine and NFC have provided no information, we are assigning Ravine and NFC margins on the basis of the facts available, in accordance with section 776(a) of the Act. As we have determined that CEA's sale should be considered a sale by NFC, we have included this transaction in the rate assigned to NFC.

Ravine

As noted above, Ravine did not respond to the Department's questionnaire. Therefore, the Department was unable to issue further questionnaires and review Ravine's information pursuant to sections 782(d) and 782(e) of the Act. Because of its refusal to cooperate in this review, we determine that the application of a rate based on facts available is appropriate pursuant to section 776(a)(2) of the Act.

NFC

As discussed above, NFC did not respond either to the Department's questionnaire, nor to the Department's November 2001 request for information. Thus we determine that the application of facts available is appropriate in the case of NFC.

Application of Adverse Facts Available

Because Ravine and NFC have refused to participate in this administrative review, we preliminarily determine that an adverse inference is warranted in selecting facts otherwise available, in accordance with section 776(b) of the Act (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Persulfates from The People's Republic of China*, 62 FR 27222, 27224 (May 19, 1997); and *Certain Grain-Oriented Electrical Steel From Italy: Final Results of Antidumping Duty Administrative Review*, 62 FR 2655 (January 17, 1997) (applying an adverse inference, as explained in detailed in *Preliminary Results of Antidumping Duty Administrative Review: Certain Grain-Oriented Electrical Steel From Italy*, 61 FR 36551, 36552, (July 11, 1996))).

Section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See SAA* at 870. Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27340 (May 19, 1997).

Section 776(b) of the Act authorizes the Department to use as adverse facts available information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. Under section 782(c) of the Act, a respondent has a responsibility not only to notify the Department if it is unable to provide requested information, but also to provide a ''full explanation and suggested alternative forms.''

Ravine and NFC failed to respond to our request for information in any manner, thereby failing to comply with this provision of the statute and making it impossible for the Department to conduct an administrative review of their sales or entries. Therefore, we have determined that Ravine and NFC failed to cooperate to the best of their abilities and we have made an adverse inference in applying the facts available.

In this proceeding, the only rate that has been in effect has been the rate of 148.51% calculated for NFC and All Others in the *LTFV Final Determination*. Information from prior segments of the proceeding constitutes secondary information and section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The SAA provides that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value (*see* SAA at 870).

To corroborate secondary information, the Department will, to the extent

practicable, examine the reliability and relevance of the information to be used. *See Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Review: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof from Japan,* 61 FR 57392 (November 6, 1996) (*TRBs*). However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department ''will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin'' (*id.; see* also *TRBs* and *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)).

As noted above, the highest calculated margin (and the only calculated margin) in the history of this proceeding is 148.51 percent. In the instant review, there are no circumstances indicating that this margin is inappropriate as facts available. Moreover, this rate is currently applicable to all subject merchandise. Assigning a lower rate, even if one were available, would effectively reward these companies for their failure to cooperate. Therefore, we find that the 148.51 percent rate is corroborated to the greatest extent practicable in accordance with section 776(c) of the Act.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the dumping margin for the POR is as follows:

Manufacturer/exporter	Margin (percent)
Nature's Farm Products (Chile) S.A. (including merchandise shipped by the Colombian firm Compañia Envasadora del Atlantico)	148.51
Ravine Foods	148.51

If requested, a hearing will be held 44 days after the date of publication of this notice, or the first work day thereafter.

Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. *See* 19 CFR 351.309(c) and (d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c).

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review on an importer-specific basis. We are also instructing Customs to apply a specific rate to all entries manufactured by NFC and sold to CEA.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be that established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 148.51 percent, the ''All Others'' rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with section 751(a)(1) of the Act and 19 CFR 351.221.

Dated: December 28, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–245 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–501]

Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China: Notice of Rescission of Antidumping Administrative Duty Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 4, 2002.

SUMMARY: On February 28, 2001, the Department received a timely request from the Paint Applicator Division of the American Brush Manufacturers Association (the petitioner), to conduct an administrative review of the sales of Hebei Founder Import & Export Company (Hebei Founder) and Hunan Provincial Native Products Import & Export Corp. (Hunan Provincial) on February 28, 2001. On March 22, 2001, the Department initiated an administrative review of the antidumping duty order on natural bristle paintbrushes and paint brush heads (natural paintbrushes) for the period of review (POR) of February 1, 2000 through January 31, 2001. On September 12, 2001, the Department rescinded this review with respect to Hebei Founder. We are now rescinding this review with respect to Hunan Provincial as a result of the petitioner's withdrawal of its request for review.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn, AD/CVD Enforcement Group III, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4236.

SUPPLEMENTARY INFORMATION:

Background

On February 14, 2001, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on natural paintbrushes from the People's Republic of China (PRC) (66 FR 10269). On February 28, 2001, the Department received a timely request from the petitioner for administrative reviews of Hunan Provincial and Hebei Founder in accordance with 19 CFR 351.213(b). On March 22, 2001, in accordance with 19 CFR 351.221(b)(1), the Department initiated an administrative review of the antidumping duty order on natural paintbrushes, for the period from February 1, 2000 through January 31, 2001, in order to determine whether merchandise imported into the United States is being sold at less than fair value prices. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part* (66 FR 16037).

On September 12, 2001, pursuant to 19 CFR 351.213(d)(3), the Department rescinded the administrative review with regard to Hebei Founder since we found no entries or shipments from Hebei Founder during the POR. (See 66 FR 47450.) On December 6, 2001, the petitioner withdrew its request for this review with regard to Hunan Provincial.

Recission of Antidumping Administrative Review

The Department's regulations at 19 CFR 351.213(d)(1) provide that a party may withdraw its request for review within 90 days of the date of publication of the notice of initiation of the requested review. Although the petitioner's request for withdrawal was more than 90 days from the date of initiation, consistent with the Department's past practice in the context of administrative reviews conducted under section 751(a) of the Act, the Department has discretion to extend the time period for withdrawal on a case-by-case basis. (*See e.g. Iron Construction Casings from Canada: Notice of Rescission of Antidumping Duty Administrative Review,* 63 FR 45797 (August 27, 1998).) Rescission of this review would not prejudice any party in this proceeding, as Hunan Provincial would continue to receive its company-specific cash deposit rate to which it was subject at the time of the initiation of this review. The petitioners are the only party that requested a review of Hunan Provincial's sales for the February 1, 2000 through January 31, 2001 POR. Moreover, the Department has not yet devoted extensive time and resources to this review. Therefore, we determine that it is reasonable to extend the deadline under section 351.213(d), and to rescind this review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 351.213(d).

Dated: December 27, 2001.

Richard O. Weible,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 02–243 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–828]

Notice of Final Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of the final determination of sales at less than fair value investigation: welded large diameter line pipe from Mexico.

SUMMARY: On August 15, 2001, the Department of Commerce (''Department'') published the preliminary determination in the less than fair value (''LTFV'') investigation of welded large diameter line pipe from Mexico. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe from Mexico, 66 FR 42841 (August 15, 2001) (''Preliminary Determination'').* This investigation covers one manufacturer/exporter of the subject merchandise.

Based upon our verification of the data and analysis of the comments received, we have not made changes to our margin calculations. Therefore, the final determination does not differ from the preliminary determination. The final weighted-average dumping margin is listed below in the section titled ''Continuation of Suspension of Liquidation.''

EFFECTIVE DATE: January 4, 2002.

FOR FURTHER INFORMATION CONTACT: Mesbah Motamed or Robert Bolling, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–1382 (Motamed) or 202–482–3434 (Bolling), fax 202–482–1388.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''Act'') are references to the provisions effective January 1, 1995, the effective

date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2000).

Period of Investigation

The period of investigation (''POI'') is January 1, 2000 through December 31, 2000.

Final Determination

We determine that certain welded large diameter line pipe from Mexico is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

Background

On January 30, 2001, the Department initiated the above referenced investigation. *See Notice of Initiation of Antidumping Duty Investigations: Welded Large Diameter Line Pipe from Mexico and Japan,* 66 FR 11266 (February 23, 2001). On August 15, 2001, the Department published a notice of its preliminary determination in the investigation. *See Preliminary Determination,* 66 FR 42841. From October 31, 2001 through November 5, 2001, the Department conducted a sales and cost verification for Productora Mexicana de Tuberia (''PMT''). *See Sales and Cost Verification Report* (November 14, 2001). We invited parties to comment on our Preliminary Determination. Petitioners submitted their case brief (''Petitioners' Brief'') on November 21, 2001. PMT did not submit a case brief or a rebuttal brief. The Department has conducted and completed the investigation in accordance with section 735 of the Act.

Scope of the Investigation

The product covered by this investigation is certain welded carbon and alloy line pipe, of circular cross section and with an outside diameter greater than 16 inches, but less than 64 inches, in diameter, whether or not stenciled. This product is normally produced according to American Petroleum Institute (API) specifications, including Grades A25, A, B, and X grades ranging from X42 to X80, but can also be produced to other specifications.

Specifically not included within the scope of this investigation is American Water Works Association (AWWA) specification water and sewage pipe and the following size/grade combinations of line pipe:

- Having an outside diameter greater than or equal to 18 inches and less than or equal to 22 inches, with a wall thickness measuring 0.750 inch or greater, regardless of grade.
- Having an outside diameter greater than or equal to 24 inches and less than 30 inches, with wall thickness measuring greater than 0.875 inches in grades A, B, and X42, with wall thickness measuring greater than 0.750 inches in grades X52 through X56, and with wall thickness measuring greater than 0.688 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 30 inches and less than 36 inches, with wall thickness measuring greater than 1.250 inches in grades A, B, and X42, with wall thickness measuring greater than 1.000 inches in grades X52 through X56, and with wall thickness measuring greater than 0.875 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 36 inches and less than 42 inches, with wall thickness measuring greater than 1.375 inches in grades A, B, and X42, with wall thickness measuring greater than 1.250 inches in grades X52 through X56, and with wall thickness measuring greater than 1.125 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 42 inches and less than 64 inches, with a wall thickness measuring greater than 1.500 inches in grades A, B, and X42, with wall thickness measuring greater than 1.375 inches in grades X52 through X56, and with wall thickness measuring greater than 1.250 inches in grades X60 or greater.
- Having an outside diameter equal to 48 inches, with a wall thickness measuring 1.0 inch or greater, in grades X–80 or greater.

The product currently is classified under U.S. Harmonized Tariff Schedule (''HTSUS'') item numbers 7305.11.10.30, 7305.11.10.60, 7305.11.50.00, 7305.12.10.30, 7305.12.10.60, 7305.12.50.00, 7305.19.10.30, 7305.19.10.60, and 7305.19.50.00. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

Analysis of Comments Received

All issues raised in the case briefs to this investigation are addressed in the December 28, 2001 Issues and Decision Memorandum (''Decision Memo'') from Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, Group III to Faryar Shirzad, Assistant Secretary for Import Administration, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, and other issues addressed, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the Decision Memo, a public memorandum which is on file at the U.S. Department of Commerce, in the Central Records Unit, in room B–099. In addition, a complete version of the Decision Memo can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memo are identical in content.

Use of Total Adverse Facts Available

In the preliminary determination, the Department applied facts available to the mandatory respondent. Deficiencies present in respondent's response made it impossible for the Department to appropriately calculate a preliminary antidumping duty margin. Consequently, the Department assigned PMT-Tubacero the rate of 49.86 percent, the margin calculated from information in the petition and used for initiation. The Department also applied the 49.86 percent margin as the ''All Others'' rate.

Subsequent to the preliminary determination, we have determined that the use of total adverse facts available is appropriate for the final determination for our analysis of PMT and its collapsed affiliate Tubacero, hereinafter referred to as ''PMT-Tubacero.'' For a discussion of our determination with respect to this matter, see the Decision Memo. Consequently, we have continued to apply the rate of 49.86 percent for purposes of this final determination.

All-Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or de minimis margins, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated ''all-others'' rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than facts available margins to establish the ''all others'' rate. Where the data do not permit weight-averaging such rates, the Statement of Administrative Action accompanying the URAA, H.R. Doc. No.

316, 103d Cong., 2d Sess. 870 (1994) (''SAA'') at 873 provides that we may use other reasonable methods. Because the petition contained only an estimated price-to-price dumping margin, which the Department adjusted for purposes of initiation, there are no additional estimated margins available with which to create the ''all others'' rate. Therefore, we applied the published margin of 49.86 percent as the ''all others'' rate.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from Mexico that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination* in the **Federal Register**. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

STAINLESS STEEL BUTT-WELD PIPE FITTINGS

Producer/Manufacturer/Exporter	Weighted-average margin (percent)
PMT-Tubacero	49.86
All Others	49.86

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our final determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs to assess antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: December 28, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

Appendix

Issues in the Decision Memo

1. The Department should continue to collapse respondent Productora Mexicana de Tuberia, S.A. de C.V. (''PMT'') with its affiliate, Tubacero, S.A. de C.V. (''Tubacero'').
2. The Department should apply adverse facts available in determining the antidumping duty margin.

[FR Doc. 02–244 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System: Sediment Retention System in Goat Canyon Creek and Watershed at Tijuana National Estuarine Research Reserve

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of availability of the Final Environmental Impact Statement/ Environmental Impact Report on a proposed sediment retention system in the Goat Canyon Creek and watershed at the Tijuana River National Estuarine Research Reserve, Imperial Beach, California.

SUMMARY: Pursuant to the National Environmental Policy Act and the California Environmental Quality Act, the National Ocean Service (NOS), in cooperation with California Department of Parks and Recreation and California Coastal Conservancy, has completed the preparation of a joint Final Environmental Impact Statement/ Environmental Impact Report (FEIS/ EIR) addressing the potential effects on the human and natural environment that may result from construction of sedimentation, flood control and other facilities within and adjacent to Goat Canyon, and the elevation and/or realignment of Monument Road through Border Field State Park lands. The purpose of these proposed facilities is to enhance the existing Goat Canyon Creek and its natural habitat communities, including the Tijuana River Estuary, through the management of sediment within the canyon and on the adjacent alluvial fan.

The proposed project is in conformance with the Final Goat Canyon/Cañon de los Laureles Enhancement Plan prepared by the Southwest Wetlands Interpretive Association (SWIA) and California Coastal Conservancy. As a result of the construction of sedimentation basins, it is anticipated that Goat Canyon Creek, its watershed, and the Tijuana River Estuary will be enhanced.

The Final EIS/EIR is available for public review. All comments received, including names and addresses, will become part of the administrative record and be made available to the public. NOAA is not required to respond to comments received as a result of issuance of the FEIS/EIR, however comments will be reviewed and considered for their impact on issuance of a Record of Decision (ROD). The ROD will be printed in the **Federal Register** some time after the close of the public review period.

DATES: The review period for the joint Final EIS/EIR will end on Monday, February 4, 2002. All written comments received by this deadline will be considered in the preparation of the ROD.

ADDRESSES: Written comments on the joint Final EIS/EIR should be sent to Nina Garfield, NOAA, Estuarine Reserves Division, SSMC–4, 11th Floor, 1305 East-West Highway, Silver Spring, Maryland, 20910–3281.

FOR FURTHER INFORMATION CONTACT: Mayda Winter, Goat Canyon Enhancement Project, Southwest Wetlands Interpretive Association, 925 Seacoast Drive, Imperial Beach, California, 91932, tel. (619) 575–0550.

SUPPLEMENTARY INFORMATION: Goat Canyon Creek is located in the far western portion of the greater Tijuana River Watershed approximately one mile inland from the Pacific Ocean. The watershed is characterized by steep slopes, sandy soils with cobbles,

pockets of native coastal sage scrub, riparian vegetation, and a high level of human-induced disturbance, especially during the last 20 to 30 years. A prominent result of changes in the watershed has been a significant increase in sediment yield in response to higher volumes of runoff and an increased sediment supply throughout the watershed. Increased sedimentation has adversely affected the local habitat communities of Goat Canyon and downstream within the Tijuana River Estuary. By the mid-1980s, it was estimated that erosion and sedimentation had resulted in the loss of 30 acres of intertidal wetland area in the Tijuana River Estuary. The composition and distribution of native habitat communities along the creek and on the alluvial fan have been altered, as has the morphology of the creek. Further, during storm events, sediment is deposited on Monument Road, which in turn blocks public access to Border Field State Park and impedes the U.S. Border Patrol.

On August 10, 2000, the National Ocean Service published in the **Federal Register** a Notice of Intent to prepare a joint Environmental Impact Statement/ Environmental Impact Report (Vol. 65 No. 155, 48971–48972). The stated intent of the proposed project was to enhance the existing Goat Canyon Creek and its natural habitat communities, including the Tijuana River Estuary, through the management of sediment within the canyon and on the adjacent alluvial fan. A notice announcing the availability of the draft EIS/EIR was published on October 12, 2001.

The final EIS/EIR examines the potential effects of the No Project Alternative and four project alternatives for construction of a sedimentation retention system within Goat Canyon and the alluvial fan. NOAA has identified Alternative D–1 as the Preferred Alternative based on an evaluation of the comparison of the impacts between the alternatives.

Alternative D–1 features an in-canyon diversion structure and sedimentation basin system consisting of two basins in series to capture the flow in Goat Canyon Creek. The system has been designed to contain the full 100-year flood event. The Preferred Alternative also involves construction of access roads around the basins, staging areas adjacent to the basins, a visual berm located between the basins and Monument Road, improvements to part of Monument Road and a multi-purpose trail, and creation of wetland habitat. The Preferred Alternative would be the most efficient at capturing sediment and would result in the least impacts to sensitive wetland habitats and endangered species.

Document Availability

Copies of the final EIS/EIR are available for review at the California State Parks, San Diego Coast District Office, 9609 Waples, Suite 200, San Diego, California, 92108, (858) 642–4200, the Tijuana River National Estuarine Research Reserve at 301 Caspian Way, Imperial Beach, California 91932, (619) 575–3613, and at the Imperial Beach Public Library, 810 Imperial Beach Boulevard, Imperial Beach, 91932, (619) 424–6981.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Research Reserves

Dated: December 21, 2001.

Alan Neuschatz,

Associate Assistant Administrator for Management, Ocean Services and Coastal Zone Management.

[FR Doc. 02–3 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120701C]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting and cancellation of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad Hoc Groundfish Multi-Year Management Committee (GMMC) will hold a work session, which is open to the public. A previously noticed meeting of the GMMC is canceled.

DATES: The GMMC meeting noticed for Thursday, January 10, 2002, and Friday, January 11, 2002, is cancelled (see 66 FR 64954, December 17, 2001). Instead, the GMMC will meet Thursday, January 31, 2002, from 10 a.m. until 5 p.m; and Friday, February 1, 2002, from 8 a.m. until business for the day is completed.

ADDRESSES: The work session will be held at the Pacific Fishery Management Council, West Conference Room, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220; telephone: 503–326–6352.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Waldeck or Dr. Don McIsaac, Pacific Fishery Management Council, 503–326–6352.

SUPPLEMENTARY INFORMATION: The formation of this ad hoc committee is in response to the Council's request for a committee to scope multi-year management approaches for the West Coast groundfish fishery. Multi-year management of the groundfish fishery would be synchronized with a multi-year groundfish stock assessment schedule. Full accommodation of federal notice and comment requirements would also be incorporated into the multi-year cycle. This is the second meeting of the committee, and the primary purpose of the meeting is to further develop the purpose and objectives of multi-year management, as well as alternative multi-year management approaches.

Although nonemergency issues not contained in the GMMC meeting agenda may come before the GMMC for discussion, those issues may not be the subject of formal GMMC action during the meeting. GMMC 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 GMMC'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: December 31, 2001.

Dean Swanson,

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

[FR Doc. 02–240 Filed 1–3–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Intent To Prepare an Environmental Impact Statement for Sand and Gravel Dredging on the Allegheny and Ohio Rivers, Pennsylvania

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers, Pittsburgh District (Corps), will prepare and circulate a draft Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act and 40 CFR 1500 through 1508. The overall purpose of the EIS is to evaluate the environmental, economic, and social consequences related to the issuance of Section 10 and 404 Permits for Commercial Sand and Gravel Dredging in the Allegheny and Ohio Rivers in Pennsylvania. The action area studied includes River Miles 0 to 69.5 on the Allegheny River and River Miles 0 to 40 on the Ohio River. The Corps and Pennsylvania Department of Environmental Protection (PADEP) issue permits for commercial dredging activities.

FOR FURTHER INFORMATION CONTACT: Please address questions or comments regarding this notice to Mr. Albert H. Rogalla, CELRP–OR–F, Pittsburgh District, Corps of Engineers, William S. Moorhead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222–4186. Submit electronic comments to *Irp.sandgraveleis@usace.army.mil*

SUPPLEMENTARY INFORMATION: a. The commercial dredging companies seek extensions of their Corps Dredging Permits and PADEP Water Obstruction and Encroachment Permits, and PADEP Sand and Gravel License Agreements. These permits may be issued, suspended or modified pending completion of the NEPA process.

b. The purpose of this action is the issuance of permits to extract sand and gravel from the Allegheny and Ohio Rivers for commercial sale. This material supports diverse infrastructure and construction requirements for a variety of customers in the region.

c. Alternatives to be assessed are the complete cessation of commercial river dredging within the study area following denial of permit extensions and the expiration of existing permits held by the applicants; obtaining sand and gravel from the Allegheny and Ohio Rivers by commercial dredging by granting and extending the Department of the Army Section 10 and 404 permits to commercial sand and gravel companies for the removal of sand and gravel between river miles 0–69.5 on the Allegheny River and between river miles 0–40 on the Ohio River; and using land-based operations or importation of sand and gravel from other locations to meet the regional need for this material, implying complete cessation of commercial river dredging (other than for navigational purposes) and denial to extend existing permits held by the applicants.

d. The Corps has held numerous Stakeholder meetings between 1996 and 2000 in which the scope and direction of the study were discussed. State agencies; federal agencies; a public interest organization; and sand and gravel companies directly impacted by the permit request participated in these discussions.

e. Interested parties are encouraged to send written or electronic comments concerning issues to be addressed, required studies, alternatives, procedures or other related matters or requests for information regarding the proposed study process to the point-of-contact above. All comments and information requests should be postmarked no later than 30 days after this Notice of Intent is published in the **Federal Register**.

f. The EIS will assess the impacts of sand and gravel dredging on various ecological resources including aquatic resources (fish, mussels, threatened and endangered species, and water quality), hydrology, noise, and cultural resources.

g. Appendix B, 33 CFR Part 325, provides that the Corps District Engineer may require the Permit Applicant and/or his/her consultant to provide relevant information for the Corps use in preparing an EIS. The applicants are collecting information to provide to the Corps. Prior to preparation of the Draft EIS, however, the Corps is required to solicit public input into the process.

h. The Corps will schedule a public hearing after the Draft EIS is issued.

i. The Draft EIS is expected to be available to the public no later than June 2002.

Raymond K. Scrocco,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 02–129 Filed 1–3–02; 8:45 am]

BILLING CODE 3701–85–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 February 4, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address *Karen_F._Lee@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: December 31, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.

Title: Reading Excellence Act: School and Classroom Implementation and Impact Study.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 1,035
Burden Hours: 735.

Abstract: The Reading Excellence Act School and Classroom Implementation and Impact Study (REA–SCII) is a six-year study to learn about the implementation and impact of the REA legislation on instructional practice in

reading and on student reading achievement. The Study has the following features: (1) A representative sample of 75 schools that have received REA Local Reading Initiative sub-grants; (2) a longitudinal sample of kindergarten students followed through the end of second grade; measures of student reading performance; multiple observations of classroom reading instruction in grades K–2; and surveys of and interview/focus groups with key school and district staff.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address *OCIO.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 Sheila Carey at (202) 708–5359 or via her internet address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Postsecondary Education

Type of Review: Revision of a currently approved collection.

Title: The Evaluation of Exchange, Language, International and Area Studies (EELIAS), NRC, FLAS and IIPP, UISFUL, Business and International Education Program (BIE), Centers for International Business Education Program (CIBE) and American Overseas Research Centers (AORC) (JS).

Frequency: Annually.

Affected Public: Not-for-profit institutions (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 60

Burden Hours: 2100.

Abstract: BIE, CIBE and AORC are being added for clearance to the system that already contains four other programs. Information collection assist IEGPS in meeting program planning and evaluation requirements. Program officers require performance information to justify continuation funding, and grantees use this information for self evaluations and to request continuation funding from the Department of Education.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO.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.

[FR Doc. 02–235 Filed 1–3–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Notice of Request for Public Comment on the Department of Education's Initial Plans for Implementing a Consolidated State Application and a Consolidated Annual Report Under the Reauthorized Elementary and Secondary Education Act

SUMMARY: We invite the public to submit comments on the Department's initial plans under the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001, for providing formula program grant funding to States on the basis of consolidated applications. Public comments will help the Department develop proposed criteria for submission of consolidated State applications and identify the information to be collected in the annual performance report that is required of each State. The Department expects to publish in February, for public review and comment, a separate notice in the **Federal Register** proposing criteria and procedures to govern the consolidated State application and annual State report.

DATES: Please send your comments on or before January 14, 2002.

ADDRESSES: Please address your comments to Marcia Kingman, Office of Elementary and Secondary Education, U.S. Department of Education, using one of the following methods:

1. *Internet.* We encourage you to send your comments through the Internet to the following address: *marcia.kingman@ed.gov.* You should use the term ''ESEA Consolidated Plan'' in the subject line of your electronic message.

2. *Fax Machine.* You also may submit your comments by fax machine at (202) 205–5870.

3. *Surface Mail.* Alternatively, you may submit your comments via surface mail addressed to: Marcia Kingman, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3E213, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Marcia Kingman, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3E213, Washington, DC 20202. Telephone: (202) 260–2199.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person for information identified in the preceding paragraph.

SUPPLEMENTARY INFORMATION: In mid-December of 2001, the Congress gave final approval to H.R. 1, the No Child Left Behind Act. This bill, which now awaits the President's signature, will substantially revise the Elementary and Secondary Education Act of 1965 (ESEA), offering all of America's school children the opportunity and means to achieve academic success. In particular, the bill embodies the four key measures of the President's education reform plan: (1) Stronger accountability for results, (2) expanded flexibility and local control, (3) expanded options for parents, and (4) an emphasis on teaching methods that have been proven to work, particularly in reading instruction.

These measures are designed to produce fundamental reforms in classrooms throughout America. They will provide officials and administrators at the school, school district, and State levels substantial flexibility to plan and implement school programs that will help close the achievement gap between disadvantaged and minority students and their peers. At the same time, the new law will hold school officials accountable—to parents, students, and the public—for achieving results. These and other major changes to the ESEA through the No Child Left Behind Act will redefine the federal role in K–12 education to better focus on improving the academic performance of all American students. The full text of this pending law, and the House-Senate conference report summary of the final bill, may be found on the Internet at: *http://edworkforce.house.gov/issues/107th/education/nclb/nclb.htm.*

One key way that the Department provides flexibility for States and school districts to design their own approaches for improving the academic performance of all students is by encouraging the careful development and use of consolidated plans or applications. Use of consolidated plans or applications also will help accomplish the President's goal of reducing unnecessary and burdensome paperwork and focus planning and reporting on student achievement.

Sections 9301 and 9302 of the new law, like the predecessor provisions in sections 14301 and 14302 of the ESEA, as amended in 1994 by the Improving America's Schools Act (IASA), will offer States the option of seeking funding under most ESEA formula grant programs through these consolidated plans or applications instead of through individual program plans or applications that the law otherwise would require. As expressed in the forthcoming law, a consolidated plan or application would be designed ''to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery, to provide greater flexibility to State and local authorities, and to enhance integration of [the ESEA] programs * * * with State and local programs'' (section 9301). States would submit not the information required for individual ESEA program plans or applications, but rather ''only descriptions, information, assurances, * * * and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application'' (section 9302(b)(3)). Hence, the Department will be able to provide funding to States under many ESEA formula grant programs on the basis of this single plan or application.

In addition, section 9305 of the ESEA will extend similar flexibility to local educational agencies (LEAs), continuing the authority for LEAs to receive program funding through submission of consolidated local plans or applications under individual programs that the statute would otherwise require. It also clarifies existing law to ensure that State educational agencies (SEAs) do not require local education agencies (LEAs) to submit individual program plans or applications if they wish to submit a consolidated application.

Programs that may be included in a consolidated plan or application. Sections 9101(13) and 9302(a)(1) of the ESEA, as amended by the forthcoming No Child Left Behind Act, identify the programs that a State would be able to include in a consolidated plan or application. These programs are each of those authorized by—

Title I, Part A: Improving Basic Programs Operated by Local Educational Agencies.

Title I, Part B, subpart 3: William J. Goodling Even Start Family Literacy Programs.

Title I, Part C: Education of Migrant Children.

Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk.

Title I, Part F: Comprehensive School Reform.

Title II, Part A: Teacher and Principal Training and Recruiting Fund.

Title II, Part D: Enhancing Education Through Technology.

Title III, Part A: English Language Acquisition, Language Enhancement and Academic Achievement.

Title IV, Part A: Safe and Drug-Free Schools and Communities.

Title IV, Part B: 21st Century Community Learning Centers.

Title V, Part A: Innovative Programs.

Title VI, Part B, subpart 2: Rural and Low-Income School Program.

Other programs the Secretary may designate. Each State would be free either to submit a consolidated plan or application that includes any or all of these programs, or to submit a separate program plan or application for each of the programs the ESEA would otherwise require.

The Department's Experience With Consolidated State Plans

1. *Criteria for consolidated State plans.* After the 1994 reauthorization of the ESEA, the Department developed criteria for consolidated State plans that sought to align consolidated planning of the ESEA programs included in the States' plans with comprehensive school reform efforts that States were already undertaking on their own. Therefore, the criteria for the consolidated State plans that States have provided to the Department since 1994 stressed a comprehensive description of the State's—

- Goals and objectives for achievement of all students, including the content of the State's standards and assessments system under Title I, part A of the ESEA, and performance indicators, benchmarks, and timelines it had established for meeting these goals and objectives;
- Strategies, activities, and uses of resources under which the ESEA programs the State included in its consolidated plan would help to achieve State goals and objectives, including those related to such key components as Title I, part A schoolwide programs, professional development, safe and drug-free schools, and consolidated local planning;
- Process for ensuring that the consolidated State plan would continue to be revised, as necessary, to reflect changing circumstances and continuous improvement; and
- Process for promoting and maintaining public involvement in reviewing how well the plan was being implemented.

States also provided a limited amount of fiscal information that the Department needed to review before distributing ESEA program funding to ensure program accountability. All but one State now receive ESEA State formula grant program funding on the basis of these consolidated plans.

In the guidance it issued on preparation of these consolidated State plans, the Department informed States that its approval of those plans eliminated the need, for programs included in the plan, to develop separate program planning documents that the individual program statutes otherwise required. However, the Department also stressed that its approval of the consolidated State plans did not relieve States of their responsibility to adhere to all of the operational requirements that these statutes imposed, whether or not the statutes included them as required elements of individual program plans or applications.

2. *Consolidated performance reports.* In 1998, the Department distributed an initial consolidated performance reporting instrument that States began using to report annually on the performance of all programs included in their consolidated plans. This reporting instrument (and its subsequent revision) replaced the various individual program performance reports that States had previously sent at differing times to the Department. States report in a single document information in a number of areas, in particular (a) student achievement gains (principally for Title I, part A), (b) how LEAs carried out individual programs, including participation data, and (c) how well States and LEAs met performance measures for these programs that the Department had established in accordance with requirements of the Government Performance and Results Act (GPRA).

The Department's Working Model for Consolidated Applications Under the ESEA, As Amended by the No Child Left Behind Act

1. *An overview.* Consistent with the pending No Child Left Behind Act, the Department is developing proposed consolidated application and reporting procedures that States would integrate into a comprehensive State accountability system. Information States would submit in their consolidated applications would be integral to both overall State accountability and to the Department's ability to meet its basic administrative responsibilities.

We refer to the documents as ''consolidated applications'' rather than as ''consolidated plans'' to emphasize that this information would not constitute an educational or programmatic ''plan'' or ''set of strategies.'' By this we mean that the Department has no intention of reviewing (or approving) a State's plans for achieving program-by-program goals for academic achievement of all students and most other objectives and requirements of the individual ESEA programs. Instead the Department will review a consolidated application that contains the State's overall and individual programmatic goals and objectives that relate to improved student achievement, and its descriptions of the overall State system for measuring progress in achieving them. A State would be responsible to its own students and parents—but *not to the Department*—for putting in place effective strategies for meeting those goals and objectives.

Hence, the criteria for consolidated State applications would be designed to reflect a focus on the data that States will use to demonstrate results, in particular, improved student achievement levels of all students and narrowing of ''achievement gaps.'' In the consolidated annual reports, States would provide data on their success in achieving these results. Moreover, in order to reduce burden and enable the collection of more up-to-date information, the Department will be working to make this reporting system ''web-based'' so that information might be supplied electronically rather than in paper form.

2. *Proposed key components of the new consolidated State application.* More specifically, the consolidated State application would address—

- The State's definition of adequate yearly progress under section 1111(b)(2) of the ESEA, as amended by the No Child Left Behind Act, and its timeline to ensure that all students are proficient not later that 12 school years after the end of the 2001–2002 school year as the new law will require, as it applies to both public elementary and secondary school students as a whole and the required subgroups: economically disadvantaged students, students from major racial and ethnic groups, disabled students, and limited English proficient students.
- The State's key objectives for each of the Federal programs included in the consolidated application and the populations those programs serve, as those objectives support increased achievement of all students (*e.g.,* its goals for increasing migrant-student high school completion rates, goals for reducing school violence, and goals for increasing the number of highly qualified teachers);
- So that progress can be tracked through the State's annual reports, (1) baseline data for the 2001–2002 school year for the indicators on which States would provide information in their annual reports under section 1111(h)(4), and (2) other baseline data relative to key objectives for each of the Federal programs included in the consolidated application and the populations those program serve, as those objectives support increased student achievement.
- The principal approaches the State would use, with federal and non-federal funds, to achieve adequate yearly progress for all students and the key objectives for each of the included ESEA programs and the populations they assist;
- The assessment and accountability systems the State would use for measuring whether it is successful in meeting (1) its adequate yearly progress goals for all students under sections 1111(b)(3) and (b)(2), respectively, and (2) the State's key objectives for each of the included ESEA programs; and
- Key information on specific ESEA programs that the Department needs to review in order to ensure programmatic or fiscal integrity.

3. *Other considerations.*

a. The No Child Left Behind Act of 2001 will make significant changes to the ESEA that are designed to give school officials, educators, and parents the tools they need to ensure that all students can achieve. However, this Act also will build upon school reform strategies that were begun under the previous statute and other federal and State initiatives. In this regard, provided that State plans are consistent with Department requirements, States would be able to draw upon information and data that they developed under the previous statute.

b. To gauge the success of the Nation in implementing the new Act, it is important that where possible States report their assessment data using common formats and measures. Therefore, the Department intends to work with States to determine how their data management systems may align.

c. Only a limited amount of program-specific information would be included in a consolidated State application. Yet, even if not addressed in the consolidated application, all operational and program-planning requirements of each program (as amended by the No Child Left Behind Act) included in a consolidated application are extremely important and need to be met. Many ESEA program statutes establish some of these operational and planning requirements in provisions that govern the content of individual program plans or applications. States would need to adhere to all of those requirements (as well as to those that appear elsewhere in the individual program statutes), and to maintain for public inspection documentation that confirms they have been met. (In order to help promote public dialogue on how States can most effectively implement the federal programs included in their consolidated applications, the Department also would encourage States to post on their Internet sites information on how they propose to meet key requirements of each program.)

Specific questions on which the Department seeks comment. Consolidated State applications can provide the Department with important information on how the State intends federal programs included in the application to promote increased achievement of all students. However, the principal importance of these consolidated applications (and reports) is their ability to communicate to the public, policy-makers, and others in each State the basis on which the State officials responsible for implementing the new law propose to hold themselves accountable for ensuring that no child is left behind.

It is in both of these contexts that we are interested in receiving public comment and reaction to all aspects of this proposal. However, in formulating your comments we ask that you pay particular attention to the following questions:

1. *Goals, objectives, and baseline data.* What kinds of State goals and objectives—in addition to the adequate yearly progress standards set forth in Title I, part A—might States adopt for measuring the success of programs included in the consolidated application? What baseline data might

States use to measure success in meeting these key goals and objectives? How might States measure their success in implementing each program included in the consolidated application?

2. *Phase-in process.* The Department will need to distribute FY 2002 funds to States this coming July. States will have insufficient time by then to prepare high-quality consolidated applications that would reflect all of the desired information. Consequently, the Department would establish initial procedures and criteria under which States choosing to submit consolidated applications will be able to receive FY 2002 funds in a timely manner. However, given the requirements of the pending No Child Left Behind Act, and the urgency with which all of us will be working to implement it, the Department would want all States to have submitted complete consolidated State applications by a specific deadline, no later than the beginning of the 2003–04 school year. States plainly will need to be able to submit this information to the Department in two or more phases that reflect the differing amounts of time that will be needed to prepare the different parts of their applications.

What might this phase-in process look like? Consistent with the exigencies and program-specific schedules underpinning the No Child Left Behind Act, how much time would States need to provide the different information that would be included in the complete consolidated State application? What information should States be expected to provide in each phase? In addition, while the Department would insist that each State submit all of the information to be included in its consolidated application by the end of the 2003–2004 school year, some States may be able to submit their information earlier than others. Should the Department have States submit their information on different schedules that depend on when they have their data available?

3. *Individual program requirements.* Without undermining the important purposes of consolidated State applications, how can the Department do a better job of helping to ensure State, school district, and school adherence to the requirements of the individual programs that those consolidated applications include?

4. *Consolidated performance reporting.* Consolidated performance reporting for school years 2000–01 and 2001–02 will be conducted through the Office of Management and Budget-approved reporting form the Department prepared under the previous law. Are there elements of this report that the Department should retain for reporting under the No Child Left Behind Act? Which ones?

5. *Flexibility initiatives under the new law.* What implications do the No Child Left Behind Act's flexibility initiatives have for the consolidated State application and annual reporting effort? These initiatives include:

- Transferability of program funds, allowing any SEA to transfer 50 percent of its State-level funds under certain programs to State-level activities under other programs or under Title I, and LEAs to transfer 50 percent of their funds among programs or into Title I (Title VI, Part A, Subpart 2);
- The Rural Education Achievement Program (REAP), which allows small rural LEAs to consolidate certain federal program funds (Part B of Title VI);
- The Secretary's waiver authority (Title IX, Part D), and waiver decisions available to States under the Ed-Flex Partnership Demonstration Act of 1999 (Ed-Flex);
- The State Flexibility Program (state-flex), which allows SEAs to use certain federal funds for any ESEA purpose, direct the use of funds provided under Title V, Part A (formerly Title VI of the ESEA), and enter into local performance agreements with ten LEAs in each State (Title VI, Part A, Subpart 3, Chapter A); and
- Local flexibility authority, under which up to 80 additional LEAs will receive broad authority to consolidate funds (Title VI, Part A, Subpart 3, Chapter B).

6. *Other considerations.* Are there criteria and procedures for consolidated State applications (or plans) that, consistent with the requirements of sections 9301 and 9302 of the new Act, would better promote accountability for increased academic achievement of all students and other objectives of the No Child Left Behind Act? What are they? How should they be reflected in the procedures and content for consolidated State applications or plans that the Department establishes?

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Dated: December 28, 2001.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–155 Filed 1–3–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory

Notice of Inventions Available for Licensing

AGENCY: Department of Energy (DOE) National Energy Technology Laboratory (NETL).

ACTION: Notice.

SUMMARY: The United States Department of Energy, National Energy Technology Laboratory hereby announces that the inventions listed below are available for licensing in accordance with 35 U.S.C. 207–209 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents rights have been retained on selected inventions to extend market coverage and may also be available for licensing. A copy of issued patents may be obtained, for a modest fee, from the U.S. Patent and Trademark Office, Washington, DC 20231. Address: Technology Transfer Manager, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 880, Morgantown, WV 26507–0880.

FOR FURTHER INFORMATION CONTACT: Diane Newlon, Technology Transfer Manager for U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 880, Morgantown, WV 26507–0880; Telephone (304) 285–4086; E-mail: *newlon@netl.doe.gov*

SUPPLEMENTARY INFORMATION: 35 U.S.C. 207 authorizes licensing of Government-owned inventions. Implementing regulations are contained in 37 CFR part 404. 37 CFR 404.7(a)(1) authorizes exclusive licensing of Government-owned inventions under certain circumstances, provided that notice of the invention's availability for licensing has been announced in the **Federal Register**.

Issued Patents

Number and Title

6,267,849 Method for the Photocatalytic Conversion of Gas Hydrates

6,058,709 Dynamically Balanced Fuel Nozzle and Method of Operation
6,059,560 Periodic Equivalence Ratio Modulation Method and Apparatus for Controlling Combustion Instability
6,056,125 Cross Flow Cyclonic Flotation column for Coal and Minerals Beneficiation
6,056,796 Rigid Porous Filter
6,033,794 Multi-Stage Fuel Cell System Method and Apparatus
5,948,722 Method for Producing Iron-Based Catalysts
5,895,508 Down-Flow Moving-Bed Gasifier with Catalyst Recycle
5,827,903 Separation of Catalyst from Fischer-Tropsch Slurry
5,809,769 Control of Oscillation Attenuation Via the Control of Fuel-Supply Line Dynamics
5,798,088 Method for Producing Elemental Sulfur from Sulfur-Containing Gasses
5,791,889 Combustor Oscillating Pressure Stabilization and Method
5,728,953 Cable Load Sensing Device
5,721,186 Method for Producing Catalysts from Coal
5,720,858 Method for the Photocatalytic Conversion of Methane
5,706,645 Removal of Oxides of Nitrogen from Gases in Multi-Stage Coal Combustion
5,693,588 Reduction of Spalling in Mixed Metal Oxide Desulfurization Sorbents by Addition of a Large Promoter Metal Oxide
5,456,066 Fuel Supply System and Method for Coal-Fired Prime Mover
5,449,568 Indirect-Fired Gas Turbine Bottomed with Fuel Cell
5,413,878 An Improved System and Method for Networking Electrochemical Devices
5,369,214 Method for Selective Dehalogenation of Halogenated Polyaromatic Compounds
5,348,921 Method for Reducing Sulfate Formation During Regeneration of Hot-Gas Desulfurization Sorbents
5,333,044 Fluorescent Image Tracking Velocimeter
5,325,797 Staged Fluidized-Bed Combustion and Filter System
5,214,015 Synthesis of Iron Based Hydrocracking Catalysts
5,198,002 Gas Stream Clean-Up Filter and Method for Forming Same
5,170,670 Three Axis Velocity Probe System
5,167,676 Apparatus and Method for Removing Particulate Deposits from High Temperature Filters
5,144,251 Three-Axis Particle Impact Probe
5,139,991 Oxyhydrochlorination Catalyst
5,139,958 Method and Device for the Determination of Low Concentrations of Oxygen in Carbonaceous Materials
5,130,097 Apparatus for Hot-Gas Desulfurization of Fuel Gases
5,104,520 Apparatus and Method for Separating Constituents
5,061,363 Method for Co-Processing Waste Rubber and Carbonaceous Material
5,022,892 Fine Coal Cleaning Via the Micro-Mag Process
5,020,457 Destruction of Acid Gas Emissions
4,955,942 In-Bed Tube Bank for a Fluidized-Bed Combustor
4,939,376 Light Collection Device for Flame Emission Detectors
4,867,868 Selective Flotation of Inorganic Sulfides from Coal
4,775,387 Sulfur Removal and Comminution of Carbonaceous Material
4,769,504 Process for Converting Light Alkanes to Higher Hydrocarbons
4,769,045 Method for the Desulfurization of Hot Product Gases from Coal Gasifier
4,696,680 Method and Apparatus for the Selective Separation of Gaseous Coal Gasification Products by Pressure Swing Adsorption
4,695,372 Conditioning of Carbonaceous Material Prior to Physical Beneficiation
4,667,097 Compensated Vibrating Optical Fiber Pressure Measuring Device
4,587,113 Removal of Sulfur and Nitrogen Containing Pollutants from Discharge Gases
4,526,272 Laterally Bendable Belt Conveyor
4,523,465 Wireless Remote Liquid Level Detector and Indicator for Well Testing
4,475,884 Reversed Flow Fluidized-Bed Combustion Apparatus
4,466,360 Loop-Bed Combustion Apparatus
4,465,135 Fire Flood Method for Recovering Petroleum from Oil Reservoirs of Low Permeability and Temperature
4,451,826 Single Transmission Line Data Acquisition System
4,447,297 Combined Fluidized Bed Retort and Combustor

Patent Applications Filed

Flashback Detection Sensor for Lean PreMix Fuel Nozzles
Real-Time Combustion Controls and Diagnostics Sensors

Issued: December 18, 2001.

Rita A. Bajura,

Director, NETL.

[FR Doc. 02–211 Filed 1–3–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory

Notice of Availability of a Financial Assistance Solicitation

AGENCY: National Energy Technology Laboratory, Department of Energy (DOE).

ACTION: Notice of availability of a Financial Assistance Solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Solicitation No. DE–PS26–02NT41428 entitled ''Clean Coal Power Initiative.'' A draft program solicitation, as a precursor to potentially awarding multiple financial assistance cooperative agreements, is now being developed. Following release of the draft solicitation, expected in December 2001, a comment and response session with industry and other potential partners will be conducted prior to final issuance of the program solicitation. Final issuance of the program solicitation is slated for February 18, 2002 with awards expected late in fiscal year 2003. DOE will provide between $300–$400 million to fund the program, and industry must match (or exceed) the government cost share for every project. DOE anticipates making multiple awards under this program solicitation.

DATES: The draft solicitation will be available via the DOE's Industry Interactive Procurement System (IIPS) at *http://www.netl.doe.gov/business* on or about December 21, 2001.

ADDRESSES: For the contact to submit comments, where documents can be obtained, where meetings are being held, please see the **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Jo Ann C. Zysk, MS 921–107, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 10940, E-mail Address: *zysk@netl.doe.gov*, Telephone Number: (412) 386–6600.

SUPPLEMENTARY INFORMATION: The Clean Coal Power Initiative (CCPI) is a cost-shared partnership between the government and industry to demonstrate advanced coal-based, power generation technologies. The goal is to accelerate commercial deployment of advanced technologies to ensure that the United States has clean, reliable, and affordable electricity. Electric power produced from coal is fundamental to a strong U.S. economy and to domestic energy security.

This CCPI solicitation is open to any technology advancement related to coal-based power generation that results in

efficiency, environmental, and economic improvement compared to currently available state-of-the-art alternatives. The solicitation is also open to technologies capable of producing any combination of heat, fuels, chemicals, or other useful byproducts in conjunction with power generation. Prospective projects must ensure that coal is used for at least 75% of the fuel energy input to the process. Additionally, prospective projects must show the potential for rapid market penetration upon successful demonstration of the technology or concept.

The advanced technologies to be demonstrated under this program will be vital to the role that coal and other solid fuels will play on the world power production scene. Production of more electricity while creating a cleaner environment at lower cost has the potential to raise the standard of living of not only the citizens of the United States, but of the world as a whole.

Prospective applicants who would like to be notified as soon as the draft solicitation is available should register at *http://www.netl.doe.gov/business.* Click on the ''Business Alert Registration and follow the instructions. Once you subscribe, you will receive an announcement by E-mail that the draft solicitation has been released to the public. Telephone requests, written requests, E-mail requests, or facsimile requests for a copy of the draft solicitation package will not be accepted and/or honored. The draft solicitation will be open for public comments on December 21, 2001. A public meeting/webcast will be held on January 17, 2002 and the draft solicitation will be closed to public comments on January 23, 2002.

The final solicitation will be made available on or about February 18, 2002. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The final solicitation document will allow for requests for explanation and/or interpretation.

Issued in Pittsburgh, PA on December 19, 2001.

Dale A. Siciliano,

Deputy Director, Acquisition and Assistance Division.

[FR Doc. 02–212 Filed 1–3–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

COB Energy Facility

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: This notice announces BPA's intention to prepare an EIS, under the National Environmental Policy Act (NEPA), on a proposed electrical interconnection requested by Peoples Energy Resources Corporation (Peoples Energy), to integrate electrical power from the COB Energy Facility into the Federal transmission grid. BPA proposes to execute an agreement with Peoples Energy to provide them with an interconnection.

DATES: Written comments on the NEPA scoping process are due to the address below no later than February 26, 2002. Comments may also be made at an EIS scoping open house meeting to be held on January 15, 2002, at the address below.

ADDRESSES: Send letters with comments and suggestions on the proposed scope of the Draft EIS to Communications, Bonneville Power Administration—KC–7, P.O. Box 12999, Portland, Oregon 97212. You may also call BPA's toll-free comment line at 1–800–622–4519; name this project, and record your complete name, address, and comments. Comments may also be sent to the BPA Internet address at *comment@bpa.gov.* To be placed on the project mail list, call 1–800–622–4520.

An open house will be held on January 15, 2002, 7 p.m. to 9 p.m., at Bonanza Public Library, 31703 Highway 70, Bonanza, Oregon. At this informal scoping meeting, BPA staff will answer questions and accept oral and written comments, and representatives of BPA and Peoples Energy will be available to discuss the proposed project and topics to be addressed in the EIS. Information on the proposed project will be available for review.

FOR FURTHER INFORMATION CONTACT: Thomas C. McKinney, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–4749; or e-mail *tcmckinney@bpa.gov.* Additional information can be found at BPA's web site: *www.bpa.gov.*

SUPPLEMENTARY INFORMATION: The EIS will assess the environmental consequences of the agreement which BPA proposes with Peoples Energy, and the consequences of any modifications to the transmission system needed to provide an electrical connection under the terms of the agreement. In addition to these Federal actions, the EIS will consider the environmental consequences of construction and operation of the COB Energy Facility.

The proposed project has several components. In addition to the generating facility itself (described below), other components may include: (1) An electrical connection into the BPA's electrical transmission system, (2) upgrades to existing BPA Substations, (3) a new substation on-site, (4) potential system upgrades to be defined through impact studies of the facility, (5) a natural gas pipeline, and (6) water supply and process water pipelines.

A. Proposed Action

The proposed COB Energy Facility would be a power development project beginning as a simple-cycle generation facility and expanding to a combined-cycle electric generating facility. Nominal generating capacity is 600 megawatts in the simple-cycle configuration and 1,150 megawatts in the combined-cycle configuration. The facility site would be located approximately 3 miles south of the City of Bonanza, on the east side of West Langell Valley Road No. 520 in Klamath County. The combined-cycle facility would consist of four combustion turbine generators, and each turbine generator would be coupled with a heat-recovery steam generator (HRSG) and two HRSG's will couple with a steam turbine generator.

The proposed COB Energy Facility would be fueled by natural gas from the existing Pacific Gas & Electric Gas Transmission Northwest (PG&E GTN) pipeline and delivered through a new, approximately 4.6-mile natural-gas pipeline. Natural gas would be burned in the combustion turbines. Expanding gases from combustion would turn rotors within the turbines that are connected to electric generators. The hot gases exhausted from the combustion turbines would be used to raise steam in the HRSGs. Steam from the HRSGs would be expanded through a steam turbine that drives its own electric generator. To increase steam-generating capacity, a duct burner system will be included in each HRSG. The duct burner will increase the steam generated in the HRSGs and increase the steam generator's electrical output.

Water would be needed at the facility to generate steam and cool the steam process. Water would be supplied from an existing well, known as the Babson

well, located approximately 2.8 miles from the facility. The well would draw water from the deep basalt aquifer, which is isolated from the shallow well aquifer in the area. Process water from the facility would be discharged either for land application through nearby irrigation district systems, land applied on site for irrigation, or discharged to the Lost River during periods allowed by the Oregon Department of Environmental Quality.

The COB Energy Facility would deliver electric power to the regional power grid through an interconnection to existing electric transmission lines that cross the facility site. The facility would tie into two or three of the existing electric transmission lines, owned by BPA, PacifiCorp, and Portland General Electric. A transmission planning study conducted by the three utilities will determine the optimal interconnection among the transmission lines. The study also will identify any upgrades to the existing lines or the Malin Substation that may be needed.

B. Process to Date

BPA is the lead Federal agency for the project EIS. The State of Oregon Energy Facility Siting Council is currently evaluating the Notice of Intent to Apply for a Site Certificate for the COB Energy Facility. Oregon's site evaluation process, like NEPA, provides opportunity for public participation, and a public meeting will be held by representatives from the Oregon Office of Energy at the January 15 meeting in Bonanza.

C. Alternatives Proposed for Consideration

Alternatives thus far identified for evaluation in the EIS are: (1) The proposed action and (2) no action. Other alternatives may be identified through the scoping process.

D. Public Participation and Identification of Environmental Issues

BPA intends to prepare an EIS addressing both the COB Energy Facility and the associated electric power interconnection facilities. BPA has established a 45-day scoping period during which affected landowners, concerned citizens, special interest groups, local governments, and any other interested parties are invited to comment on the scope of the proposed EIS. Scoping will help BPA ensure that a full range of issues related to this proposal is addressed in the EIS and also will identify significant or potentially significant impacts that may result from the proposed project. When completed, the Draft EIS will be circulated for review and comment, and BPA will hold a public comment meeting on the Draft EIS. BPA will consider and respond in the Final EIS to comments received on the Draft EIS.

BPA decided to prepare the EIS for the following reasons: (1) The COB Energy Facility would depend on an interconnect to existing electric transmission lines that may include a BPA line, (2) the interconnect could require upgrades to the existing BPA line, (3) the interconnection may include a new substation on the site, (4) the interconnection may require upgrades to the BPA Malin Substation, (5) the interconnect may result in other system impacts identified in the transmission study, and (6) no other Federal or State agency is currently preparing an EIS on the proposed project. Because no other EIS is being prepared, the scope of BPA's EIS will cover both the interconnection elements and the COB Energy Facility itself.

The principal issues identified thus far for consideration in the Draft EIS with respect to the COB Energy Facility are as follows: (1) Air and water quality impacts, (2) noise impacts from plant operation, (3) aesthetic impacts, (4) socioeconomic impacts created by an influx of construction workers into a sparsely populated area, (5) impacts on wildlife habitat, and (6) cultural resource impacts. The principal issues identified thus far for consideration in the Draft EIS with respect to the electric power transmission facilities are impacts of electrical interconnection on the grid system.

These issues, together with any additional significant issues identified through the scoping process, will be addressed in the EIS.

Issued in Portland, Oregon, on December 21, 2001.

Stephen J. Wright,

Acting Administrator and Chief Executive Officer.

[FR Doc. 02–210 Filed 1–3–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 271–062—Arkansas]

Entergy Arkansas, Inc.; Notice of Availability of Environmental Assessment

December 28, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for new license for the Carpenter-Remmel Hydro Project, located on the Ouachita River in Garland and Hot Springs Counties, Arkansas, and has prepared an Environmental Assessment (EA). In the EA, the Commission staff has analyzed the potential environmental effects of the project and has concluded that approval of the project, with appropriate environmental measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE., Washington, DC 20426. The EA may also be viewed on the web at *http://www.ferc.fed.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions. Please call (202) 208–2222 for assistance.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please affix ''Carpenter-Remmel Hydroelectric Project No. 271–062'' to all comments. For further information, contact Ed Lee at (202) 219–2809. Comments 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–175 Filed 1–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–44–000]

Indeck Maine Energy, L.L.C., Complainant, v. ISO New England, Inc., Respondent; Notice of Complaint

December 28, 2001.

Take notice that on December 27, 2001, Indeck Maine Energy, L.L.C. (Indeck Maine) filed a Complaint and Request for Appointment of Settlement Judgement against the ISO New England, Inc. (ISO NE) requesting that the Federal Energy Regulatory Commission (Commission) find (i) ISO-NE's actions in soliciting and

contracting for Indeck Maine's electrical energy for October 16 and 17, 1999; and October 21, 23 and 26, 1999, to support system reliability were not barred by NEPOOL Market Rule and Procedure 5 (MRP); (ii) that ISO-NE's requests were outside the scope of the real time market and the day-ahead dispatch; (iii) that MRP 17 does not apply to Indeck Maine's October 16, 1999, operations under the facts of this case; and (iv) to the extent MRP 17 did apply to the facts of this case, under the facts of this case ISO-NE did not implement MRP 17 in the manner required by the rule.

Any person desiring to be heard or to protest this 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 must be filed on or before January 16, 2002. 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. Answers to the complaint shall also be due on or before January 16, 2002. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–174 Filed 1–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–52–000]

Iroquois Gas Transmission System, L.P.; Notice of Application

December 28, 2001.

Take notice that on December 14, 2001, Iroquois Gas Transmission System, L.P. (Iroquois), One Corporate Drive, Suite 600, Shelton, Connecticut 06484, filed an application in the above-referenced docket number pursuant to section 7(c) of the Natural Gas Act and parts 157 of the Commission's rules and regulations, for a certificate of public convenience and necessity authorizing Iroquois to construct and operate its Eastern Long Island Expansion Project (ELI Project) all as more fully set forth in the application 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#'' and follow the instructions (please call 202–208–2222 for assistance).

Specifically, Iroquois requests authorization to construct and operate the following facilities: (i) 29.1 miles of 20-inch pipeline from a point offshore of Milford, Connecticut to a point in Brookhaven, Suffolk County, New York; (ii) a new compressor unit, with 20,000 (nominal) horsepower, in Milford, Connecticut; (iii) cooling facilities at the Dover, New York compressor station; (iv) various ancillary facilities at the existing Brookfield, Connecticut meter station; (v) various ancillary facilities associated with a new interconnection with the facilities of KeySpan Energy Delivery Long Island in Brookhaven, New York; and (vi) other necessary facilities, such as a tap valve in Long Island Sound, three mainline valves, pig launchers/receivers and temporary facilities, including pipe yards, storage yards, access roads and staging areas.

Iroquois states that the facilities are designed to provide approximately 175,000 dekatherms per day of firm transportation service to the eastern end of Long Island, and will be made pursuant to its Part 284 subpart G blanket certificate. Iroquois has executed precedent agreements with the following shippers:

- Consolidated Edison Energy, Inc., 10,000 dekatherms per day;
- Engage Energy America, LLC, 50,000 dekatherms per day;
- Long Island Power Authority, 160,000 dekatherms per day;
- Mirant Americas, Inc., 80,000 dekatherms per day; and
- New York Power Authority, 40,000 dekatherms per day.

Iroquois states that because the precedent agreements currently provide for firm transportation of 340,000 dekatherms per day which exceeds the capacity of the facilities, pro-ration of capacity among the shippers may be necessary; Iroquois expects to make a decision on any such pro-ration no later than March 1, 2003.

The total cost of the ELI Project is estimated to be about $105 million. Iroquois proposes to charge shippers its firm transportation rate in effect under its RTS rate schedule, plus an incremental surcharge, which, in total, is designed to recover the costs of the proposed facilities.

In order to meet a service commencement date of November 1, 2004, Iroquois requests that the Commission issue a preliminary determination on non-environmental aspects of the ELI Project by July 1, 2002, with final authorization no later than July 1, 2003.

Any questions regarding the application be directed to Jeffrey A. Bruner, Vice President, General Counsel and Secretary for Iroquois, One Corporate Drive, Suite 600, Shelton, Connecticut 06484, at 203–925–7200, or Donald F. Sanata, Jr., Troutman Saunders, LLP, 401 Ninth Street, NW, Suite 1000, Washington, DC 20004, at 202–274–2815.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before January 18, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the

Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

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.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–172 Filed 1–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–53–000]

National Fuel Gas Supply Corporation, Dominion Transmission, Inc.; Notice of Application

December 28, 2001.

Take notice that on December 13, 2001, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203 and Dominion Transmission, Inc. (Dominion), 445 West Main Street, Clarksburg, West Virginia 26301, filed a joint application pursuant to section 7 of the Natural Gas Act and part 157 of the Commission's rules and regulations for a certificate of public convenience and necessity to construct and operate facilities that will increase capacity on the jointly-owned Ellisburg, Pennsylvania to Leidy, Pennsylvania pipeline (Ellisburg-Leidy Line) all as more fully set forth in the application which is on file with the Commission and open to public inspection. 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).

Specifically, the applicants seek authorization to: (1) Install a new 8,010 horsepower compressor unit at National Fuel's Ellisburg Compressor Station in Potter County, Pennsylvania, (2) uprate the maximum allowable operating pressure of the jointly-owned pipeline (downstream of the Ellisburg Compressor Station) above the current level of 1405 psig, and (3) modify the Leidy M&R Station in Clinton County, Pennsylvania. The applicants state that these facility additions would allow an additional 150,000 Dth per day of firm capacity to the Ellisburg-Leidy Line. Of this total, 130,000 Dth per day of capacity would be allocated to National Fuel and 20,000 Dth per day would be allocated to Dominion. The applicants state that this incremental capacity, along with other capacity owned by Dominion and National Fuel, will be leased to Tennessee Gas Pipeline Company (Tennessee). The leases are the subject of other jointly-filed applications.[1] The estimated cost of the proposed facilities is $9.4 million.

Any questions regarding the application should be directed to David W. Reitz, Assistant General Counsel, National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, New York 14203 at 716–857–7949 or by E-mail at *reitzd@natfuel.com* and Sean R. Sleigh, Certificates Manager, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, West Virginia 26301 at 304–627–3462 or by E-mail at *sean_r_sleigh@dom.com.*

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before January 18, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings

[1] The lease between Tennessee and Dominion is the subject of Docket No. CP02–47–000. The lease between Tennessee and National Fuel is the subject of Docket No. CP02–48–000.

associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

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.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–173 Filed 1–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–37–000, et al.]

Madison Gas & Electric Company, et al.; Electric Rate and Corporate Regulation Filings

December 27, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Madison Gas & Electric Company

[Docket No. EC02–37–000]

Take notice that on December 19, 2001, Madison Gas and Electric Co. (MGE) and MGE Energy, Inc. (MGE Energy) filed an application with the Federal Energy Regulatory Commission (Commission), pursuant to section 203 of the Federal Power Act, for authorization of a disposition of jurisdictional facilities whereby a proposed corporate reorganization would be implemented.

MGE proposes to carry out a reorganization plan, which will result in a holding company structure under which MGE and its utility operation will be a wholly-owned subsidiary of the newly formed MGE Energy.

Comment Date: January 9, 2002.

2. Duke Energy Southaven, LLC

[Docket No. EG02–58–000]

Take notice that on December 20, 2001, Duke Energy Southaven, LLC (Duke Southaven) filed an application with the Federal Energy Regulatory Commission (the Commission) for determination of exempt wholesale generator status pursuant to section 32 of the Public Utility Holding Company Act of 1935, as amended, and part 365 of the Commission's regulations.

Duke Southaven is a Delaware limited liability company that will be engaged directly and exclusively in the business of operating all or part of one or more eligible facilities to be located in Southaven, Mississippi. The eligible facilities will consist of a simple cycle electric generation plant with a nominal capacity of 640 MW and related interconnection facilities. The output of the eligible facilities will be sold at wholesale.

Comment Date: January 17, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Wisconsin Public Service Corporation, WPS Energy Services, Inc., WPS Power Development, Inc. (and its subsidiaries)

[Docket Nos. ER95–1528–006 and ER96–1088–031]

Take notice that on December 20, 2001, Wisconsin Public Service Corporation (WPSC), WPS Energy Services, Inc. (ESI) and WPS Power Development, Inc. (and its subsidiaries) (PDI) (collectively, the WPSR Companies), submitted a three-year update of the justification for their authorization to sell power at market-based rates.

The WPSR Companies state that copies of this filing have been served on the Public Service Commissions of Wisconsin, Michigan and Maine.

Comment Date: January 10, 2002.

4. Commonwealth Chesapeake Company, LLC

[Docket Nos. ER99–415–004]

Take notice that on December 21, 2001, Commonwealth Chesapeake Company, L.L.C. (Commonwealth Chesapeake) filed with the Federal Energy Regulatory Commission (Commission) an updated market power study in accordance with the Commission's order issued December 21, 1998 in Docket No. ER99–415 conditionally accepting for filing Commonwealth Chesapeake's market-based rate tariff.

Comment Date: January 11, 2002.

5. New York Independent System Operator, Inc.

[Docket Nos. ER00–3591–010 and ER00–1969–012]

Take notice that on December 21, 2001, the New York Independent System Operator, Inc. (NYISO) filed with the Federal Energy Regulatory Commission (Commission) revisions to its Market Administration and Control Area Services Tariff in order to update the references to the formula used to calculate locational reserve prices, pursuant to the Commission's order issued on June 29, 2001, in the above-captioned dockets.

The NYISO has requested an effective date of September 30, 2001, for the filing.

The NYISO has served a copy of this filing upon parties on the official service lists maintained by the Commission for the above-captioned dockets.

Comment Date: January 11, 2002.

6. American Transmission Company LLC

[Docket No. ER01–521–002]

Take notice that on December 21, 2001, American Transmission Company LLC (ATCLLC) tendered for filing a Revised Service Agreement No. 92 with additions to the Generation-Transmission Interconnection Agreement between Wisconsin Electric Power Company and ATCLLC.

ATCLLC requests an effective date of January 1, 2001.

Comment Date: January 11, 2002.

7. Consumers Energy Company

[Docket No. ER01–1587–003]

Take notice that on December 20 2001, Consumers Energy Company (Consumers) tendered for filing with the Federal Energy Regulatory Commission (Commission) under protest the following tariff sheets as part of its FERC Electric Tariff, First Revised Volume No. 6 and the following Service Agreement under that tariff in compliance with the Commission's November 20, 2001 order issued in this proceeding:

Substitute First Revised Sheet Nos. 142 and 171 and Second Substitute Service Agreement No. 62

The sheets are to have an effective date of May 17, 2001. The Service Agreement is to have an effective date of March 21, 2001. Also included in the filing is an extra cover sheet for the Service Agreement reflecting the fact that the Service Agreement was assigned to Michigan Electric Transmission Company, effective April 1, 2001.

Copies of the filing were served upon the Michigan Public Service Commission and those on the official service list in this proceeding.

Comment Date: January 10, 2002.

8. New England Power Company

[Docket No. ER01–2156–002]

Take notice, that on December 21, 2001, New England Power Company (NEP), as successor in interest to Montaup Electric Company (Montaup) submitted for filing an errata to notices of cancellation of Montaup's FERC Electric Tariff, First Revised Volume No. 1 (Montaup Tariff No. 1) and all service agreements thereunder filed on November 8, 2001 in the above-captioned proceeding. The notices of cancellation failed to state that NEP was also canceling all amendments and supplements to Montaup Tariff No. 1.

NEP states that this filing has been served upon all persons designated on the official service list compiled by the Secretary in this proceeding and all parties affected by the cancellation.

Comment Date: January 11, 2002.

9. Mid-Continent Area Power Pool

[Docket Nos. ER01–2189–003, ER01–2744–001, ER01–3003–002, ER01–3011–001 and ER02–112–002]

Take notice that on December 21, 2001, the Mid-Continent Area Power Pool, on behalf of its public utility members, filed a refund report related to orders by the Federal Energy Regulatory Commission in the above-referenced dockets.

A copy of this filing has been served on all parties to the service lists in the above-referenced proceedings and the state commissions in the MAPP region.

Comment Date: January 11, 2002.

10. Mirant Americas Energy Marketing, LP, Mirant Bowline, LLC, Mirant California, LLC, Mirant Canal, LLC, Mirant Chalk Point, LLC, Mirant Delta, LLC, Mirant Kendall, LLC, Mirant Lovett, LLC, Mirant Mid-Atlantic, LLC, Mirant Neenah, LLC, Mirant New England, LLC, Mirant NY-Gen, LLC, Mirant Peaker, LLC, Mirant Potomas River, LLC, Mirant Potereo, LLC, Mirant Zeeland, LLC, State Line Energy, L.L.C.

[Docket No. ER01–3110–001]

Take notice that on December 18, 2001, the captioned parties filed an amendment to their September 24, 2001 filing with the Commission in the captioned docket, in accordance with the Letter Order issued November 20, 2001.

Comment Date: January 8, 2002.

11. Pleasants Energy, LLC

[Docket Nos. ER02–26–001]

Take notice that on December 20, 2001, Pleasants Energy, LLC (Pleasants Energy) tendered for filing a revised Market-Based Rate Tariff, FERC Electric Tariff, Original Volume No. 1 (Revised Tariff) to comply with a letter order issued by the Commission on December 6, 2001 in the above-captioned proceedings (Letter Order). Pleasants Energy, LLC, 97 FERC ¶ 61,259 (2001). The Letter Order allows the Revised Tariff to become effective as of December 1, 2001.

Copies of the filing were served upon the Public Service Commission of West Virginia and the Virginia State Corporation Commission.

Comment Date: January 10, 2002.

12. Carolina Power & Light Company

[Docket No. ER02–52–001]

Take notice that on December 20, 2001, Carolina Power & Light Company (CP&L) filed, pursuant to the Letter Order issued on November 20, 2001 in the above-captioned proceeding, a compliance filing making the required changes to the executed Facility Interconnection and Operating Agreement between CP&L and Dominion Person, Inc.

Comment Date: January 10, 2002.

13. Virginia Electric and Power Company

[Docket No. ER02–63–001]

Take notice that on December 20, 2001, Virginia Electric and Power Company, doing business as Dominion Virginia Power, tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Generator Interconnection and Operating Agreement (Interconnection Agreement) with Wells Fargo Bank Northwest, National Association (Wells Fargo) that complies with the Commission's November 28, 2001 order (November 28th Order) in this docket. The executed Interconnection Agreement replaces the unexecuted Interconnection Agreement that was filed on October 9, 2001 and was accepted in the November 28th Order.

Dominion Virginia Power respectfully requests that the Commission accept this filing to make the executed Interconnection Agreement effective as of December 10, 2001, the same date the Commission made the unexecuted Interconnection Agreement effective in its November 28th Order.

Copies of the filing were served upon Wells Fargo Bank Northwest, National Association and the Virginia State Corporation Commission.

Comment Date: January 10, 2002.

14. PPL Electric Utilities Corporation

[Docket No. ER02–128–003]

Take notice that on December 18, 2001, PPL Electric Utilities Corporation (PPL Electric) and Williams Generation Company—Hazleton (WGC) filed with the Federal Energy Regulatory Commission (Commission) revisions to the Interconnection Agreement originally filed with the Commission on October 18, 2001, and supplemented on October 23, 2001 and November 26, 2001. PPL Electric and WGC request an effective date of October 19, 2001 for the Interconnection Agreement, as revised.

Comment Date: January 8, 2002.

15. Dominion Nuclear Marketing II, Inc.

[Docket No. ER02–589–000]

Take notice that on December 20, 2001, Dominion Nuclear Marketing II, Inc. (the Company) respectfully

tendered for filing with the Federal Energy Regulatory Commission (Commission) the following Service Agreement by Dominion Nuclear Marketing II, Inc. to Aquila Energy Marketing Corporation, designated as Service Agreement No. 6, under the Company's FERC Market-Based Sales Tariff, Original Volume No. 1, effective on November, 24, 2000.

The Company requests an effective date of December 13, 2001, as requested by the customer.

A copy of the filing was served upon Aquila Energy Marketing Corporation, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment Date: January 10, 2002.

16. Duke Power, a Division of Duke Energy Corporation

[Docket No. ER02–590–000]

Take notice that on December 20, 2001, Duke Power (Duke), a division of Duke Energy Corporation, tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement under Duke's Wholesale Market-Based Rate Tariff Providing for Sales of Capacity, Energy, or Ancillary Services and Resale of Transmission Rights between Duke and Consumers Energy Company d/b/a Consumers Energy Traders. Duke requests that the proposed Service Agreement be permitted to become effective on December 13, 2001. Duke states that this filing is in accordance with part 35 of the Commission's Regulations, 18 CFR Pt 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment Date: January 10, 2002.

17. PSI Energy, Inc.

[Docket No. ER02–591–000]

Take notice that on December 20, 2001, PSI Energy, Inc. (PSI), tendered for filing the Transmission and Local Facilities (T&LF) Agreement Calendar Year 2000 Reconciliation between PSI and Wabash Valley Power Association, Inc. (WVPA), and between PSI and Indiana Municipal Power Agency (IMPA). The T&LF Agreement has been designated as PSI's Rate Schedule FERC No. 253.

Copies of the filing were served on Wabash Valley Power Association, Inc., the Indiana Municipal Power Agency and the Indiana Utility Regulatory Commission.

Comment Date: January 10, 2002.

18. Wolverine Power Supply Cooperative, Inc.

[Docket No. ES02–18–000]

Take notice that on December 13, 2001, Wolverine Power Supply Cooperative, Inc. (Wolverine), filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to section 204 of the Federal Power Act (16 U.S.C. 824c) seeking authorization to enter into a loan agreement with the National Rural Utilities Cooperative Finance Corporation under which Wolverine would assume up to $22,750,000 in debt, and seeking an exemption from the Commission's competitive bidding and negotiated placement issuance requirements set forth in section 34.2 of the Commission's regulations.

Comment Date: January 11, 2002.

19. American Electric Power Service Corporation

[Docket No. ER01–3141–002]

Take notice that on December 20, 2001, the American Electric Power Service Corporation (AEPSC), tendered for filing with the Federal Energy Regulatory Commission (Commission) amended service agreements in compliance with the Commission's November 20, 2001 Order Accepting Transmission Service Agreements, as Modified, 97 FERC ¶ 61,207.

AEPSC requests an effective date of September 1, 2001. A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment Date: January 10, 2002.

20. Nevada Power Company

[Docket No. ER01–3149–002]

Take notice that on December 21, 2001, Nevada Power Company (Nevada Power) filed with the Federal Energy Regulatory Commission (Commission) pursuant to the Commission's Order issued in the above-referenced docket, a compliance filing making revisions to the unexecuted Interconnection and Operation Agreement between Nevada Power and Mirant Las Vegas, LLC.

Comment Date: January 11, 2002.

21. NU Operating Companies

[Docket No. ER02–217–001]

Take notice that on December 21, 2001, in compliance with the Federal Energy Regulatory Commission's (Commission) unreported letter order dated December 4, 2001 in the above-captioned proceeding, Northeast Utilities Service Company, on behalf of the Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company, and Public Service Company of New Hampshire, tendered for filing the corrected designation for NUSCO's market-based rate tariff, designated FERC Electric Tariff Third Revised Volume No. 7.

Comment Date: January 11, 2002.

22. Cambridge Electric Light Company, Central Maine Power Company, The Connecticut Light and Power Company, New England Power Company, Public Service Company of New Hampshire, and Western Massachusetts Electric Company

[Docket No. ER02–505–002]

Take notice that on December 20, 2001, Cambridge Electric Light Company, Central Maine Power Company, The Connecticut Light and Power Company, New England Power Company, Public Service Company of New Hampshire, and Western Massachusetts Electric Company (the Sponsors) submitted submit for filing a supplement to the Notice of Cancellations filed in this docket on December 7, 2001. The supplement gives notice of cancellation of a power contract between The Connecticut Light and Power Company (Connecticut Light) and Connecticut Municipal Electric Energy Cooperative (CMEEC). The contract to be canceled is The Connecticut Light and Power Company, Rate Schedule FERC No. 221.

Notice of the proposed cancellation has been served upon each person designated on the official service list for this proceeding and all affected customers.

Comment Date: January 10, 2002.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–171 Filed 1–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–54–000, et al.]

TXU Generation Company LP, et al.; Electric Rate and Corporate Regulation Filings

December 28, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. TXU Generation Company LP

[Docket No. EG02–54–000]

Take notice that on December 18, 2001, TXU Generation Company LP (TXU Generation) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Comment Date: January 18, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Yuba City Energy Center, LLC

[Docket No. EG02–59–000]

Take notice that on December 21, 2001, Yuba City Energy Center, LLC (Yuba City) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Yuba City, a Delaware limited liability company, proposes to own and operate one 48.7 MW simple cycle natural gas-fired combustion turbine peaking unit to be located in Yuba City, California. Yuba City will sell the output at wholesale to Calpine Energy Services, L.P.

Comment Date: January 18, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. ISO New England Inc.

[Docket No. EL00–62–041]

Take notice that on December 20, 2001, ISO New England Inc. (the ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), a compliance report on its Load Response Program and the addition of new generation in New England pursuant to the Commission's November 20, 2001 Order, 96 FERC ¶ 61,234 (2001).

Comment Date: January 22, 2002.

4. System Energy Resources, Inc.

[Docket No. ER95–1042–005]

Take notice that on December 21, 2001, Entergy Services, Inc. (Entergy Services), as agent for System Energy Resources, Inc. (SERI), submitted for filing with the Federal Energy Regulatory Commission (Commission) a refund report in compliance with the Commission's July 31, 2000 Order, 92 FERC ¶ 61,119.

Comment Date: January 11, 2002.

5. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER02–592–000]

Take notice that on December 21, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed Service Agreement No. 153 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services. Allegheny Energy Supply proposes to make service available as of November 30, 2001 to Dominion Nuclear Marketing II, Inc.

Comment Date: January 11, 2002.

6. Southern Company Services, Inc.

[Docket No. ER02–593–000]

Take notice that on December 21, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company (MPC), and Savannah Electric and Power Company (collectively referred to as Southern Companies), filed eight (8) agreements for network integration transmission service between Southern Companies and Energy Marketing, a department of SCS, as agent for MPC, under the Open Access Transmission Tariff of Southern Companies (FERC Electric Tariff, Fourth Revised Volume No. 5) for the delivery of power to the following delivery points all of which are member cooperatives of South Mississippi Electric Power Association (SMEPA): (1) Coast EPA's Wellman Delivery Point; (2) Singing River EPA's Monaca Lake Substation; (3) Singing River EPA's Hamill Farm Road Delivery Point; (4) Pearl River Valley EPA's OLOH Delivery Point; (5) Singing River EPA's Martin Bluff Road Delivery Point; (6) Coast EPA's Necaise Delivery Point; (7) Pearl River Valley EPA's Hattiesburg Industrial Park Delivery Point; and (8) Singing River EPA's South Lucedale Delivery Point. These agreements are being filed in conjunction with a power sale by SCS, as agent for MPC, to SMEPA under Southern Companies' Market-Based Rate Power Sales Tariff.

Comment Date: January 11, 2002.

7. PJM Interconnection, L.L.C.

[Docket No. ER02–594–000]

Take notice that on December 21, 2001, PJM Interconnection, L.L.C. (PJM), tendered for filing the following executed agreements: (i) a non-firm point-to-point transmission service agreement with WPS Westwood Generation, L.L.C. (WPS Westwood); and (ii) a non-firm point-to-point transmission service agreement with Sunbury Generation, L.L.C. (Sunbury). Copies of this filing were served upon WPS Westwood and Sunbury, and the state commissions within the PJM control area.

PJM requests a waiver of the Federal Energy Regulatory Commission notice requirements to permit an effective date of December 7, 2001, the date the agreements were executed.

Comment Date: January 11, 2002.

8. PJM Interconnection, L.L.C.

[Docket No. ER02–595–000]

Take notice that on December 21, 2001, PJM Interconnection, L.L.C. (PJM), tendered for filing: an executed network integration transmission service agreement with FirstEnergy Solutions Corporation (FirstEnergy). Copies of this filing were served upon FirstEnergy, and the state commissions within the PJM control area.

PJM requested a waiver of the Federal Energy Regulatory Commission's notice requirements to permit an effective date for the agreement of December 1, 2001, the date service under the agreement commenced.

Comment Date: January 11, 2002.

9. Southwest Power Pool, Inc.

[Docket No. ER02–596–000]

Take notice that on December 21, 2001, Southwest Power Pool, Inc. (SPP) submitted for filing an executed service agreement for Firm Point-to-Point

Transmission Service with Southwestern Public Service Company (Transmission Customer). A copy of this filing was served on the Transmission Customer.

SPP requests an effective date of January 1, 2002 for this service agreement.

Comment Date: January 11, 2002.

10. PJM Interconnection, L.L.C.

[Docket No. ER02–597–000]

Take notice that on December 21, 2001, PJM Interconnection, L.L.C. (PJM), at the request of, and on behalf of PPL Electric Utilities Corporation (PPL Electric) submitted for filing an Attachment H–8A to the PJM Open Access Transmission Tariff (PJM Tariff) and an agency agreement between PJM and PPL Electric. Attachment H–8A supplements Attachment H–8 to the PJM Tariff and sets forth ''Other Supporting Facilities Charges'' for transmission of service to certain municipal and cooperative customers utilizing PPL Electric's facilities at the primary voltage level of 12 kV. Because PJM does not have operational control over PPL Electric's facilities at voltage levels below 69 kV, the submitted agency agreement permits PJM to act as PPL Electric's agent for the purpose of executing service agreements with customers taking transmission service using PPL Electric's facilities at the primary voltage level of 12 kV and for performing tariff administration duties relating to such service.

At PPL Electric's request, PJM requests a waiver of the Federal Energy Regulatory Commission's notice requirements to permit an effective date of February 1, 1999, or in the alternative December 1, 2001, which is thirty days of the date of the filing.

Copies of this filing were served upon all affected customers and on the Pennsylvania Public Utility Commission.

Comment Date: January 11, 2002.

11. Soyland Power Cooperative, Inc.

[Docket No. ER02–598–000]

Take notice that on December 21, 2001, Soyland Power Cooperative, Inc. (Soyland) tendered for filing with the Federal Energy Regulatory Commission (Commission) proposed changes to its Rate Schedule A, designated as Supplement No. 2 to its Rate Schedules.

Soyland requests an effective date of January 1, 2002 for the proposed changes to its Rate Schedule A. Accordingly, Soyland requests waiver of the Commission's regulations. Rate Schedule A is the formulary rate under which Soyland recovers the costs associated with it service to its Members pursuant to the Wholesale Power Contract that Soyland has with each Member.

Comment Date: January 11, 2002.

12. California Independent System Operator Corporation

[Docket No. ER02–599–000]

Take notice that the California Independent System Operator Corporation (ISO), on December 21, 2001, submitted an informational filing as to the new transmission Access Charge rates that will be in effect on January 1, 2002.

The ISO states that this filing has been served the Public Utilities Commission of California, the California Energy Commission, the California Electricity Oversight Board, and all parties, including Vernon, with effective Scheduling Coordinator Agreements under the ISO Tariff.

Comment Date: January 11, 2002.

13. Western Systems Power Pool, Inc.

[Docket No. ER02–601–000]

Take notice that on December 21, 2001, the Western Systems Power Pool, Inc. (WSPP) submitted changes to the WSPP Agreement that modified certain commercial terms pertaining to the sale of power. WSPP seeks an effective date of March 1, 2002, for these changes.

Copies of this filing have been served on all state commissions within the United States. This filing also has been posted on the WSPP homepage (*www.wspp.org*) thereby providing notice to all WSPP members.

Comment Date: January 11, 2002.

14. Delta Energy Center, LLC

[Docket No. ER02–600–000]

Take notice that on December 21, 2001, Delta Energy Center, LLC, (the Applicant) tendered for filing, under section 205 of the Federal Power Act (FPA), a request for authorization to make wholesale sales of electric energy, capacity and ancillary services at market-based rates, to reassign transmission capacity, and to resell firm transmission rights. Applicant proposes to construct, own and operate a 880-megawatt electric generation facility located in Contra Costa County, California.

Comment Date: January 11, 2002.

15. American Electric Power Service Corporation

[Docket No. ER02–602–000]

Take notice that on December 21, 2001, the American Electric Power Service Corporation (AEPSC), submitted and requested acceptance of a Notice of Cancellation for each ERCOT Ancillary Service Agreement made pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff, Second Revised Volume No. 6.

AEP respectfully requests that the Commission waive its usual minimum notice requirements, and any other requirements of its Rules and Regulations with which this filing may not comply, and accept the notices of cancellation for these agreements to be effective January 1, 2002, or the earliest permissible date thereafter.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment Date: January 11, 2002.

16. Entergy Services, Inc.

[Docket No. RT01–75–001]

Take notice that on December 20, 2001, Entergy Services, Inc., on behalf of the Entergy Operating Companies, Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively Entergy), filed a notice of withdrawal of its application for approval of the Transco transmission rate structure filed with the Federal Energy Regulatory Commission on December 29, 2000 in Docket No. RT01–75–001.

Entergy has served a copy of this filing on all parties listed on the service list in Docket No. RT01–75–001.

Comment Date: January 10, 2002.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–214 Filed 1–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2161–006 Wisconsin; Project Nos. 2192–008 and 2110–003 Wisconsin]

Rhinelander Paper Company; Consolidated Water Power; Notice of Availability of Draft Multiple Project Environmental Assessment

December 28, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486,52 FR 47879), the Office of Energy Projects has reviewed the applications for license for the Rhinelander, Stevens Point, and Biron projects, located on the Wisconsin River, in Oneida, Portage, and Wood Counties, Wisconsin, and has prepared a Draft Multiple Project Environmental Assessment (DEA) for these projects. There are no federal lands occupied by the project works or located within the project boundaries.

The DEA contains the staff's analysis of the potential environmental effects of the project and concludes that licensing the projects, with appropriate environmental measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the DEA is on file with the Commission and is available for public inspection. The DEA 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).

Any comments should be filed within 45 days from the date of this notice and should be addressed to Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix the Project No. 2161, 2192, or 2110 to the comments. Comments 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.

For further information, contact Michael Spencer at 202–219–2846.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–176 Filed 1–2–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7125–8]

Agency Information Collection Activities; Proposed Collection; Comment Request; Public Water Systems Supervision Program: Public Notification Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq., this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Public Water Systems Supervision (PWSS) Program ICR: Public Notification Amendment, EPA No. 270.41; OMB No. 2040–0090. The current Public Notification ICR approval expires on 06/30/2002. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on the existing information collection as described below.

DATES: Comments must be submitted on or before March 5, 2002.

ADDRESSES: To obtain a copy of the draft Public Notification Amendment to the PWSS ICR without charge, please contact the Safe Drinking Water Hotline (800–426–4791). Hours of operation are 9 a.m. to 5:30 p.m. (ET), Monday–Friday, excluding Federal holidays. Copies are also available from the Office of Water Resource Center (RC4100), U.S. EPA Headquarters, 401 M Street SW., Washington, DC 20460. People interested in getting information or making comments about the Public Notification Amendment to the PWSS ICR should direct inquiries or comments to the Office of Ground Water and Drinking Water, Drinking Water Protection Branch, Mail Code 4606M, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lisa Christ (202) 564–8354, fax (202) 564–3755, E-mail: *christ.lisa@epa.gov.*

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are Public Water Systems, primacy agents including regulators in the States, Puerto Rico, the U.S. Trust Territories; Indian Tribes and Alaska Native Villages, and in some instances, U. S. EPA Regional Administrators and staff.

Title: Information Collection Request for Public Water Systems Supervision Program: Public Notification Amendment. The current Public Notification ICR (EPA No. 1898.02; OMB No. 2040–0209) expires June 30, 2002.

Abstract: The 2001 PWSS Program ICR is the result of a consolidation of some rules and activities covered in the 1993 PWSS ICR and activities and rules previously covered in other OGWDW standalone ICRs. The current Public Notification ICR will be renewed as an amendment to the 2001 PWSS Program ICR. This ICR amendment revises the burden estimate for public notification regulations, as required by sections 1414(a)(1) and (a)(2) of the Safe Drinking Water Act. Public water systems are required to give notification to all persons served when a violation of EPA drinking water standards occurs and for other situations posing a risk to health. EPA regulations define the form, manner, frequency, and content of the notices. Ensuring implementation of these requirements by public water systems is principally a responsibility of the States, territories and tribe that have assumed primary enforcement responsibility (primacy) for public water systems under SDWA section 1413.

An Agency may not conduct or sponsor and a person is not required to respond to, a collection of information if it does not display a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to: (i) 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; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and, (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology

(e.g., permitting electronic submission of responses).

Burden Statement: The estimated burden for Public Notification is approximately: 51,449 responses per year; 748,811 hours per year; and $4.035 million per year of total cost.

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. Any recommendations from the drinking water community and the general public on this issue will be given consideration by the Agency.

Dated: December 21, 2001.

William R. Diamond,

Director, Drinking Water Protection Division.

[FR Doc. 02–222 Filed 1–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7125–9]

Environmental Laboratory Advisory Board (ELAB), Nominees, Meeting Dates, and Agenda

AGENCY: Environmental Protection Agency.

ACTION: Notice, correction.

SUMMARY: The Environmental Protection Agency published a document in the **Federal Register** on November 9, 2001 (66 FR 56675). The Date of the ELAB meeting has been changed. The Environmental Protection Agency (EPA) is soliciting nominees to serve on the Environmental Laboratory Advisory Board (ELAB). Nominees are being sought to fill vacancies in the following category: Field Testing. Terms of service will commence upon selection and terminate on July 27, 2003. Application forms must be submitted to provide information on experience, abilities, stakeholder interest, organizational description, and references. A copy of the application form can be obtained on the Internet (see address below).

The date for the Environmental Laboratory Advisory Board of Directors meeting has been changed to 3 PM to 6 PM on December 4, 2001 and the meetings scheduled on December 6 and 7 have been canceled. The ELAB meeting will be held at the Crystal Gateway Marriott at 1700 Jefferson Davis Highway, Arlington VA. At this meeting the ELAB board will discuss issues, ideas, and opinions previously submitted and time permitting, will take comments and questions from the public. ELAB is soliciting input from the public on issues related to the NELAC environmental laboratory accreditation program and NELAC standards. The agenda of the ELAB December 4 meeting will be based on input gathered from written comments as well as a review of recommendations and activities from earlier Board meetings.

Written comments on NELAC laboratory accreditation and standards are encouraged and should be sent to Edward Kantor DFO, PO Box 93478, Las Vegas NV 89193, or can be faxed to (702) 798–2261 or E-mailed to *kantor.edward@epa.gov.* ELAB nominee applications can be found at *http://www.epa.gov/ttn/nelac/arcmisc.html* and should be mailed, faxed, or E-mailed to the addresses previously given.

http://www.epa.gov/ttn/nelac/arcmisc.html

Dated: November 8, 2001.

John G. Lyon,

Director, Environmental Sciences Division, National Environmental Research Laboratory.

[FR Doc. 02–221 Filed 1–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6625–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa.* Weekly receipt of Environmental Impact Statements Filed December 24, 2001 Through December 28, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010538, Final EIS, FHW, WI, County Highway J/WIS 164 (I–94 to County E) Corridor Improvements Project, Funding, City of Pewaukee, Villages of Pewaukee and Sussex, Towns of Lisbon, Richfield and Polk, Waukesha and Washington Counties, WI, Wait Period Ends: January 28, 2002, Contact: Richard Madzak (608) 829–7510.

The above FHW EIS should have appeared in the December 28, 2001 **Federal Register**. The 30-day Wait Period is Calculated from December 28, 2001.

EIS No. 010539, Final EIS, COE, CA, White Slough Flood Control Study, Tidal Circulation Improvements and Section 205 Program Authorities Continuation, Vallejo Sanitation and Flood Control District, City of Vallejo, Solano County, CA, Wait Period Ends: January 28, 2002, Contact: Tamara Terry (415) 977–8545.

The above COE EIS should have appeared in the December 28, 2001 **Federal Register**. The 30-day Wait Period is Calculated from December 28, 2001.

EIS No. 010540, Draft EIS, FTA, AZ, Central Phoenix/East Valley Light Rail Transit Corridor, Construction, Operation and Maintenance, Funding, Cities of Phoenix, Tempe and Mesa, Maricopa County, AZ, Comment Period Ends: February 19, 2002, Contact: Hymie Luden (415) 744–3115.

EIS No. 010541, Draft EIS, COE, TX, Texas City's Proposed Shoal Point Container Terminal Project, Containerized Cargo Gateway Development, US Army COE Section 404 and 10 Permits Issuance, Dredged Material Placement Area (DMPA), City of Texas, Galveston County, TX, Comment Period Ends: February 19, 2002, Contact: Sharon Manella Tirpak (409) 766–3931.

EIS No. 010542, Draft Supplement EIS, AFS, MT, Clancy-Unionville Vegetation Manipulation and Travel Management Project, Updated and New Information concerning Cumulative Effects and Introduction of Alternative F, Clancy-Unionville Implementation Area, Helena National Forest, Helena Ranger District, Lewis and Clark and Jefferson Counties, MT, Comment Period Ends: February 19, 2002, Contact: Jerry Meyer (406) 449–5201.

EIS No. 010543, Final EIS, NOA, CA, Goat Canyon Enhancement Project, Sediment Basins, Staging Area and Visual Screening Berm Establishment, Tijuana River National Estuarine Research Reserve (TRNERR), Imperial Beach, City and County of San Diego, CA, Wait Period Ends: February 04, 2002, Contact: Nina Garfield (301) 563–1171.

EIS No. 010544, Final EIS, USA, CA, Oakland Army Base Disposal and Reuse Plan, Implementation, City of

Oakland, Alameda County, CA, Wait Period Ends: February 04, 2002, Contact: Theresa Persick Arnold (703) 697–0216.

Dated: December 31, 2001.

Anne Norton Miller,

Director, Office of Federal Activities.

[FR Doc. 02–227 Filed 1–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6625–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (66 FR 27647).

Draft EISs

ERP No. D–BIA–K39071–00 Rating EC2, Truckee River Water Quality Settlement Agreement and Federal Water Right Acquisition, Implementation, Truckee River, Placer County, CA and Washoe, Storey and Lyon Counties, NV.

Summary: EPA recognized the WQSA signatories work to permanently improve Truckee River water quality and reduce violations of water quality standards. EPA encouraged them to continue to work with us in achieving full compliance with water quality standards. EPA expressed concerns with alternatives, monitoring and mitigation, and cumulative impacts.

ERP No. D–BLM–K40248–AZ Rating EC2, Diamond Bar Road Improvement Project, Road Pavement and Realignment of sections through Grapevine Wash, Right-of-Way Permits Issuance, Mohave County, AZ.

Summary: EPA expressed environmental concerns with potential cumulative impacts, particularly, those from reasonably foreseeable development scenarios. EPA suggested that alternatives further minimize adverse impacts to vegetation, wildlife and cultural resources.

ERP No. D–COE–D36179–WV Rating EO2, Marlington Local Flood Protection, Flood Damage Reduction Measures Evaluation, Levee and Floodwall Construction for Knapp Creek Flood Management, Greenbrier River, Town of Marlington, Pocahontas County, WV.

Summary: EPA expressed environmental concerns that non-structional alternatives, including relocation of residential and non-residential structures to a flood safe site, were not evaluated in detail. Insufficient information is provided for a reasonably available alternative (relocation) which could reduce the environmental impacts of the proposal.

ERP No. D–NOA–L91016–AK Rating LO, American Fisheries Act Amendments 61/61/13/8: Amendment 61 Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Amendment 61 Groundfish of the Gulf of Alaska; Amendment 13 Bering Sea and Aleutian Islands King and Tanner Crab, and Amendment 8 Scallop Fishery off Alaska, Fishery Management Plans, AK.

Summary: EPA lacked objections to ending the traditional race for fish by implementing action alternatives associated with the American Fisheries Act (AFA) because it results in a safer, more efficient fishery that utilizes a higher percentage of pollock biomass harvested. EPA suggested that the fishing industry could exploit the temporal and spatial discretion afforded by AFA, and extract a greater percentage of biomass to further reduce impacts of process waste discharge to water quality.

ERP No. DS–NRC–A00150–00 Rating EC2, Decommissioning of Nuclear Facilities, Updated Information on Dealing With Decommissioning of Nuclear Power Reactors (NUREG–0586).

Summary: EPA expressed environmental concerns with this supplement to a generic EIS and requested clarifications and supplementary information on: determining when a particular decommissioning activity or site or operating condition is covered by the generic analysis; explaining the differing impact levels and the assumptions used in setting them; updating the analysis of the site's environmental condition; and, providing a more robust discussion of impacts to ground water.

Final EISs

ERP No. F–AFS–L65377–OR, South Fork Burnt River Ranger Planning Area, Development of Five New Allotment Management Plans (AMPS), Wallowa-Whitman National Forest, Unity Ranger District, Baker County, OR.

Summary: While the FEIS added additional technical information on restoration actions, EPA continued to have some environmental concerns with the project. Principally, the FEIS did not include a no-graze or reduced graze restoration alternative.

ERP No. F–COE–J64008–SD, Title VI Land Transfer South Dakota, Transfer of 91,178 Acres of Land at Lake Oahe, Lake Sharp, Lake Francise Case, and Lewis and Clark Lake, from the US Army Corps of Engineers (USACE) to the South Dakota Department of Game, Fish and Parks (SDGFP), SD.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–F50003–IL, Fox River Bridge Crossings, Construction of up to Five-Bridges across the Fox River, Funding and NPDES and US Army COE Section 10 and 404 Permits Issuance, Kane County, IL.

SUMMARY: Based upon the highway agency's commitments (on travel-related mitigation and wetland compensation), EPA had no significant environmental concerns with the preferred alternative. EPA believed that the preferred alternative can satisfy the project's purpose and need while adequately mitigating direct and indirect impacts.

ERP No. F–FRC–L05221–WA, Cowlitz River Hydroelectric Project (No. 2016–044), Relicensing of the Existing 462–Megawatt Cowlitz River Hydroelectric Project, City of Tacoma, WA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. FS–NPS–K61137–AZ, Organ Pipe Cactus National Monument General Management Plan and Development Concept Plan, Updated Information concerning Re-Analysis of Cumulative Effects of the Sonoran Pronghorn Portion of the Sonoran Desert, Pima County, AZ.

Summary: No formal comment letter was sent to the preparing agency.

Dated: December 28, 2001.

Anne Norton Miller,

Director, Office of Federal Activities.

[FR Doc. 02–228 Filed 1–3–02; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34225F; FRL–6812–6]

Diazinon; Receipt of Requests for Amendments and Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Several companies that manufacture diazinon (O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate) pesticide products

have asked EPA to cancel or amend the registrations for their end-use products containing diazinon to delete all indoor uses, certain agricultural uses and certain outdoor non-agricultural uses. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these requests. These requests for voluntary termination of the above mentioned uses through registration cancellations or amendments were submitted to EPA in July, August, September, and October 2001. EPA intends to grant these requests by issuing a cancellation order at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of these requests. Upon the issuance of the cancellation order, any distribution, sale, or use of diazinon products listed in this Notice will only be permitted if such distribution, sale, or use is consistent with the terms of that order.

DATES: Comments on the requested amendments to delete uses and the requested registration cancellations must be submitted to the address provided below and identified by docket control number OPP–34225F. Comments must be received on or before February 4, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34225F in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: John Hebert, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–6249; fax number: 703–308–7042; e-mail address: hebert.john@epa.gov.

SUPPLEMENTARY INFORMATION: This announcement consists of three parts. The first part contains general information. The second part addresses the registrants' requests for registration cancellations and amendments to delete uses. The third part proposes existing stocks provisions that will be set forth in the cancellation order that the Agency intends to issue at the close of the comment period for this announcement.

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 diazinon 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'' 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 for diazinon, go to the Home Page for the Office of Pesticide Programs or go directly to http://www.epa.gov/pesticides/op/diazinon.htm.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34225F. 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.

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–34225F in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34225F. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public

version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses

A. Background

Certain registrants requested in letters dated June, August, and September 2001, that their diazinon registrations be amended to delete all indoor uses, certain agricultural uses, and any other uses that the registrants do not wish to maintain. The requests also included deletions of outdoor non-agricultural uses from the labeling of certain end-use products so that such products would be labeled for agricultural uses only. Similarly, other diazinon end-use registrants requested voluntary cancellation of their diazinon end-use registrations with indoor use and/or certain outdoor non-agricultural uses, and any other uses that the registrants do not wish to maintain. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these requests. These requested cancellations and amendments are consistent with the requests in December 2000 by the manufacturers of diazinon technical products, and EPA's approval of such requests, to terminate all indoor uses and certain agricultural uses from their diazinon product registrations because of EPA's concern with the potential exposure risk, especially to children. The indoor uses and agricultural uses subject to cancellation are identified in List 1 below:

List 1--Uses to be Canceled

Indoor uses: Pet collars, or inside any structure or vehicle, vessel, or aircraft or any enclosed area, and/or on any contents therein (except mushroom houses), including but not limited to food/feed handling establishments, greenhouses, schools, residences, commercial buildings, museums, sports facilities, stores, warehouses and hospitals.

Agricultural uses: Alfalfa, bananas*, Bermuda grass, dried beans, dried peas, celery*, red chicory (radicchio), citrus, clover, coffee, cotton, cowpeas, cucumbers*, dandelions, forestry (ground squirrel/rodent burrow dust stations for public health use)*, kiwi, lespedeza, parsley*, parsnips*, pastures, peppers*, potatoes (Irish and sweet)*, sheep, sorghum, squash (winter and summer)*, rangeland, Swiss chard*, tobacco, and turnips (roots and tops)*. (The Agency does not intend to disapprove or cancel any 24(c) Special Local Need registrations issued for the uses designated with an asterisk).

As mentioned above, the requests announced in this **Federal Register** notice also include registration cancellations and/or amendments to terminate certain uses that the registrants do not wish to maintain. The specific requests are identified in Tables 1 and 2 of this notice.

EPA has begun the process of reviewing the requested amendments which cannot be finalized until the end of the public comment period and provided that no substantial comments need to be addressed. EPA also intends to grant the requested product and use cancellations by issuing a cancellation order at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of these requests.

B. Requests for Voluntary Cancellation of End-Use Products

The registrants and end-use product registrations containing diazinon for which cancellation was requested are identified in the following Table 1.

TABLE 1.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS

Company	Registration Number	Product
Bonide Products, Inc.	4-191 4-204 4-209 4-272 4-284 4-359 4-411 4-416 4-417	Bonide Lawn and Garden Insect Control with Diazinon 25% EC Bonide Ant Dust with Diazinon Bonide Diazinon 2 1/2 G Bonide Diazinon Soil Insect Granules Bonide Garden Soil Insecticide Diazinon 5% G Bonide Diazinon 4E Insecticide Bonide Diazinon Insect Control Ready-To-Use Bonide Lawn and Garden Spray with Diazinon Bonide Ant and Soil Insect Granules
The Scotts Company	239-2350 239-2602 239-2659 239-2660	Ortho Fruit and Vegetable Insect Control Ortho Home Pest Insect Killer Formula II Ortho Diazinon Reacy Spray Insect Killer Ortho Diazinon Lock'n Spray Insect Killer
Value Garden Supply, LLC	769-509	Diazinon 4-E
Southern Agricultural Insecticides, Inc.	829-261	SA-50 Brand Diazinon 4E Insecticide

TABLE 1.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS—Continued

Company	Registration Number	Product
Agriliance	1381-151 1381-164	Imperial 5% Diazinon Granular Insect Control Agrox DL Plus
Voluntary Purchasing Groups, Inc.	7401-86 7401-96 7401-99 7401-102 7401-103 7401-104 7401-105 7401-110 7401-214 7401-223 7401-236 7401-262 7401-277 7401-278 7401-295 7401-442	Ferti-lome® Worm Spray Ferti-lome® Lawn Insect Killer Ferti-lome® Special Cricket Spray Ferti-lome® Bagworm Spray Ferti-lome® Diazinon Chinch Bug Spray Ferti-lome® Vegetable Spray Ferti-lome® Aphid Spray Ferti-lome® Liquid Rose Spray Ferti-lome® Improved Rose Dust Ferti-lome® White Grub Spray Ferti-lome® White Grub Killer Ferti-lome® Lawn Food Containing Diazinon Ferti-lome® Wasp and Hornet Killer Ferti-lome® Ant and Roach Spray Ferti-lome® Garden Dust Hi-Yield Diazinon 4E Insect Spray
Gowan Company	10163-68 10163-103	Prokil Diazinon 4EC Gowan Diazinon 50WP
Lesco	10404-11	Diazinon 500 Insecticide
Platte Chemical Co.	34707-229 34704-288	Clean Drop Diazinon 4E Clean Drop Diazinon Seed Protectant
Hi-Yield Chemical Company	34911-3 34911-14 34911-15 34911-22 34911-24	Hi-Yield® Diazinon Insect Spray Hi-Yield® Diazinon Dust Hi-Yield® Ready-to-Use Professional Kill-A-Bug Hi-Yield® General Purpose Garden Dust Hi-Yield® Imported Fire Ant Killer
Control Solutions Inc.	53883-47	Martin's Diazinon Household Insect Spray Ready to Use

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that EPA cancel any of their pesticide registrations. Section 6(f)(1)(B) of FIFRA requires that EPA provide a 30–day period in which the public may comment before the Agency may act on the request for voluntary cancellation. In addition, 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: (1) The registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. In this case, all of the registrants have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested cancellations. Because of risk concerns posed by certain uses of diazinon, EPA intends to grant the requested cancellations at the close of the comment period for this announcement unless the Agency receives any substantive comment within the comment period that would merit its further review of these requests.

C. Requests for Voluntary Amendments to Delete Uses From the Registrations of End-Use Products

Pursuant to section 6(f)(1)(A) of FIFRA, the following companies have submitted a request to amend the registrations of their pesticide end-use products containing diazinon to delete certain uses from certain products. The following Table 2 identifies the registrants, the product registrations that they wish to amend, and the uses that they wish to delete through registration amendments.

TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS

Company	Registration Number	Product Name: Use Deletions
Value Garden Supply, LLC	192-161	Dexol Diazinon 5% Granules: Celery
Riverdale	228-177	Riverdale 5% Diazinon Insect Killer Granules
The Scotts Company	239-2364 239-2619 239-2643	Ortho Diazinon Insect Spray: Almonds Ortho Hi-Power Ant, Roach, and Spider Spray Formula II: Indoor Uses Diazinon Insect Spray 2: Almonds
Value Garden Supply, LLC	769-689	SMCP Diazinon AG500: Lawn Pest Control, Nuisance Pests in Outside Areas, and Barrier Strips

TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS—Continued

Company	Registration Number	Product Name: Use Deletions
	769-841	Miller Diazinon AG Insecticide: Field and Forage Uses, Mushroom Houses, Olives, Figs, Filberts and Pineapples
	769-954	AllPro Diazinon 50 WP Insecticide: Lawn Uses, Nuisance Pests, and Grassland Pests
Voluntary Purchasing Groups, Inc.	7401-213	Hi-Yield Diazinon AG500 Insecticide: Almonds, celery, cucumbers, parsley, parsnips, peppers, potatoes (Irish), squash (summer and winter), sweet potatoes, swiss chard, turnips, grassland insects, and lawn pest control
	7401-216	Ferti-lome® Diazinon Insect Spray: Almonds
	7401-441	Ferti-lome® Diazinon Water Base Concentrate: Almonds
Gowan Company	10163-100	Diazinon 4E: Beans, cucumbers, parsley, parsnips, peas, peppers, potatoes, squash (summer and winter), sweet potatoes, swiss chard, turnips, indoor ornamentals, lawn pest control, and nuisance pests
	10163-104	Diazinon 14G: Beans, celery, cucumbers, parsley, peas, peppers, potatoes, squash (summer and winter), sweet potatoes, swiss chard, turnips, and indoor ornamentals
	10163-116	Diazinon 5G: Beans, celery, cucumbers, parsley, peas, peppers, potatoes, squash (summer and winter), sweet potatoes, swiss chard, turnips, indoor ornamentals, and lawn pest control
	10163-163	Diazinon 50-WSB: Beans, cucumbers, parsley, parsnips, peas, peppers, potatoes, squash (summer and winter), sweet potatoes, swiss chard, turnips, grassland insects, livestock Insects, fly control in livestock structures, and indoor ornamentals
	10163-241	Diazinon 5F: Beans, cucumbers, parsley, parsnips, peas, peppers, potatoes, squash (summer and winter), sweet potatoes, swiss chard, turnips, grassland insects, lawn pest control, nuisance pests, and indoor ornamentals
Hi-Yield Chemical Co.	34911-13	Hi-Yield 5% Diazinon Insect Killer Granules: Celery
Control Solutions Inc.	53883-45	Martin's Diazinon 25E Lawn and Garden Insect Control: Almonds and Walnuts
	53883-51	Martin's 5% Diazinon Granules: Celery

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. The aforementioned companies have requested to amend their registrations and have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested amendments to delete uses. Because of risk concerns posed by certain uses of diazinon, EPA intends to grant the requested amendments to delete uses at the close of the comment period for this announcement, unless the Agency receives any substantive comment within the comment period that would merit its further review of these requests.

III. Proposed Existing Stocks Provisions

EPA received requests for voluntary cancellation of the diazinon registrations identified in Tables 1 and requests for amendments to terminate certain uses of the diazinon registrations identified in Table 2. Pursuant to section 6(f) of FIFRA, EPA intends to grant these requests by issuing a cancellation order at the end of the 30–day comment period unless the Agency receives any substantive comment within the comment period that would merit its further review of these requests. In the event that EPA issues a cancellation order, EPA intends to include in that order the existing stocks provisions set forth in this section. For purposes of that cancellation order, the term ''existing stocks'' will be defined, pursuant to EPA's existing stocks policy published in the **Federal Register** of June 26, 1991 (56 FR 29362), 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 cancellation or amendment. Any distribution, sale, or use of existing stocks after the effective date of the cancellation order that the Agency intends to issue 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.

EPA intends that the cancellation order includes the following existing stocks provisions:

1. *Distribution or sale of products bearing instructions for use on agricultural crops.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use on the agricultural crops identified in List 1 will not be lawful under FIFRA 1 year after the effective date of the cancellation order. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 1 or 2 that bears instructions for any of the agricultural uses identified in List 1 after the effective date of the cancellation order. However, it is lawful to ship such stocks for export consistent with the requirements of section 17 of FIFRA, or to properly dispose of the existing stocks in accordance with all applicable law.

2. *Distribution or sale of products bearing instructions for use on outdoor non-agricultural sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use on outdoor non-agricultural sites will not be lawful under FIFRA 1 year after the effective date of the cancellation order. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 1or 2 that bears instructions for use on outdoor non-agricultural sites after the effective date of the cancellation order. However, it is lawful to ship such stocks for export consistent with the

requirements of section 17 of FIFRA, or to properly dispose of the existing stocks in accordance with all applicable law.

3. *Distribution or sale of products bearing instructions for use on indoor sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use at or on any indoor sites (except mushroom houses), shall not be lawful under FIFRA as of the effective date of the cancellation order, except for shipping stocks for export consistent with the requirements of section 17 of FIFRA, or properly disposing of the existing stocks in accordance with all applicable law.

4. *Retail and other distribution or sale of existing stock of products for indoor use.* The distribution or sale of existing stocks by any person other than the registrants of products listed in Table 1 or 2 bearing instructions for any indoor uses except mushroom houses will not be lawful under FIFRA after December 31, 2002, except for shipping stocks for export consistent with the requirements of section 17 of FIFRA, or properly disposing of the existing stocks in accordance with all applicable law.

5. *Use of existing stocks.* EPA intends to permit the use of existing stocks of products listed in Table 1 or 2 until such stocks are exhausted, provided such use is in accordance with the existing labeling of that product.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: December 19, 2001.

Lois A. Rossi,

Director, Special Review and Registration Division, Office of Pesticide Programs.

[FR Doc. 02–225 Filed 1–3–02 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1059; FRL–6812–2]

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–1059, must be received on or before February 4, 2002.

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–1059 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, 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	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' 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–1059. 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–1059 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–1059. 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: December 17, 2001.

Peter Caulkins,

Acting 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 petitioners. 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.

PP IF06300

EPA has received a pesticide petition (IF06300) from Aventis CropScience, 2 Alexander Drive, Research Trianagle Park, NC 27709 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of fenamidone, and its metabolites RPA 412708, RPA 412636, and RPA 410193 in or on the raw agricultural commodities: Potato, 0.05 parts per million (ppm) tomato, 1.0 ppm; tomato paste, 3.5 ppm, tomato puree, 3.5 ppm, bulb vegetable crop group, 1.5 ppm; cucurbit crop group, 0.1 ppm; head lettuce, 15.0 ppm; leaf lettuce, 20.0 ppm; wheat grain, 0.05 ppm, wheat straw, 0.5 ppm; wheat forage, 0.5 ppm, and wheat hay, 0.5 ppm. Tolerances are also proposed for fenamidone and its metabolite RPA 410193 on imported wine grapes at 0.5 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The plant metabolism of fenamidone (RPA 407213) is adequately understood in four distinct crops (lettuce, tomatoes, potatoes, and grapes) to support these tolerances. In all cases, the primary residue was the parent fungicide, RPA 407213. The only significant metabolite was RPA 410193 (~17 of the total radioactive residue (TRR) in grapes, ~9% of the TRR in tomatoes, <1% of the TRR in lettuce (mostly in the wrapper leaves), and <1% of the TRR in potatoes (haulm or tubers)). RPA 412708 and RPA 412636 were minor metabolites reported in the lettuce and potato metabolism studies, and may account for part of the unidentified residue reported in the grape and tomato metabolism studies.

2. *Analytical method*. Although residue levels approaching the proposed tolerances are unlikely, independently validated enforcement methods are available for determining residues of fenamidone and relevant metabolites. Residues are first extracted from the crop matrix by blending or shaking with a mixture of acetonitrile and water. After filtration, an aliquot of the extract is rotary evaporated to near dryness; then diluted with water. Cleanup is accomplished on a HRP polymeric solid phase extraction (SPE) cartridge and an amino SPE cartridge. Residues are quantified by high performance liquid chromotography (HPLC) with tandem mass spectrometric detection (LC/MS/MS). The method limits of quantification (LOQ) are 0.02 ppm for fenamidone, and its metabolites, RPA 412636, RPA 412708, and RPA 410193 in potato tubers, and processed fractions, tomatoes and processed fractions, cucumbers, squash, cantaloupes, head and leaf lettuce, onions, spinach, and wheat raw agricultural commodities and processed fractions.

3. *Magnitude of residues*—i. *Cucurbit crops*. The magnitude and decline of residues of fenamidone were determined on cucumber, cantaloupe, and summer squash, the representative commodities for the cucurbit vegetable

crop group. Nine field trials were conducted on each crop during 1999. EXP 10623A, a suspension concentrate end use formulation containing 500 g fenamidone per liter, was applied as six broadcast applications, each at the maximum rate of 0.178 lb ai/acre (200 g ai/A/ha). Applications were made approximately 5 days apart. The target pre-harvest interval (PHI) was 14 days. Residues of fenamidone RPA 407213 were detected in two of nine trials of cucumbers at levels of 0.022 to 0.041 ppm, with the metabolite RPA 412708 measured in only one trial at 0.028 ppm. Quantifiable residues of fenamidone were measured in eight of nine trials of cantaloupes at levels ranging from 0.021 to 0.098 ppm, with no quantifiable residues of metabolites detected. Residues of parent fenamidone were found in only one of nine summer squash trials at 0.039 to 0.077 ppm with no quantifiable residues of any metabolites detected.

ii. *Tomato*. Seventeen residue trials were conducted in 1999–2000. EXP 10623A, a suspension concentrate containing 500 g fenamidone per liter, was applied as four broadcast applications of 0.268 lb ai/acre (300 g ai/ha) each or six broadcast applications of 0.178 lb ai/acre (200 g ai/A) each, for a maximum seasonal use rate of 1.068 lb ai/acre (1,200 g ai/ha). Applications were made approximately 5 days apart. The target PHI was 14 days. Cherry tomatoes were grown at 4 of the 18 trials. Trace residues of the fenamidone metabolite RPA 410193 were detected in tomatoes from only one trial, on cherry tomatoes, at levels of 0.023 to 0.028 ppm. Measurable residues of the parent fungicide, fenamidone were found in tomatoes from 15 of the 17 harvestable trials at levels ranging from 0.044 to 0.800 ppm. The residues did not seem to correlate with the application scenario. The extent of potential residue concentration in processed tomato fractions was estimated by processing tomatoes after application of fenamidone at 5X the maximum seasonal use rate. Fenamidone residues concentrated in tomato puree by a factor of about 2.2 and in tomato paste by a factor of about 3.5. When corrected to account for the exaggerated application rate, residue levels were 0.089 ppm in whole tomato fruit, 0.198 ppm in tomato puree and 0.316 ppm in tomato paste.

iii. *Lettuce*. In 2000, nine residue trials were conducted with fenamidone on leaf lettuce and nine trials were conducted on head lettuce. EXP 10623A was applied as four broadcast applications of 0.268 lb ai/acre (300 g ai/ha) each, for a maximum seasonal use rate of 1.068 lb ai/acre (1,200 g ai/ha). Applications were made approximately 5 days apart. The target PHI was 2 days. Residues of the parent fungicide, fenamidone (RPA 407213) were found in/on leaf lettuce from all nine trials at levels ranging from <LOQ to 17.5 ppm. Low levels of the metabolites RPA 410193 and RPA 412708 were found in five of the nine trials of leaf lettuce at levels up to 0.049 ppm. The metabolite RPA 412636 was found in one sample of leaf lettuce at a level of 0.031 ppm. Residues of the parent fungicide, fenamidone RPA 407213 were found in/on head lettuce from all nine trials at levels ranging from 0.815 to 11.7 ppm with the wrapper leaves, and from <LOQ to 2.90 ppm with the wrapper leaves removed. Low levels of the metabolite RPA 410193 were found in four of the nine trials of head lettuce with wrapper leaves at levels up to 0.029 ppm but not detected after the wrapper leaves were removed. Low levels of the metabolite RPA 412708 were found in five of the nine trials of head lettuce with wrapper leaves at levels up to 0.047 ppm but found in samples from only two trials after the wrapper leaves were removed. The metabolite RPA 412636 was found in head lettuce from only one trial at a level of 0.031 ppm before the wrapper leaves were removed and not at all after the wrapper leaves were removed.

iv. *Potato*. Eighteen residue trials were conducted with fenamidone on potatoes in 1999. EXP 10623A, a suspension concentrate containing 500 g fenamidone per liter, was applied as four broadcast applications of 0.268 lb ai/acre (300 g ai/ha) each or six broadcast applications of 0.178 lb ai/acre (200 g ai/ha) each, for a maximum seasonal use rate of 1.068 lb ai/acre (1200 g ai/ha). Applications were made approximately 5 days apart. The target PHI was 14 days. No quantifiable residues of fenamidone or metabolites were found in any potato tuber sample above the LOQ (0.02 ppm). The extent of potential residue concentration in processed potato fractions was estimated by processing potatoes after application of fenamidone at 5X the maximum seasonal use rate. The potato fractions included flakes, chips and wet peel. There were no measurable residues in the potato tuber or the potato chips despite the exaggerated application rate. Only parent fungicide, fenamidone RPA 407213, residues were found in the wet peel at levels of 0.043 to 0.049 ppm with an estimated concentration factor of 4.6. Trace residues of two fenamidone metabolites were found only in the potato flake fraction, RPA 412708 at 0.029 to 0036 ppm and RPA 412636 at 0.026 ppm. When corrected to account for the exaggerated application rate, residue levels of processed fractions were < the RAC LOQ of 0.02 ppm.

v. *Onions*. The magnitude and decline of fenamidone residues was determined on both dry bulb and green onions. There were eight harvestable trials of dry bulb onions and four harvestable trials of green onions. EXP 10623A, a suspension concentrate containing 500 g fenamidone per liter, was applied as six broadcast applications of 0.178 lb ai/acre (200 g ai/ha) each, for a maximum seasonal use rate of 1.068 lb ai/acre (1200 g ai/ha). Applications were made approximately 7 days apart. The target PHI was 7 days. Trace residues of the fenamidone metabolite RPA 412636 were detected in dry bulb onions from only one trial, at levels of 0.027 to 0.035 ppm. Measurable residues of the parent fungicide, fenamidone (RPA 407213), were found in dry bulb onions from only two of the eight harvestable trials at levels ranging from 0.021 to 0.126 ppm. Residues of the parent fungicide, fenamidone RPA 407213, were found in scallions collected from all four green onion trials at levels of 0.221 to 1.10 ppm. Low levels, up to 0.058 ppm, of each of the metabolites were detected in scallions from some of the four green onion trials.

vi. *Wheat*. Twenty–two residue trials were conducted with fenamidone on wheat in the 1999–2000 season. At each trial, a single broadcast application of the fenamidone was made to bare soil at 1.068 lb ai/acre (1,200 g ai/ha) in the fall (September-October 1999), which is the maximum recommended seasonal use rate. The test substance was EXP 10623A, a soluble concentrate containing 500 g fenamidone per liter. The winter wheat was planted 30 days after application and was harvested the following summer of 2000. Storage stability studies indicate that fenamidone and its metabolites are stable for the length and condition of storage (see 6.1.1 Stability of Residues During Storage of Samples for details). No quantifiable residues were found in any UTC samples. No residues of fenamidone or metabolites were found in wheat grain from any of the 22 trials. The limit of detection was 0.006 ppm. Low but quantifiable levels of the metabolite RPA 412636 were found in wheat forage from 10 of the 22 trials. The residues of RPA 412636 ranged from 0.021 to 0.071 ppm in the wheat forage tissue. Residues of the metabolite RPA 412708 were measurable 0.031 to 0.071 ppm in wheat forage from 3 of the 22 trials. Measurable levels of the metabolite RPA 412636 were found in

wheat hay from 16 of the 22 trials. The residues of RPA 412636 ranged from 0.022 to 0.321 ppm in the wheat hay tissue. Residues of the metabolite RPA 412708 were measured at the LOQ of 0.020 ppm in 1 sample of wheat hay from 44 samples from the 22 trials. Measurable residues of the metabolite RPA 412636, ranging from 0.022 to 0.200 ppm, were found in wheat straw from 14 of the 22 trials.

vii. *Wine grapes*. Seventeen residue trials were conducted with fenamidone on grapes in the 1997 and 1998 growing seasons in Western Europe. In each case, the fenamidone was applied in combination formulations to be registered in Europe (Fosetyl-Al, mancozeb, copper and/or BAY 12921F). At each trial, multiple broadcast applications of fenamidone were made to grape vines at rates of 0.083 to 0.118 lb ai/acre (93 to 133 g ai/ha) each. Applications were made approximately 7 or 14 days apart. The target PHI was 20 to 40 days. The storage stability studies indicate that fenamidone residues are stable for the length and condition of storage. No quantifiable residues were found in any UTC samples. Measurable residues of the parent fungicide, fenamidone (RPA 407213), were found in fresh grape fruit at levels ranging from 0.047 to 0.71 ppm. The metabolite, RPA 410193 was found at levels ranging from 0.026 to 0.28 ppm. The combined residue in grape fruit was calculated to be 0.067 to 0.84 ppm. Measurable residues of the parent fungicide, fenamidone (RPA 407213), were found in grape juice at levels ranging from <LOQ to 0.110 ppm. The metabolite, RPA 410193 was found at levels ranging from 0.027 to 0.074 ppm. The combined residue in grape juice was calculated to be 0.013 to 0.28 ppm. Measurable residues of the parent fungicide, fenamidone (RPA 407213), were found in grape wine at levels ranging from <LOQ to 0.027 ppm. The metabolite, RPA 410193, was found at levels ranging from <LOQ to 0.34 ppm. The combined residue in grape wine was calculated to be <LOQ to 0.40 ppm. Measurable residues of the parent fungicide, fenamidone (RPA 407213), were found in grape at levels ranging from 0.055 to 0.56 ppm. The metabolite, (RPA 410193) was found at levels ranging from 0.024 to 0.13 ppm. The combined residue in grape was calculated to be 0.11 to 0.71 ppm.

viii. *Dairy cows*. In a guideline feeding study, dairy cows were dosed twice a day for 35 days with technical fenamidone at rates of 0.8, 0.24 and 8.0 ppm based on the diet. No residues were detected in whole milk at a limit of detection of 0.003 ppm. No residues were found in muscle, liver, kidneys or fat at a limit of detection of 0.017 ppm. Based on these findings, no tolerances for fenamidone or its metabolites are proposed in animal commodities.

B. Toxicological Profile

1. *Acute toxicity*. A complete battery of acute toxicity studies for fenamidone have been conducted. The acute oral toxicity study in rats resulted in a LD_{50} of >5,000 mg/kg (males) and >2,028 mg/kg (females). The acute dermal toxicity study in rats resulted in a LD_{50} of >2,000 mg/kg for both males and females. The acute inhalation study in rats resulted in a LC_{50} of >5 mg/L for males and females. Fenamidone was not irritating in the primary eye irritation or primary dermal irritation studies. The dermal sensitization study in guinea pigs was negative.

In an acute neurotoxicity study in rats, fenamidone was not neurotoxic at doses up to the limit dose of 2,000 mg/kg. The no observed adverse effect level (NOAEL) was 500 mg/kg for males and 125 mg/kg for females.

2. *Genotoxicty*. Mutagenicity studies conducted include: A *Salmonella typhimurium* reverse mutation assay (negative at the limits of cytotoxicity and solubility with and without activation), *in vitro* unscheduled DNA synthesis test in rat liver (negative at the limits of cytotoxicity), *in vitro* chromosome aberrations test in human lymphocytes (positive at the limits of cytotoxicity and solubility), TK+/- mouse lymphoma assay (positive with activation, negative without), *in vivo* mouse micronucleus test (negative with toxicity at 2,000 mg/kg), and an *in vivo* unscheduled DNA synthesis assay in the rat (negative at up to 2,000 mg/kg with toxicity at the high dose level). Based on the data cited above, fenamidone is not considered to be mutagenic.

3. *Reproductive and developmental toxicity*. A teratology study was conducted with rats administered (orally) fenamidone on gestation days 6–15 at dose levels of 0, 25, 150, or 1,000 mg/kg/day. High dose dams had significantly decreased body weight and food consumption. High dose fetal body weights were less than controls and correlated with slightly delayed skeletal ossification secondary to maternal toxicity. The NOAEL for maternal and developmental toxicity is 150 mg/kg/day. The Lowest observed adversed effect level (LOAEL) was 1,000 mg/kg/day. A teratology study was conducted with rabbits administered (orally) fenamidone on gestation days 6–19 at dose levels of 0, 10, 30, or 100 mg/kg/day. The maternal NOAEL was 10 mg/kg/day. The developmental NOAEL was 100 mg/kg/day. The maternal LOAEL was 30 mg/kg/day, based on increased maternal liver weights at 30 and 100 mg/kg/day. Fenamidone demonstrates no potential to cause developmental toxicity in mammals.

A 2–generation definitive reproduction study was conducted with rats administered (orally) in the diet fenamidone at dose levels of 0, 3.9, 63.8, 328.3 mg/kg/day (males) and 0, 5.15, 84.4, 459.6 mg/kg/day (females). The NOAEL for maternal and off-spring toxicity was 5.15 mg/kg/day. The maternal NOAEL was based on decreased body weight and food consumption. The pup NOAEL is based on F1 pup body weight decrease. The reproductive NOAEL was >328.3 mg/kg/day (males) and >459.6 mg/kg/day (females). Fenamidone is not considered a reproductive toxicant at non-maternally toxic dose levels and shows no evidence of endocrine effects.

4. *Subchronic toxicity*. In a 13–week range-finding study, fenamidone was administered in the diets of male and female rats at dose levels of 0, 4.05, 10.41, 68.27, 343.93 mg/kg/day to males and 0, 4.81, 12, 83.33, 380.68 mg/kg/day to females. The NOAEL is 68.27 mg/kg/day (males) and 83.33 mg/kg/day (females) and the LOAEL is 343.93 mg/kg/day for males and 380.63 mg/kg/day for females based on adaptive liver changes at 68.27 mg/kg/day and increased liver and thyroid weights at the highest dose tested (HDT). In a 13–week subchronic feeding study, fenamidone was administered in the diet to mice at dose levels of 0, 11.33, 44.5, 220.2, 1,064.3 mg/kg/day to males and 0, 13.7, 54.1, 273.9, 1,375.2 mg/kg/day to females. The NOAEL is 44.5 mg/kg/day (males), and 54.1 mg/kg/day (females), and the LOAEL is 220.2 mg/kg/day (males), and 273.9 mg/kg/day (females) based on 14% increase in liver weight at the high dose. In a 28–day subchronic dermal study, fenamidone was applied to skin of male and female New Zealand white rabbits at doses of 0 or 1,000 mg/kg/day for 6 hours/day, 5 days/week. Treatment produced a slight decrease in food consumption (8–10%), and body weight (6%) in males only. In a 13–week study, fenamidone was administered in the diets of male and female dogs at 0, 10, 100, and 500 mg/kg/day. Based on clinical symptoms at the high dose, the NOAEL is 100 mg/kg/day and the LOAEL is 500 mg/kg/day.

In a subchronic neurotoxicity study, there was no evidence of neurotoxicity when fenamidone technical was administered to rats for 13 weeks at dosage levels up to 5,000 ppm (395.6–414.2 mg/kg/day), the MTD. The

NOAEL for the study was 1,000 ppm (equivalent to 74.2–83.4 mg/kg/day).

5. *Chronic toxicity*. A 1–year oral study was conducted with dogs administered fenamidone at dose levels of 0, 10, 100, and 1,000 mg/kg/day in capsules. The NOAEL is 100 mg/kg/day for both sexes, based on significantly increased liver weights and biliary hyperplasia in the high dose. The LOAEL is 1,000 mg/kg/day.

A 2–year combined chronic toxicity/carcinogenicity study was conducted with fenamidone administered in the diet to rats at doses of 0, 2.83, 7.07, 47.68, 260.13 mg/kg/day (males) and 0, 3.63, 9.24, 60.93, 335.10 mg/kg/day (females). The NOAEL for systemic toxicity is 2.83 mg/kg/day (males) and 3.36 mg/kg/day (females). The LOAEL is 7.07 mg/kg/day (males) 9.24 mg/kg/day (females). No statistically significant linear dose response was observed for any tumor incidence.

A 104–week combined carcinogenicity study in mice was conducted with mice administered fenamidone in the diet at dose levels of 0, 9.5, 47.5, 525.5, 1,100.2 mg/kg/day (males) and 0, 12.6, 63.8, 690.5, 1,393.2 mg/kg/day (females). The NOAEL was 9.5 mg/kg/day (males) and 12.6 mg/kg/day (females). The LOAEL for carcinogenicity was 47.5 mg/kg/day (males) and 63.8 mg/kg/day (females). The NOAEL is based on non-neoplastic liver changes and decreased body weight gain at the top two dose levels. Fenamidone demonstrates no potential for carcinogenic effects in mammals.

6. *Animal metabolism*. Metabolism studies conducted with goat and hen demonstrate that fenamidone is rapidly metabolized and excreted. Residue levels in edible animal tissues (meat, milk and eggs) are negligible and do accumulate in those tissues. The metabolic pathway proceeds via cleavage of the amino-phenyl group and the thiomethyl group with further metabolism by hydroxylation. There is also evidence to that glucuronide and sulfate conjugates are formed.

A single low dose (3 mg/kg), a single high dose (300 mg/kg) and a low dose (3 mg/kg) administered for 15 consecutive days were fed to rats. Fenamidone was relatively well absorbed at a nominal dose of 3 mg/kg in both sexes and intensively metabolized by phase I (oxidation, reduction and hydrolysis) and phase II (conjugation) reactions. The elimination of radiolabeled fenamidone was relatively rapid with the majority of the administered dose being excreted via the biliary route (for the low dose experiments). The comparison of the levels of radioactivity recovered in bile kinetic and ADME studies suggested that a part of the radioactivity excreted via the bile could be reabsorbed and subsequently re-excreted via the urine. High levels of radioactivity measured in blood samples from the tissue kinetics also supported this hypothesis. At the high dose level fenamidone was not very well absorbed: Some 50–60% of the radioactivity was present as parent compound in the feces. Radioactivity was widely distributed in the tissues with predominance in the thyroids, blood, liver, kidneys, fat and pancreas. Fenamidone is therefore expected to be rapidly and extensively metabolized and excreted in mammals.

7. *Metabolite toxicology*. The major dietary metabolites of fenamidone, RPA 412708, RPA 410193 and RPA 412636 were evaluated for mammalian toxicity in an acute oral toxicity study, a 90–day repeated dose study and in genotoxicity tests. The metabolites are considered to be of comparable toxicity to the parent fenamidone.

8. *Endocrine disruption*. Chronic, lifespan, and multi-generational bioassays in mammals and acute and subchronic studies on aquatic organisms and wildlife did not reveal endocrine effects. Any endocrine related effects would have been detected in this definitive array of required tests. The probability of any such effect due to agricultural uses of fenamidone is negligible.

C. Aggregate Exposure

1. *Dietary exposure*. Fenamidone is a fungicide with proposed uses on the food crops tomato, potato, head lettuce, leaf lettuce, the bulb vegetable crop group, and the cucurbit crop group. Although quantifiable residues are highly unlikely, wheat tolerances are also proposed to cover any conceivable plant back residues. An import tolerance for wine grapes is also proposed to cover imported wine. There are no residential uses proposed for fenamidone. Therefore the aggregate exposure would consist of any potential exposures to fenamidone residues from the above food crops from drinking water, and from imported wine. The chronic reference dose (RfD) of 0.03 mg/kg bwt/day is based on a NOAEL of 3 mg/kg bwt/day from a 2–year rat chronic study. There are no acute effects of concern for fenamidone and an acute analysis was not conducted.

i. *Food*. Chronic dietary exposure estimates resulting from the proposed and registered uses of fenamidone as listed above are well within acceptable limits for all sectors of the population. Potential dietary exposures from food were estimated using the chronic module of the DEEM™ software system, Version 7.62 (Novigen Sciences, Inc.), and the 1994–96 Department of Agriculture (USDA) consumption data. Anticipated residue values were calculated from the appropriate field trial studies conducted for fenamidone and its metabolites and submitted as part of the fenamidone petition. Processing factors were derived for tomato paste and puree and potato flakes and chips. For this chronic assessment, percent crop treated (PCT) values were estimated for the compound at market maturity. The PCT value for wine grapes is 20%. This assumes that all wine imported into the country (USDA FATUS tables) is made from grapes treated with fenamidone. This over estimates the risk significantly since fenamidone will only be registered on wine grapes in Western European countries. The wheat residue is included at 100% crop treated even though the actual plant back of a wheat crop behind vegetable crops (mostly potato) is estimated at 15%. Using these conservative assumptions, the most highly exposed population was children 1–6 utilizing 1.0% (0.000302 mg/kg/bwt/day) of the chronic RfD. The U.S. population utilized 0.8% (0.000236 mg/kg/bwt/day) of the RfD. Actual exposures are likely to be much less in real world situations because of the many conservative assumptions incorporated in this analysis.

ii. *Drinking water*. EPA's Standard Operating Procedure (SOP) for Drinking Water Exposure and Risk Assessments was used to perform the drinking water assessment. This SOP uses a variety of tools to conduct drinking water assessments, including water models such as SCI-GROW, FIRST, PRZMS/EXAMS, and monitoring data. If monitoring data are not available, then the models are used to predict potential residues in surface and ground water and the highest levels are assumed to be the drinking water residue. In the case of fenamidone, monitoring data do not exist, therefore SCI-GROW and FIRST were used to estimate a water residue. The calculated drinking water levels of comparison (DWLOC) for chronic exposure for all adults and children exceed the drinking water estimated concentration (DWEC) from the models. The chronic DWLOC for adults is 1,042 ppb. The chronic DWLOC for children/toddlers is 297 ppb. The DWEC for the worst case chronic scenario is 20 ppb. The drinking water levels of comparison are based on conservative dietary (food) exposures and are expected to be much higher in real world situations.

2. *Non-dietary exposure*. Fenamidone products are not labeled for residential

uses (food or non-food), thereby eliminating the potential for residential exposure or non-occupational exposure.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity. There is no available data to determine whether fenamidone has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fenamidone does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance petition, therefore, it has not been assumed that fenamidone has a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population.* Using the assumptions and data described above, based on the completeness, and reliability of the toxicity data, it is concluded that chronic dietary exposure to the proposed uses of fenamidone will utilize at most 0.8% of the chronic reference dose for the U.S. population. The actual exposure is likely to be much less as more realistic data, and models are developed. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate exposure over a lifetime will not pose appreciable risk to human health. Drinking water levels of comparison based on the dietary and aggregate exposures are greater than highly conservative estimated levels, and would be expected to be well below the 100% level of the RfD, if they occur at all. Therefore, there is a reasonable certainty that no harm will occur to the U.S. population from aggregate exposure (food and drinking water) to residues of fenamidone.

2. *Infants and children.* The relevant toxicity studies as discussed in the toxicology section above show no extra sensitivity of infants and children to fenamidone, therefore, the food quality protection act (FQPA) safety factor can be removed. Using the assumptions and data described in the exposure section above, the percent of the chronic RfD that will be used for exposure to residues of fenamidone in food for children 1–6 (the most highly exposed subgroup) is 1.0% (0.000302 mg/kg/bwt/day). Infants utilize 0.2% (0.000056 mg/kg/bwt/day) of the chronic RfD. There are no non-dietary concerns for infants and children. As in the adult situation, drinking water levels in comparison are higher than the worst case drinking water estimated concentrations, and are expected to use well below 100% of the reference dose, if they occur at all. Therefore, there is a reasonable certainty that no harm will occur to infants and children from aggregate exposure to residues of fenamidone.

F. International Tolerances

To date, no Codex, Canadian or Mexican tolerances exist for fenamidone.

[FR Doc. 02–224 Filed 1–3–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7125–7]

Valley Chemical Superfund Site/ Greenville, Mississippi; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has proposed to amend the Agreement for Recovery of Response Costs, CERCLA Docket No. CER–04–2001–3755, in settlement of claims for response costs at the Valley Chemical Superfund Site (Site) located in Greenville, Mississippi, with Valley Chemical Company. EPA will consider public comments on the proposed settlement amendment for thirty days. EPA may withdraw from or modify the proposed settlement amendment should such comments disclose facts or considerations which indicate the proposed settlement amendment is inappropriate, improper, or inadequate. Copies of the proposed settlement amendment are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comment may be submitted to Mr. Greg Armstrong at the above address within 30 days of the date of publication.

Dated: December 18, 2001.

James T. Miller,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 02–220 Filed 1–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–CN; FRL–6811–5]

Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Authorization of the Cherokee Nation's Lead-Based Paint Activities Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; final approval.

SUMMARY: On November 19, 1999, the Cherokee Nation of Oklahoma submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). Notice of the receipt of the Cherokee Nation's application, a solicitation for public comment regarding the application, and background information supporting the application were published in the **Federal Register** of January 25, 2000. Today's notice announces the approval of the Cherokee Nation's application, and authorization of the Cherokee Nation's lead-based paint program for Cherokee Nation's Tribal Trust Lands in Oklahoma, effective October 15, 2001, in lieu of the corresponding Federal program under section 402 of TSCA.

DATES: Lead-based paint activities program authorization was granted to the Cherokee Nation effective on October 15, 2001.

FOR FURTHER INFORMATION CONTACT: Jeffrey Robinson, Regional Lead Coordinator, Environmental Protection Agency, Region VI, 6PD-T, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202–2733. Telephone: 214–665–7577, e-mail address: robinson.jeffrey@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to Title IV of TSCA, Lead Exposure Reduction, 15 U.S.C. 2681-2692, and regulations promulgated thereunder, States and Tribes that choose to apply for lead-based paint activities program authorization must submit a complete application to the

appropriate Regional EPA office for review. Complete, final applications will be subject to a public comment period, and reviewed by EPA within 180 days subject to a public comment period, and reviewed by EPA within 180 days of receipt. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement, section 404(b) of TSCA. As determined by EPA's review and assessment, the Cherokee Nation's application successfully demonstrated that the Tribes' lead-based paint activities programs achieve the protectiveness and enforcement criteria, as required for Federal authorization. Furthermore, no public comments were received regarding any aspect of the Cherokee Nations' application. EPA announced solicitation for public comment regarding the application in the **Federal Register** of January 25, 2000 (65 FR 3960) (FRL–6490–1).

II. Federal Overfiling

TSCA section 404(b), 15 U.S.C. 2684(b), makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

III. Withdrawal of Authorization

Pursuant to TSCA section 404(c), 15 U.S.C. 2684(c), the Administrator may withdraw a State or Tribal lead-based paint activities program authorization, after notice and opportunity for corrective action, if the program is not being administered or enforced in compliance with standards, regulations, and other requirements established under the authorization. The procedures EPA will follow for the withdrawal of an authorization are found at 40 CFR 745.324(i).

IV. 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 certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action 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 document in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: November 28, 2001.

Carl L. Edlund,

Division Director, Multimedia Planning and Permitting, Region VI.

[FR Doc. 02–226 Filed 1–3–02 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

December 26, 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 February 4, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *jboley@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0653.

Title: Section 64.703(b) and (c), Consumer Information—Posting Requirement.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 56,200.

Estimated Time Per Response: 3.67 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Total Annual Burden: 205,566 hours.

Total Annual Cost: N/A.

Needs and Uses: As required by 47 U.S.C. Section 226(c)(1)(A), 47 CFR 64.703(b) provides that aggregators (providers of telephone to the public or transient users) must post in writing, on or near such phones, information about the pre-subscribed operator services, rates, carrier access, the FCC address to which consumers may direct complaints. Section 64.703(c) establishes a 30-day outer limit for updating the posted consumer information when an aggregator has changed the pre-subscribed operator service provider (OSP). Consumers will use this information to determine whether they wish to use the services of the identified OSP.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 02–213 Filed 1–3–02; 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, N.W., 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.: 011223–027.

Title: Transpacific Stabilization Agreement.

Parties:

A.P. Moller-Maersk Sealand
American President Lines, Ltd.
APL Co. PTE Ltd.
CMA CGM, S.A.
COSCO Container Lines Company Limited
Evergreen Marine Corp. (Taiwan) Ltd.
Hanjin Shipping Co., Ltd.
Hapag-Lloyd Container Linie GmbH
Hyundai Merchant Marine Co., Ltd.
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha
Orient Overseas Container Line Limited
P&O Nedlloyd B.V.
P&O Nedlloyd Limited
Yangming Marine Transport Corporation

Synopsis: The modification deletes references to the discontinued capacity management program, transfers authority found in Appendix C to Article 5, updates names and addresses of member lines and reorganizes and republishes the agreement.

Dated: December 28, 2001.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–151 Filed 1–3–02; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Secretary's Advisory Committee on Regulatory Reform; Request for Public Input

ACTION: Request for public input.

SUMMARY: This notice seeks input from the public—including individuals and organizations—on ways to reduce current burdens imposed by existing regulations of the Department of Health and Human Services (HHS) that inhibit the delivery of high quality, timely, and efficient health care, inhibit the development of pharmaceuticals and other medical products, or inhibit biomedical research.

FOR FURTHER INFORMATION CONTACT: Christy Schmidt, Executive Coordinator, Secretary's Advisory Committee on Regulatory Reform, Office of the Assistant Secretary for Planning and Evaluation: (202) 401–5182.

SUPPLEMENTARY INFORMATION: On June 8, 2001, Health and Human Services Secretary Tommy G. Thompson announced a department-wide initiative to reduce regulatory burdens in health care and respond faster to the concerns of patients, health care providers, state and local governments, other institutions, and other individual Americans who are affected by HHS rules. On September 4, 2001, the Department published a Notice of Intent in the **Federal Register** announcing its plans to establish an Advisory Committee on Regulatory Reform to provide findings and recommendations to the Secretary regarding potential regulatory changes. The Advisory Committee will commence its activities early in 2002.

Regulations play an important role in implementing statutes. Regulations establish and communicate rules and procedures for participation in public programs, for approval of products, and for the awarding of grants and contracts. The regulatory process also allows for public examination of proposed rules, comment on those proposals, and an explanation of how those comments were factored into final decisions by government agencies.

At the same time, in accomplishing these important tasks, regulations may impose a burden on individuals and organizations participating in public programs or seeking government approval or support. Some or most of these burdens may be necessary to carry out the statutory requirements and quite reasonable and appropriate in governing the expenditure of public funds and protecting the health and safety of individuals and the nation as a whole. But some of these burdens may be unnecessary, excessive, or inappropriate because they interfere with the operation of the programs to which they relate, are unduly intrusive, or are inconsistent with other requirements and thus unduly reduce flexibility, inhibit innovation, or impede efforts to improve quality of health care and access to health services or other rights and benefits for patients and consumers that are provided by law.

The Advisory Committee's ultimate goal is to (a) identify and prioritize regulations that impose barriers to delivering high quality, safe and effective care services, products and research, and (b) to recommend improvements or other ways to remove these barriers. To help the Committee achieve this goal, we are inviting the public to provide us with written comments on regulatory burdens created by HHS regulations. Those interested in responding to this request are asked to focus their comments on regulatory burdens in one or more of the following areas:

- Health care delivery,
- Health care operations,
- Development of pharmaceuticals and other medical products, and
- Biomedical and health services research

We encourage individuals as well as organizations to respond to this invitation, including but not limited to consumers, patients, researchers, clinicians and other health care professionals, employers, health care administrators, professional societies, trade associations, state and local governments, and universities. We encourage those who wish to respond to consider ways in which regulations or program requirements interfere with the delivery or receipt of care, innovation in health care delivery operations, or research, or the development of new products and treatments. In this regard respondents may find it helpful to consider their most recent interactions with HHS programs in order identify specific issues.

Because of the broad nature of the Committee's charge, it will be essential that comments be as specific as possible and focus on concerns related to burdens imposed by regulations or regulatory processes rather than the underlying statutes enacted by the Congress.

We ask that responses be limited to no more than five (5) one-sided, single-spaced pages and be accompanied by and IBM-compatible 3.5 inch diskette in WordPerfect or MS Word format. Additional attachments can be included but the Committee cannot guarantee that all of these materials can be read and considered. Therefore, major points should be made in the letter.

The Committee would appreciate it if those who respond would consider some or all of the following matters:

1. Which HHS regulations in the above-cited areas impose an unnecessary or unreasonable burden on individuals, groups, or organizations because these regulations:

- Are confusing;
- Impose unnecessary or excessive costs;
- Require an excessive number of reports or unreasonable record keeping;
- Impose requirements on the wrong individual or group;
- Carry excessive penalties;
- Are conflicting (examples include but are not limited to conflicts between

HHS and State regulations, public and private sectors);

- Impede access to care or impede delivery of care;
- Impede efforts to innovate
- Are obsolete; and/or
- Interfere with the public or private sector's ability to respond to and prepare for emergencies.

2. What alternative approaches could be taken to achieve or accomplish the same goal with a lesser burden? For example, are there less burdensome approaches that are used by other entities such as state governments or private companies that could be adopted by HHS to achieve its goal with less burdensome requirements?

For each of the regulations discussed, the Committee asks you to include the following whenever possible:

- Citation of regulation involved or description of the regulation in as much detail as possible.
- Citation of relevant statute on which the regulation is based.
- A clear statement of the problem or concern.
- Identification of potential solutions to this problem or concern.
- A statement of how the proposed solutions would maintain the original intent of the statute (if possible, please provide citation of the original statute).

We recognize that many individuals may not be able to provide a full or accurate citation to particular regulations or statutes. That should not stop them from commenting. However, professional organizations and institutions, will probably have access to this information and are encouraged to provide specific citations.

We would also appreciate information on how you interact with the health care system (e.g., Are you a patient/consumer, physician, nurse, researcher, university, employer, health plan, hospital, nursing home, home health agency, pharmaceutical manufacturer, medical device, manufacturer?).

We will accept comments on regulatory reform if we receive them at the appropriate address, as provided below, by 5pm on March 5, 2002.

Individuals or organizations wishing to respond to this request may do so in writing by sending their comments to: Christy Schmidt, Executive Coordinator, Regulatory Reform Initiative, Office of the Assistant Secretary for Planning and Evaluation, 200 Independence Ave., SW., Washington, DC 20201. Responses also can be made electronically on the Committee's website: *www.regreform.hh.gov.* Those who respond should recognize that their comments would be part of the public record of the Committee and, under the Freedom of Information Act, available to anyone who wishes to read them. The Committee will make attempts to segregate those comments that are of a personal nature but cannot guarantee that all such comments will be recognized.

Comments will be available for public inspection by appointment as they are received, generally beginning approximately January 25, 2002 in Room 801 of the Department's offices at 200 Independence Avenue, SW., Washington, DC on Monday through Friday of each week from 8:30 am to 5 pm. Appointments may be made by telephoning 202–401–5182.

After the close of the comment period, comments that are technically able to convert will be posted on the Regulatory Reform web site specified above.

Dated: December 26, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–239 Filed 1–3–02; 8:45 am]

BILLING CODE 4154–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–19]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. NCID is requesting an emergency clearance from the Office of Management and Budget (OMB) to collect data under the Paperwork Reduction Act. Send comments to Seleda M. Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 14 days of this notice. We are requesting that OMB respond to CDC within 21 days after receipt of the package.

Proposed Project

Requirement for a Special Permit to Import Cynomolgus, African Green, or Rhesus Monkeys into the United States (0920–0263)—Renewal—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). To receive a special permit to import cynomolgus, African green and/or rhesus monkeys, a registered importer of nonhuman primates must submit to the Director, CDC, a written plan which specifies the steps that will be taken to prevent exposure of persons and animals during the entire importation and quarantine process for the arriving nonhuman primates.

Under the special permit arrangement, registered importers must submit a plan to CDC for the importation and quarantine if they wish to import the specific monkeys covered. The plan must address disease prevention procedures to be carried out in every step of the chain of custody of such monkeys, from embarkation in the country of origin to release from quarantine. Information such as species, origin and intended use for monkeys, transit information, isolation and quarantine procedures, and procedures for testing of quarantined animals is necessary for CDC to make public health decisions. This information enables CDC to evaluate compliance with the standards and determine whether the measures being taken to prevent exposure of persons and animals during importation are adequate. Once CDC is assured, through the monitoring of shipments (normally no more than 2), that the provisions of a special permit plan are being followed by a new permit holder and that the use of adequate disease control practices is being demonstrated, the special permit is extended to cover the receipt of additional shipments under the same plan for a period of 180 days, and may be renewed upon request. This eliminates the burden on importers to repeatedly report identical information, requiring only that specific shipment itineraries and information on changes

to the plan which require approval be submitted.

Respondents are commercial or not-for-profit importers of nonhuman primates. The burden represents full submission of information and itinerary/change information respectively. There are no costs to respondents.

Respondents	Number of respondents	Number of responses/respondents	Average burden/responses (in hrs.)	Total burden (in hrs.)
Businesses (limited permit)	5	2	30/60	5
Businesses (extended permit)	1	3	10/60	.5
Organizations (limited permit)	3	2	30/60	3
Organizations (extended permit)	12	2	10/60	4
Total				12.5

Dated: December 27, 2001.

Kathy Cahill,

Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–196 Filed 1–3–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–21]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Qualitative Study of Young Men's Perceptions of An HIV Prevention Intervention—New—1—National Center for HIV, STD and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC). CDC proposes to conduct a formative research study to examine how a CDC-funded, community-level HIV intervention study is perceived by, and has affected the lives of, the target population, young men ages 15–25. The goal of the study is to gain a better understanding of the relevance of an HIV prevention intervention to young men in three communities: Milwaukee, Wisconsin; Orange County, California; and West Hollywood, California.

A total of 90 young men will be interviewed; 30 from each of the three communities. Of the 30 participants selected for the study; 15 of them will have participated in an HIV intervention activity and 15 participants will not have participated in activity. CDC plans to recruit a total of 50 participants from local venues and screened them to determine eligibility for participation in the study. The objectives of the study will be to (1) explore how young men who have participated in HIV intervention activities have incorporated the knowledge and experience gained from their participation into their daily lives and (2) identify structural barriers to HIV prevention intervention activities. All participants will be interviewed by CDC staff. Each interview is estimated to take approximately 90 minutes to complete. In addition, screening of eligible participants for recruitment in the study is estimated to take approximately 15 minutes.

There are no costs to respondents.

Respondents	Number of respondents	Number of responses per respondents	Average response/burden (in hours)	Total burden (in hours)
Eligibility screening	150	1	15/60	38
Target population	90	1	90/60	135
Total				173

Dated: December 27, 2001.

Kathy Cahill,

Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–197 Filed 1–3–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Ophthalmic Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Ophthalmic Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 17, 2002, from 9:30 a.m. to 5 p.m., and January 18, 2002, from 8:30 a.m. to 3:30 p.m.

Location: Hilton DC North—Gaithersburg, Salons A, B, and C, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Sara M. Thornton, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2053, SMT@CDRH.FDA.GOV, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12396. Please call the Information Line for up-to-date information on this meeting.

Agenda: On January 17, 2002, the committee will discuss, make recommendations, and vote on a premarket approval application (PMA) on an endocapsular tension ring for the stabilization of the lens capsular bag. On January 18, 2002, the committee will discuss, make recommendations, and vote on a PMA on an orthokeratology contact lens for corneal refractive therapy with overnight wear for the temporary reduction of myopia. Background information for each day's topic, including the agenda and questions for the committee, will be available to the public one business day before the meeting, on the Internet at http://www.fda.gov/cdrh/panelmtg.html. Material for the January 17 session will be posted on January 16, 2002; material for the January 18 session will be posted on January 17, 2002.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by January 7, 2002. On January 17, 2002, formal oral presentations from the public will be scheduled between approximately 9:45 a.m. and 10:15 a.m., and on January 18, 2002, between approximately 8:45 and 9:15 a.m. Near the end of the committee deliberations on each PMA, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Those desiring to make formal oral presentations should notify the contact person before January 7, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

FDA regrets that it was unable to publish this notice 15 days prior to the January 17 and 18, 2002, Ophthalmic Devices Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Ophthalmic Devices Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 28, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 02–152 Filed 1–3–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1631]

International Cooperation on Harmonisation of Technical Requirements for Approval of Veterinary Medicinal Products (VICH); Final Guidance for Industry on ''Studies to Evaluate the Safety of Residues of Veterinary Drugs in Human Food: Genotoxicity Testing'' (VICH GL23); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry (#116) entitled ''Studies to Evaluate the Safety of Residues of Veterinary Drugs in Human Food: Genotoxicity Testing'' (VICH GL23). This final guidance has been adapted for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH) from a guidance regarding pharmaceuticals for human use, which was adopted by the International Conference on Harmonisation of Technical Requirements for Approval of Pharmaceuticals for Human Use (ICH). This final VICH guidance document recommends a basic battery of tests that can be used to evaluate the genotoxicity of veterinary drug residues in human food in the European Union, Japan, and the United States.

DATES: Submit written or electronic comments on this final guidance at any time.

ADDRESSES: Submit written requests for single copies of the final guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine (CVM), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the final guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Comments should be identified with the full title of the final guidance and the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the final guidance.

FOR FURTHER INFORMATION CONTACT: Louis T. Mulligan, Center for Veterinary Medicine (HFV–153), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6984, e-mail: lmulliga@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the ICH for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the: European Commission; European Medicines Evaluation Agency; European Federation of Animal Health; Committee on Veterinary Medicinal Products; U.S. FDA; U.S. Department of Agriculture; Animal Health Institute; Japanese Veterinary Pharmaceutical Association; Japanese Association of Veterinary Biologics; and Japanese Ministry of Agriculture, Forestry and Fisheries.

Two observers are eligible to participate in the VICH Steering Committee: One representative from the Government of Australia/New Zealand and one representative from the industry in Australia/New Zealand. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative also participates in the VICH Steering Committee meetings.

II. Final Guidance on Genotoxicity Studies

In the **Federal Register** of December 18, 2000 (65 FR 79106), FDA published the notice of availability of the VICH draft guidance, giving interested persons until January 17, 2001, to submit comments. After consideration of comments received, the final draft guidance was changed in response to the comments and submitted to the VICH Steering Committee. At a meeting held on June 28, 2001, the VICH Steering Committee endorsed the final guidance for industry, VICH GL23. Following the endorsement of the final guidance document by the VICH Steering Committee, a change was made to the document in which the reference for each genotoxicity test in the basic battery of tests was moved and used as the heading for the paragraph describing that test. The change was of an editorial nature and did not change the scientific content or intent of the guidance document.

This guidance is one of a series of VICH guidances developed to facilitate the mutual acceptance of safety data necessary for the establishment of acceptable daily intakes for veterinary drug residues in human food by the relevant regulatory authorities. The guidance on the overall strategy for the evaluation of veterinary drug residues in human food (VICH Guidance on General Testing Approach) will be made available at a later time. This guidance was developed after consideration of the existing ICH guidances for pharmaceuticals for human use entitled ''Genotoxicity: A Standard Battery of Genotoxicity Testing of Pharmaceuticals'' and ''Guidance on Specific Aspects of Regulatory Genotoxicity Tests for Pharmaceuticals.'' Account was also taken of the Organization for Economic Cooperation and Development methodological guidances and of the current practices for evaluating the safety of veterinary drug residues in human food in the European Union, Japan, the U.S.A., Australia, and New Zealand.

This level 1 final guidance document is developed under the VICH process and is consistent with FDA's good guidance practices regulation (21 CFR 10.115). This document does not create or confer any rights for or on any person and will not operate to bind FDA or the public. An alternate method may be used as long as it satisfies the requirements of applicable statutes and regulations.

(Information collection is covered under OMB control number 0910–0117.)

III. Comments

As with all of FDA's guidances, the public is encouraged to submit written or electronic comments pertinent to this guidance. FDA will periodically review the comments in the docket and, where appropriate, will amend the guidance. The agency will notify the public of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cvm.

Dated: December 28, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–193 Filed 1–3–02; 8:45 am]

BILLING CODE 4160–02–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1630]

International Cooperation on Harmonisation of Technical Requirements for Approval of Veterinary Medicinal Products (VICH); Final Guidance on ''Safety Studies for Veterinary Drug Residues in Human Food: Reproduction Toxicity Testing'' (VICH GL22); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry (#115) entitled ''Safety Studies for Veterinary Drug Residues in Human Food: Reproduction Toxicity Testing'' (VICH GL22). This final guidance has been adapted for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH) from a guidance regarding

pharmaceuticals for human use, which was adopted by the International Conference on Harmonisation of Technical Requirements for Approval of Pharmaceuticals for Human Use (ICH). This final VICH guidance document recommends a basic battery of tests that can be used to evaluate the reproduction safety of veterinary drug residues in human food.

DATES: Submit written or electronic comments at any time.

ADDRESSES: Submit written requests for single copies of the final guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine (CVM), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the final guidance document.

Submit written comments on the final guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Comments should be identified with the full title of the final guidance and the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Louis T. Mulligan, Center for Veterinary Medicine (HFV–153), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6984, e-mail: lmulliga@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce the differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the ICH for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the: European Commission; European Medicines Evaluation Agency; European Federation of Animal Health; Committee on Veterinary Medicinal Products; U.S. FDA; U.S. Department of Agriculture; Animal Health Institute; Japanese Veterinary Pharmaceutical Association; Japanese Association of Veterinary Biologics; and Japanese Ministry of Agriculture, Forestry and Fisheries.

Two observers are eligible to participate in the VICH Steering Committee: One representative from the Government of Australia/New Zealand, and one representative from the industry in Australia/New Zealand. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative also participates in the VICH Steering Committee meetings.

II. Guidance on Reproduction Studies

In the **Federal Register** of December 19, 2000 (65 FR 79373), FDA published the notice of availability of VICH draft guidance entitled ''Safety Studies for Veterinary Drug Residues in Human Food: Reproduction Studies'' giving interested persons until February 20, 2001, to submit comments. FDA received no comments. The final guidance was submitted to the VICH Steering Committee. At a meeting held on June 28, 2001, the VICH Steering Committee endorsed the final guidance for industry entitled ''Studies to Evaluate the Safety of Residues of Veterinary Drugs in Human Food: Reproductive Toxicity Testing'' (VICH GL22).

In order to establish the safety of veterinary drug residues in human food, a number of toxicological evaluations are recommended, including the assessment of any risks to reproduction. The objective of this guidance is to ensure international harmonization of reproduction toxicity testing, which is appropriate for the evaluation of risks to reproduction from long-term, low-dose exposures, such as may be encountered from the presence of veterinary drug residues in food.

The current final guidance is one of a series of guidances developed to facilitate the mutual acceptance of safety data necessary for the determination of acceptable daily intakes for veterinary drug residues in human food by the relevant regulatory authorities. The guidance on the overall strategy for the safety evaluation of veterinary residues in human food (VICH Guidance on General Testing Approach) will be made available at a later time. VICH GL22 was developed after consideration of the existing ICH guidance for pharmaceuticals for human use on ''Detection of Toxicity to Reproduction for Medicinal Products'' and its addendum, ''Toxicity to Male Fertility,'' in conjunction with the current practices for evaluating veterinary drug residues in human food in the European Union, Japan, the United States, Australia, and New Zealand.

This final level 1 guidance document was developed under the VICH process and is consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance does not create or confer any rights for or on any person and will not operate to bind FDA or the public. An alternate method may be used as long as it satisfies the requirements of applicable statutes and regulations. (Information collection is covered under OMB Control Nos. 0910–0117 and 0910–0032.)

III. Comments

As with all of FDA's guidances, the public is encouraged to submit written or electronic comments with new data or other new information pertinent to this guidance. FDA will periodically review the comments in the docket and, where appropriate, will amend the guidance. The agency will notify the public of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Comments may also be submitted electronically on the Internet site at http://www.fda.gov/dockets/ecomments. Once on this Internet site, select 00D–1630 ''Safety Studies for Veterinary Drug Residues in Human

Food: Reproduction Toxicity Testing'' (VICH GL22) and follow the directions.

Copies of the final guidance document entitled ''Safety Studies for Veterinary Drug Residues in Human Food: Reproduction Toxicity Testing'' (VICH GL22) may be obtained on the Internet from the CVM home page at http://www.fda.gov/cvm.

Dated: December 28, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–194 Filed 1–3–02; 8:45 am]

BILLING CODE 4160–02–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4730–N–01]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: January 4, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: December 28, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 02–81 Filed 1–3–02; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permits for Incidental Take

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of 111 permits for incidental take of threatened and endangered species: Annual report.

SUMMARY: Between October 1, 2000 and September 30, 2001, Region 2 of the Fish and Wildlife Service issued 111 permits for the incidental take of threatened and endangered species, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. Of the 111 permits issued in the greater Austin, Texas area; one is for the golden-cheeked warbler (GCW) related to the Balcones Canyonlands Preserve, one is for karst invertebrates, and 109 are for the Houston toad (HT). In addition, between October 1, 2000 and September 30, 2001, 2 permits had amendments.

ADDRESSES: If you would like copies of any of the above documents, please contact the U.S. Fish and Wildlife Service, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Leslie Dierauf, Regional Habitat Conservation Plan Coordinator, at the above address, 505–248–6651. Further details of these permits may also be viewed on the Internet at *http://ecos.fws.gov.*

SUPPLEMENTARY INFORMATION: Section 9 of the Act and Federal Regulation prohibit the ''take'' of wildlife species listed as threatened or endangered species. Under the Act, the term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed wildlife, or to attempt to engage in any such conduct. The Service may, under limited circumstances, issue permits to authorize incidental take, i.e. that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Regulations governing permits for endangered species are at 50 CFR 17.22.

111 Incidental Take Permits Issued

Permittee	(State) species	Permit No.	Date of Issuance
Siefert	(TX)HT	TE–025997–0–005	10/2/00
Bastrop Seventh Day Adventist Church	(TX)HT	TE–025997–0–003	10/2/00
Becerra	(TX)HT	TE–025997–0–004	10/2/00
Kummermehr	(TX)HT	TE–025997–0–010	10/2/00
Jarrels	(TX)HT	TE–025997–0–006	10/13/00
Circle B Homes	(TX)HT	TE–025997–0–011	10/13/00
McClure	(TX)HT	TE–025997–0–014	10/13/00
McClure	(TX)HT	TE–025997–0–015	10/13/00
Schena	(TX)HT	TE–029608–0	10/27/00
MacQueen	(TX)HT	TE–025997–0–021	10/31/00
Ligon	(TX)HT	TE–025997–0–012	11/21/00
Smith	(TX)HT	TE–025997–0–024	11/21/00
Lindenau	(TX)HT	TE–025997–0–023	11/21/00
Pierson	(TX)HT	TE–025997–0–025	11/21/00
Kelley	(TX)HT	TE–025997–0–008	12/1/00
Groves	(TX)HT	TE–025997–0–026	12/21/00
Johnson	(TX)HT	TE–025997–0–027	12/21/00
Niehus	(TX)HT	TE–025997–0–029	12/21/00
Walraven	(TX)HT	TE–033185–0	1/18/01
Gilfillan	(TX)HT	TE–033887–0	1/23/01
Holter	(TX)HT	TE–025997–0–030	1/29/01
Gillespie	(TX)HT	TE–025997–0–032	1/29/01
Vavricek	(TX)HT	TE–025997–0–028	1/29/01
Steins	(TX)HT	TE–025965–0–003	2/20/01
Stobaugh	(TX)HT	TE–025965–0–002	2/20/01

Permittee	(State) species	Permit No.	Date of Issuance
Miller	(TX)HT	TE–025997–0–033	2/20/01
Nira	(TX)HT	TE–025997–0–034	2/20/01
Gardner	(TX)HT	TE–025997–0–035	2/20/01
Walters	(TX)HT	TE–025997–0–036	2/20/01
Parker	(TX)HT	TE–025997–0–037	2/20/01
Sinclair	(TX)HT	TE–025997–0–031	2/20/01
Live Oak Homes	(TX)HT	TE–025997–0–016	2/26/01
Cornerstone	(TX)HT	TE–025997–0–042	2/26/01
McClure	(TX)HT	TE–025997–0–040	2/26/01
Havens	(TX)HT	TE–025997–0–038	3/1/01
Macafee	(TX)HT	TE–025997–0–039	3/9/01
Sultan & Kahn	(TX)Karst	TE–035525–0	3/9/01
Roush	(TX)HT	TE–025997–0–041	3/9/01
Young	(TX)HT	TE–025965–0–004	3/9/01
Advantage Builders	(TX)HT	TE–025997–0–045	3/23/01
Advantage Builders	(TX)HT	TE–025997–0–046	3/23/01
Bishop	(TX)HT	TE–025997–0–049	3/23/01
McClure	(TX)HT	TE–025997–0–048	3/23/01
Miller	(TX)HT	TE–025997–0–047	3/23/01
Colter	(TX)HT	TE–025997–0–044	3/23/01
Mendoza	(TX)HT	TE–025965–0–009	4/6/01
Casey	(TX)HT	TE–025997–0–050	4/6/01
Smith	(TX)HT	TE–025965–0–008	4/6/01
Slater	(TX)HT	TE–025965–0–007	4/6/01
Mosley	(TX)HT	TE–025965–0–006	4/6/01
Hansen	(TX)HT	TE–025965–0–010	4/6/01
CT–620	(TX)HT	TE–036095–0	4/30/01
Skye/Eckhart	(TX)HT	TE–035908–0	4/30/01
Beeman	(TX)HT	TE–035919–0	4/30/01
Stobaugh	(TX)HT	TE–025965–0–011	5/10/01
Goode	(TX)HT	TE–025997–0–062	5/10/01
Phillips	(TX)HT	TE–025997–0–064	5/10/01
Shigo	(TX)HT	TE–025997–0–071	5/10/01
Haeffner/Rostetter	(TX)HT	TE–025997–0–063	5/10/01
Juarez	(TX)HT	TE–025965–0–016	5/10/01
Phillips	(TX)HT	TE–025965–0–014	5/10/01
Phillips	(TX)HT	TE–025965–0–015	5/10/01
DuCharme	(TX)HT	TE–025997–0–053	5/10/01
Phillips	(TX)HT	TE–025997–0–059	5/10/01
West	(TX)HT	TE–025997–0–056	5/10/01
Phillips	(TX)HT	TE–025997–0–060	5/10/01
Shen	(TX)HT	TE–025997–0–054	5/10/01
Phillips	(TX)HT	TE–025997–0–061	5/10/01
Hinkston	(TX)HT	TE–025997–0–057	5/10/01
Glenn	(TX)HT	TE–025997–0–055	5/10/01
Brigham	(TX)HT	TE–025997–0–075	6/15/01
Conrad	(TX)HT	TE–025997–0–073	6/15/01
Martinez	(TX)HT	TE–025997–0–080	6/15/01
Brady	(TX)HT	TE–025997–0–079	6/15/01
Ingram	(TX)HT	TE–025965–0–018	6/15/01
Alley	(TX)HT	TE–025965–0–017	6/15/01
Cornerstone	(TX)HT	TE–025997–0–076	6/15/01
Vasquez	(TX)HT	TE–037190–0	6/26/01
Bell	(TX)HT	TE–039440–0	6/28/01
Gray Mountain	(TX)GCW	TE–037888–0	6/28/01
Harding	(TX)HT	TE–036096–0	6/28/01
Wirries	(TX)HT	TE–037191–0	7/1/01
JRS Builders	(TX)HT	TE–025997–0–094	7/5/01
Kailing	(TX)HT	TE–025997–0–090	7/5/01
Ellington	(TX)HT	TE–025965–0–020	7/5/01
Wright	(TX)HT	TE–025965–0–019	7/5/01
JRS Builders	(TX)HT	TE–025997–0–093	7/5/01
City of Bastrop	(TX)HT	TE–025965–0–013	7/5/01
Greenwood	(TX)HT	TE–025997–0–096	7/27/01
Howard	(TX)HT	TE–025997–0–058	7/27/01
McClure	(TX)HT	TE–025997–0–098	7/27/01
McClure	(TX)HT	TE–025997–0–097	7/27/01
Bastrop Co WCID #2	(TX)HT	TE–025965–1–023	8/1/01
Matl	(TX)HT	TE–025997–1–101	8/1/01
Holberg	(TX)HT	TE–025997–1–100	8/1/01
Capstone	(TX)HT	TE–025965–1–021	8/3/01
Capstone	(TX)HT	TE–025965–1–022	8/3/01
Steiwig	(TX)HT	TE–025997–1–099	8/3/01

Permittee	(State) species	Permit No.	Date of Issuance
Cornerstone	(TX)HT	TE–025997–1–104	8/23/01
Fuller	(TX)HT	TE–025997–1–105	8/23/01
Whited	(TX)HT	TE–025997–1–108	8/23/01
Samaro	(TX)HT	TE–025997–1–107	8/27/01
Myers	(TX)HT	TE–025997–1–109	8/27/01
Bowman	(TX)HT	TE–025997–1–081	8/27/01
Bowman	(TX)HT	TE–025997–1–082	8/27/01
Tyre	(TX)HT	TE–025997–1–106	8/27/01
Garcia	(TX)HT	TE–025997–1–113	9/10/01
Burnham	(TX)HT	TE–025997–1–111	9/10/01
Fernandez	(TX)HT	TE–025997–1–112	9/10/01
Serna	(TX)HT	TE–025997–1–114	9/18/01
Taylor	(TX)HT	TE–025965–1–024	9/18/01
2 Amendments Issued			
Bastrop County 4 Low Quality Habitat	(TX)HT	TE–025965–1–000	7/27/01
Bastrop County 42 Medium Quality Habitat	(TX)HT	TE–025997–1–000	7/27/01

Geoffrey L. Haskett,

Regional Director, Region 2.

[FR Doc. 02–198 Filed 1–3–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Reconsidered Final Determination for Federal Acknowledgment of the Cowlitz Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: Pursuant to 25 CFR 83.11(h)(3), notice is hereby given that on December 31, 2001, the Assistant Secretary—Indian Affairs (AS–IA) Neal A. McCaleb signed a reconsidered final determination which affirms the decision of February 18, 2000, to acknowledge that the Cowlitz Indian Tribe (CIT), c/o Mr. John Barnett, 1417 15th Avenue #5, P.O. Box 2547, Longview, Washington 98632–8594, exists as an Indian tribe within the meaning of Federal law. The reconsidered final determination was issued following full consideration of those issues which the Secretary of the Interior (Secretary) requested that the AS–IA address, which had been referred previously to the Secretary by the Interior Board of Indian Appeals (IBIA). The CIT satisfies the seven criteria set forth in 25 CFR part 83 for Federal acknowledgment of Indian tribes, and therefore meets the requirements for a government-to-government relationship with the United States.

DATES: As provided by 25 CFR 83.11(h)(3), this reconsidered final determination is effective on January 4, 2002.

ADDRESSES: Requests for a copy of the reconsidered final determination should be addressed to the Office of the Assistant Secretary, Bureau of Indian Affairs, 1849 C Street, NW, Washington, DC 20240, Attention: Branch of Acknowledgment and Research, MS 4660–MIB.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Chief, Branch of Acknowledgment and Research, (202) 208–3592.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary to the AS–IA by 209 DM 8. A notice proposing to acknowledge the CIT was published in the **Federal Register** on February 27, 1997. This Proposed Finding (PF) was issued under the 25 CFR part 83 regulations. The PF found that the CIT satisfied all of the mandatory criteria set forth in 25 CFR 83.7 as modified by 25 CFR 83.8. The PF found that substantial evidence demonstrated that the Federal Government recognized the Lower Cowlitz Tribe during 1855 treaty negotiations. The PF also found that a reasonable likelihood existed that the current petitioner evolved from an amalgamation of the Lower Cowlitz tribe and the Upper Cowlitz tribe. The Upper Cowlitz tribe had not participated in treaty negotiations. The PF made no finding as to whether the Lower Cowlitz tribe was recognized at any point after 1855 or whether the Upper Cowlitz tribe was ever recognized.

The Final Determination (FD) concluded that the CIT met the mandatory criteria in 83.7, as modified by 83.8, based on a finding that the Upper and Lower Cowlitz band(s), from which the petitioner evolved, were acknowledged in 1878 and 1880, and that these bands amalgamated during the second half of the 19th century. A notice of the decision to acknowledge the CIT was published in the **Federal Register**, on February 18, 2000, (Vol. 65 at 8436). The Quinault Indian Nation filed a request for reconsideration with the IBIA, and in an opinion issued May 29, 2001, the IBIA affirmed the Final Determination. Under provisions at 83.11(f)(2), the IBIA at the same time referred three issues to the Secretary as outside of its jurisdiction. After receiving comments from the Bureau of Indian Affairs's (BIA) Branch of Acknowledgment and Research (BAR), the Quinault Indian Nation, and the CIT, the Secretary on September 4, 2001, referred one issue and part of a second issue to the AS–IA as grounds for reconsideration of the FD. Under 83.11(g)(1), the AS–IA was to issue a reconsidered determination within 120 days of the Secretary's referral.

The AS–IA signed on December 31, 2001, a reconsidered final determination, which affirms and supplements the final determination and supersedes specific points in the final determination. A brief discussion of the issues addressed in the reconsidered final determination follows.

The first issue considered by the AS–IA concerned two misstatements in the FD Technical Report. The misstatements were that Cowlitz ''métis,'' or ''mixed-bloods'' with French Canadian heritage, appeared on the 1878 and 1880 Indian censuses, when in fact it was not possible to determine whether any métis were included. The question was whether these two misstatements had an effect on BIA's analysis and ultimately on the AS–IA's decision. Because the mistakes were not on the draft technical report reviewed by the decision-maker,

but were introduced late in the surnaming process, the mistake did not affect the BIA analysis and probably did not influence decision-makers, who saw an earlier draft. Nevertheless, the signed FD did have the mistakes in it, and a reevaluation of the evidence with a correct understanding of the 1878 and 1880 censuses was made during this reconsideration.

The PF found that the Cowlitz métis were part of the Lower Cowlitz which was recognized in 1855 during treaty negotiations. The FD found also that in 1878 and 1880, the Office of Indian Affairs recognized both the Lower and Upper Cowlitz, originally separate bands which amalgamated during the second half of the 19th century. The Lower Cowlitz census of 1878 listed 66 individuals, but it only named heads of households, none of whom had ''métis'' names. This census did not name ''wives,'' ''children,'' and ''relatives in families,'' and thus, it is impossible to determine if métis ''mixed-bloods'' were among those listed as unnamed Lower Cowlitz. No names at all are available for the 1880 enumeration.

The PF, the transcripts of a technical assistance meeting held on-the-record as provided by the regulations at 83.10(j)(2), and the contextual discussion concerning the relationship between the métis mixed-bloods and the other Cowlitz in the FD, show that the Cowlitz métis were associated with the Cowlitz tribe through kinship, marriage, and association. Other evidence showed that the cultural distinctiveness of the métis was just beginning to emerge by the 1870's. Even if the OIA in the later 1800's did not specifically designate the métis as part of the tribe, the métis nonetheless interacted as part of the tribe at that time and in the following decades.

The evidence available does not define the full composition of the Lower and Upper Cowlitz bands as recognized by the Government in 1880. Further, how the Cowlitz defined their tribal members and how the government defined them may have differed. Under the regulations, the totality of the evidence is sufficient to establish by a reasonable likelihood that the Cowlitz métis were part of the Lower Cowlitz at its point of last unambiguous recognition. The misstatements concerning the 1878 and 1880 censuses do not impact the result of the FD.

The second issue considered by the AS–IA concerned whether the BIA misapplied the burden of proof under 25 CFR 83.6(d). The Secretary, however, limited her referral of this issue to ''the portion that pertains to the application of the burden of proof in the context of unambiguous previous federal recognition.'' The Quinault Indian Nation submitted comments positing that the Cowlitz métis ''half-bloods'' were not part of the 1855 Lower Cowlitz tribe nor the 1878 and 1880 Lower Cowlitz band, and therefore the CIT could not show by a reasonable likelihood that its members descended from the previously acknowledged tribe. The AS–IA determined that the CIT demonstrated by substantial evidence that the Lower Cowlitz tribe was recognized in 1855, 1878 and 1880, and that the Upper Cowlitz tribe was recognized in 1878 and 1880. The AS–IA determined also that there is a reasonable likelihood that the Cowlitz métis were part of the previously recognized tribe in 1855, as well as of the Lower Cowlitz previously recognized in 1878 and 1880. The Upper Cowlitz and Lower Cowlitz having amalgamated during the second half of the 19th century, the AS–IA determined that there is a reasonable likelihood that the current petitioner has evolved from the previously acknowledged tribes.

Even if the métis were not part of the Lower Cowlitz recognized in 1878 and 1880, the analysis under the criteria could fall back on the earlier 1855 date of previous acknowledgment for the Lower Cowlitz, while maintaining the later date for the Upper Cowlitz. The PF already demonstrated that the Lower Cowlitz tribe was federally recognized in 1855 when they participated in treaty negotiations and that the métis were members of that entity. The petitioner has established that it descends from the previously recognized tribe in 1855.

The FD demonstrated substantial evidence, including the ''Milroy'' censuses, that in 1878 and 1880, the Upper Cowlitz and Lower Cowlitz were federally acknowledged as an Indian tribe. The FD found by a reasonable likelihood that the petitioner descends from these entities recognized in 1855, 1878 and 1880 and amalgamated through actions of the OIA in the last decades of the 1800's. The reconsidered FD affirms that analysis with the knowledge that the métis were not specifically named on the 1878 censuses and presumably were not named in the 1880 OIA censuses.

The reconsidered final determination supplements the original final determination and supersedes it to the extent the original is inconsistent with the reconsidered final determination. In conjunction with the original final determination, the reconsidered final determination is an amended final determination for the CIT petitioner and effective upon publication of the notice of this reconsidered determination in the **Federal Register**.

Dated: December 31, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–299 Filed 1–2–02; 2:14 pm]

BILLING CODE 4310–02–P

DEPARTMENT OF JUSTICE

Office of Violence Against Women Office; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; New collection. Data Collection from Grantees from the Grants to Reduce Violent Crimes Against Women on Campus Program.

The Department of Justice, Office of Justice Programs, Violence Against Women Office, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by January 4, 2002. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information Regulation Affairs, (202) 395–7860, Department of Justice Desk Officer, Washington, DC 20530.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Cathy Poston, Attorney/Advisor, Violence Against Women Office, Office of Justice Programs, 810 7th Street, NW., Washington, DC 20531, or facsimile at (202) 305–2589.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Data Collection from Grantees from the Grants to Reduce Violent Crimes Against Women on Campus Program.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. Violence Against Women Office, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be as or required to respond, as well as a brief abstract:* Primary: Institutions of Higher Education. Other: None.

The Grants to Reduce Violent Crimes Against Women on Campus Program was authorized through Section 826 of the Higher Education Amendments of 1998 to make funds available to institutions of higher education to combat domestic violence, dating violence, sexual assault and stalking crimes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* The time burden of the 45 respondents to complete the data collection form is 60 minutes per application.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 45 annual burden hours.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy, Clearance Office, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, 601D Street, NW., Washington, DC 20530.

Dated: December 18, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–159 Filed 1–3–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of Information Collection Under Review; Employment Authorization Document.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request (ICR) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until March 5, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection:

(1) *Type of Information Collection: Extension of a currently approved information collection.*

(2) *Title of the Form/Collection*: Employment Authorization Document.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection*: Form I–765. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract*: Primary: Individuals or households. The information collection on this form is used by the INS to determine eligibility for the issuance of the employment document.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: 1,873,296 responses at 3.42 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection*: 6,406,672 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: December 28, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–216 Filed 1–3–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Requested

ACTION: 60-day notice of information collection under review: Reinstatement, with change, of a previously approved collection for which approval has expired: The Annual Survey of Jails, Forms CJ–5, CJ–5A, CJ–5B.

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (BJS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to

obtain comments from the public and affected agencies.

Comments are encouraged and will be accepted for ''sixty days'' until March 5, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have additional comments, suggestions, or additional information, especially regarding the estimated public burden and associated response time, please write to Lawrence A. Greenfeld, Acting Director, Bureau of Justice Statistics, 810 Seventh St. NW., Washington, DC 20531. If you need a copy of the collection instruments with instructions, or have additional information, please contact Jennifer Karberg at (202) 307–1043, or via facsimile at (202) 514–1757.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Reinstatement, with change, of a previously approved collection for which approval has expired:

(2) *The title of the Form/Collection:* The Annual Survey of Jails.

(3) *The agency form number and the applicable component of the Department sponsoring the collection:* Forms: CJ–5, CJ–5A, CJ–5B. Corrections Statistics, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Primary: County and City jail authorities and Tribal authorities. The ''Annual Survey of Jails'' (ASJ) is the only collection effort that provides an ability to maintain important jail statistics in years between jail censuses. The ASJ enables the Bureau; Federal, State, and local correctional administrators; legislators; researchers; and planners to track growth in the number of jails and their capacities nationally; as well as, track changes in the demographics and supervision status of jail population and the prevalence of crowding.

(5) *An estimate of the total number of respondents and the amount of time needed for an average respondent to respond:* There are approximately 946 respondents responding to the survey, each taking an average 1.25 hours to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,180 annual burden hours associated with this information collection.

If additional information is required, contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: December 19, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–158 Filed 1–3–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed at the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA010001 (Mar. 02, 2001)
MA010003 (Mar. 02, 2001)
MA010007 (Mar. 02, 2001)
MA010008 (Mar. 02, 2001)
MA010010 (Mar. 02, 2001)
MA010017 (Mar. 02, 2001)
MA010018 (Mar. 02, 2001)
MA010019 (Mar. 02, 2001)
MA010020 (Mar. 02, 2001)
MA010021 (Mar. 02, 2001)
New Hampshire
NH010001 (Mar. 02, 2001)
NH010005 (Mar. 02, 2001)
NH010007 (Mar. 02, 2001)
NH010011 (Mar. 02, 2001)
New Jersey
NJ010002 (Mar. 02, 2001)
NJ010003 (Mar. 02, 2001)
NJ010004 (Mar. 02, 2001)
NJ010005 (Mar. 02, 2001)
NJ010007 (Mar. 02, 2001)
NJ010009 (Mar. 02, 2001)
New York
NY010003 (Mar. 02, 2001)
NY010007 (Mar. 02, 2001)
NY010013 (Mar. 02, 2001)
NY010018 (Mar. 02, 2001)
NY010021 (Mar. 02, 2001)
NY010026 (Mar. 02, 2001)
Rhode Island
RI010001 (Mar. 02, 2001)

Volume II

District of Columbia
DC10001 (Mar. 02, 2001)
DC10003 (Mar. 02, 2001)
Delaware
DE10002 (Mar. 02, 2001)
DE10005 (Mar. 02, 2001)
Pennsylvania
PA10005 (Mar. 02, 2001)
West Virginia
WV010001 (Mar. 02, 2001)
WV010002 (Mar. 02, 2001)
WV010003 (Mar. 02, 2001)

Volume III

Alabama
AL010004 (Mar. 02, 2001)
AL010006 (Mar. 02, 2001)
AL010008 (Mar. 02, 2001)
AL010017 (Mar. 02, 2001)
AL010033 (Mar. 02, 2001)
AL010034 (Mar. 02, 2001)
Georgia
GA010003 (Mar. 02, 2001)
GA010004 (Mar. 02, 2001)
GA010006 (Mar. 02, 2001)
GA010022 (Mar. 02, 2001)
GA010023 (Mar. 02, 2001)
GA010032 (Mar. 02, 2001)
GA010044 (Mar. 02, 2001)
GA010050 (Mar. 02, 2001)
GA010055 (Mar. 02, 2001)
GA010073 (Mar. 02, 2001)
GA010085 (Mar. 02, 2001)
GA010086 (Mar. 02, 2001)
Mississippi
MS010001 (Mar. 02, 2001)
MS010003 (Mar. 02, 2001)
Tennessee
TN010001 (Mar. 02, 2001)
TN010003 (Mar. 02, 2001)
TN010005 (Mar. 02, 2001)
TN010040 (Mar. 02, 2001)
TN010041 (Mar. 02, 2001)
TN010042 (Mar. 02, 2001)
TN010043 (Mar. 02, 2001)
TN010044 (Mar. 02, 2001)
TN010045 (Mar. 02, 2001)
TN010048 (Mar. 02, 2001)
TN010062 (Mar. 02, 2001)

Volume IV

Illinois
IL010001 (Mar. 02, 2001)
IL010002 (Mar. 02, 2001)
IL010003 (Mar. 02, 2001)
IL010004 (Mar. 02, 2001)
IL010005 (Mar. 02, 2001)
IL010006 (Mar. 02, 2001)
IL010007 (Mar. 02, 2001)
IL010008 (Mar. 02, 2001)
IL010011 (Mar. 02, 2001)
IL010012 (Mar. 02, 2001)
IL010014 (Mar. 02, 2001)
IL010015 (Mar. 02, 2001)
IL010016 (Mar. 02, 2001)
IL010017 (Mar. 02, 2001)
IL010018 (Mar. 02, 2001)
IL010022 (Mar. 02, 2001)
IL010024 (Mar. 02, 2001)
IL010025 (Mar. 02, 2001)
IL010027 (Mar. 02, 2001)
IL010031 (Mar. 02, 2001)
IL010032 (Mar. 02, 2001)
IL010037 (Mar. 02, 2001)
IL010045 (Mar. 02, 2001)
IL010046 (Mar. 02, 2001)
IL010048 (Mar. 02, 2001)
IL010050 (Mar. 02, 2001)
IL010051 (Mar. 02, 2001)
IL010066 (Mar. 02, 2001)
IL010070 (Mar. 02, 2001)
Indiana
IN010001 (Mar. 02, 2001)
IN010002 (Mar. 02, 2001)
IN010005 (Mar. 02, 2001)
IN010006 (Mar. 02, 2001)
Michigan
MI010002 (Mar. 02, 2001)
MI010005 (Mar. 02, 2001)
MI010007 (Mar. 02, 2001)
MI010013 (Mar. 02, 2001)
MI010062 (Mar. 02, 2001)
MI010081 (Mar. 02, 2001)
MI010082 (Mar. 02, 2001)
MI010084 (Mar. 02, 2001)
MI010088 (Mar. 02, 2001)

Volume V

Arkansas
AR010003 (Mar. 02, 2001)
Iowa
IA010002 (Mar. 02, 2001)
IA010004 (Mar. 02, 2001)
IA010008 (Mar. 02, 2001)
IA010014 (Mar. 02, 2001)
Nebraska
NE010003 (Mar. 02, 2001)
NE010004 (Mar. 02, 2001)
NE010007 (Mar. 02, 2001)
NE010009 (Mar. 02, 2001)
NE010010 (Mar. 02, 2001)
NE010011 (Mar. 02, 2001)
NE010021 (Mar. 2, 2001)
NE010025 (Mar. 2, 2001)
NE010041 (Mar. 2, 2001)

Volume VI

Alaska
AK010001 (Mar. 2, 2001)
Idaho
ID010001 (Mar. 2, 2001)
ID010003 (Mar. 2, 2001)
ID010004 (Mar. 2, 2001)
ID010005 (Mar. 2, 2001)
ID010013 (Mar. 2, 2001)
ID010014 (Mar. 2, 2001)
North Dakota
ND010010 (Mar. 2, 2001)
ND010011 (Mar. 2, 2001)
Oregon
OR010001 (Mar. 2, 2001)
OR010004 (Mar. 2, 2001)
OR010007 (Mar. 2, 2001)
OR010017 (Mar. 2, 2001)
Washington
WA010001 (Mar. 2, 2001)
WA010002 (Mar. 2, 2001)
WA010003 (Mar. 2, 2001)
WA010006 (Mar. 2, 2001)
WA010008 (Mar. 2, 2001)
WA010010 (Mar. 2, 2001)
WA010011 (Mar. 2, 2001)

Volume VII

California
CA010001 (Mar. 2, 2001)
CA010002 (Mar. 2, 2001)
CA010028 (Mar. 2, 2001)
CA010030 (Mar. 2, 2001)
CA010031 (Mar. 2, 2001)
CA010033 (Mar. 2, 2001)
CA010039 (Mar. 2, 2001)
Hawaii
HI010001 (Mar. 2, 2001)

General Wage Determination Publication

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Signed at Washington, DC this 27th day of December 2001.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 02–46 Filed 1–3–02; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL INDIAN GAMING COMMISSION

Paperwork Reduction Act

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: The National Indian Gaming Commission (NIGC), in accordance with the Paperwork Reduction Act of 1995, is submitting to the Office of Management and Budget (OMB) a request to review and extend approval for the information collection activity associated with the submission of an annual audit report pursuant to 25 CFR 542.3(d) by Indian tribes conducting gaming under the Indian Gaming Regulatory Act. The OMB will consider comments from the public on this information collection activity.

DATES AND ADDRESSES: Comments regarding the NIGC's evaluation of the information collection activity and its request to OMB to extend approval for the information collection must be received by February 4, 2002. When providing comment, a respondent should specify the particular collection activity to which the comment pertains. Send comments to: Office of Information and Regulatory Affairs (Attn: Desk Officer for the National Indian Gaming Commission), Office of Management and Budget, 725 17th Street NW., Washington, DC 20503. The NIGC regulation to which the information collection pertains is available on the NIGC Web site, *www.nigc.gov.* The regulation is also available by written request to the NIGC (Attn: Michele Mitchell), 1441 L Street NW., Suite 9100, Washington, DC, 20005, or by telephone request at (202) 632–7003. This is not a toll-free number. All other requests for information should be submitted to Michele Mitchell at the above address for the NIGC.

SUPPLEMENTARY INFORMATION:

Title: Minimum Internal Control Standards.

OMB Number: 3141–0009.

Abstract: The Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq., authorizes the NIGC to promulgate regulations sufficient to shield Indian gaming from corrupting influences, to ensure that the tribes are the primary beneficiaries of gaming and to assure that Indian gaming is fair and honest. The NIGC's Minimum Internal Control standards provide a baseline from which to gauge whether a tribe has implemented controls sufficient to protect the assets of its gaming operation(s). The information required by 25 CFR 542.3(d) is essential to the Commission's ability to fulfill its oversight responsibilities. This evaluation may be completed within the annual financial audit of the gaming operation and does not require a separate audit of the gaming operation's internal control system.

Respondents: Indian tribal gaming operations.

Estimated Number of Respondents: 315.

Estimated Annual Responses: 315.

Estimated Annual Burden Hours per Respondent: 120 hrs.

Estimated Total Annual Burden on Respondents: 37,800 hours.

Estimated Total Annual Cost Burden: $3,780,000.

Richard Schiff,

Deputy Chief of Staff.

[FR Doc. 02–182 Filed 1–3–02; 8:45 am]

BILLING CODE 7565–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8502]

COGEMA Mining Incorporated

AGENCY: Nuclear Regulatory Commission.

ACTION: Final finding of no significant impact; notice of opportunity for hearing.

SUMMARY: The U. S. Nuclear Regulatory Commission (NRC) proposes to amend NRC Source Material License SUA–1341 to authorize the licensee, COGEMA Mining Incorporated (COGEMA) to conduct surface (land and structures) decommissioning according to the submitted plan.

An Environmental Assessment (EA) was performed by the NRC staff in support of its review of COGEMA's license amendment request, in accordance with the requirements of 10 CFR part 51. The conclusion of the Environmental Assessment is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Brummett, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U. S. Nuclear Regulatory Commission, Mail Stop T8–A33, Washington, DC 20555–0001. Telephone 301/415–6606.

SUPPLEMENTARY INFORMATION:

Background

The COGEMA Irigaray and Christensen Ranch In Situ Leach facilities are licensed by the U. S. Nuclear Regulatory Commission (NRC) under Source Materials License SUA–1341 to possess byproduct material in the form of uranium waste as well as other radioactive wastes generated by past uranium processing operations.

Summary of the Environmental Assessment

The NRC staff performed an appraisal of the environmental impacts associated with the surface decommissioning plan, in accordance with 10 CFR Part 51, Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions. The license amendment would authorize COGEMA to decontaminate structures (such as buildings) and equipment, remove contaminated soil and equipment for disposal, and restore the land according to the procedures and criteria present in the submitted plan. Ground water restoration has been addressed in a previous licensing action. The technical

aspects of the surface decommissioning plan are discussed separately in a Technical Evaluation Report (TER) that will accompany the agency's final licensing action.

The results of the staff's appraisal of potential environmental impacts are documented in an EA placed in the docket file. Based on its review, the NRC staff has concluded that there are no significant environmental impacts associated with the proposed action.

Conclusions

The NRC staff has examined actual and potential impacts associated with the decommissioning plan, and has determined that the requested amendment of Source Material License SUA–1341, authorizing implementation of the surface decommissioning plan, will: (1) be consistent with requirements of 10 CFR part 40, Appendix A; (2) not be inimical to the public health and safety; and (3) not have long-term detrimental impacts on the environment. The following statements summarize the conclusions resulting from the staff's environmental assessment, and support the FONSI:

1. An acceptable environmental and effluent monitoring program is in place to monitor effluent releases and to detect if applicable regulatory limits are exceeded. Radiological effluents resulting from decommissioning activities are expected to remain below the regulatory limits.

2. Present and potential health risks to the public and risks of environmental damage from the proposed decommissioning were assessed. Given the remote location, limited activities requested, small area of impact, and past activities on the site, the staff determined that the risk factors for health and environmental hazards are insignificant.

Alternatives to the Proposed Action

The proposed action is to amend NRC Source Material License SUA–1341, for decommissioning of surface structures (buildings, well heads, piping) and land by removing the residual byproduct material to meet regulatory criteria and NRC recommended levels. The principal alternatives available to NRC are to:

1. Approve the license amendment request as submitted; or

2. Amend the license with such additional conditions as are considered necessary or appropriate to protect public health and safety and the environment; or

3. Deny the amendment request.

Based on its review, the NRC staff has concluded that the environmental impacts associated with the proposed action do not warrant either the limiting of COGEMA's plans necessary for license termination (all uranium recovery operations have ceased) or the denial of the license amendment. Additionally, in the TER prepared for this action, the staff has reviewed the licensee's proposed action with respect to the criteria for decommissioning, specified in 10 CFR 40.42 and Part 40, Appendix A, and has no basis for denial of the proposed action. Therefore, the staff considers that Alternative 1 is the appropriate alternative for selection.

Finding of No Significant Impact

The NRC staff has prepared an EA for the proposed renewal of NRC Source Material License SUA–1341. On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The EA and other documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of 10 CFR Part 2, Subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operators Licensing Proceedings,'' of the Commission's Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(d), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, COGEMA Mining Incorporated, P.O. Box 730, Mills, WY 82644;

(2) The NRC staff, by delivery to the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or

(3) By mail addressed to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

In addition to meeting other applicable requirements of 10 CFR part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

Any hearing that is requested and granted will be held in accordance with the Commission's ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings'' in 10 CFR part 2, subpart L.

Dated at Rockville, Maryland, this 26th day of December, 2001.

For The Nuclear Regulatory Commission.

Melvyn Leach,

Chief, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–232 Filed 1–3–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–10, 50–237, and 50–249]

Exelon Generation Company, LLC, Dresden Nuclear Power Station, Units 1, 2, and 3; Exemption

1.0 Background

The Exelon Generation Company, LLC, (Exelon, or the licensee) is the holder of Facility Operating License Nos. DPR–2, DPR–19, and DPR–25, which authorizes operation of the Dresden Nuclear Power Station (DNPS), Units 1, 2, and 3. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory

Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of Unit 1, which is permanently defueled, and Units 2 and 3, which are both operating boiling water reactors. The facility is located in Grundy County, Illinois.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), part 50, appendix E, section IV.F.2.c. requires that offsite emergency plans at each site be exercised every 2 years with full or partial participation by each offsite response organization (ORO) having a role under the plan. Normally during such biennial full-participation exercises, the NRC evaluates onsite, and the Federal Emergency Management Agency (FEMA) evaluates offsite, emergency preparedness activities.

The licensee conducted a biennial exercise on May 26, 2001, but participation by the OROs was curtailed due to the need to respond to emergency conditions caused by flooding within the State. The licensee rescheduled the ORO participation for September 18, 2001, but the national emergency preempted the conduct of that exercise. By letter dated December 18, 2001, the licensee requested an exemption to postpone the remaining portions of ORO participation into an exercise to be conducted in 2002. The last full participation exercise for DNPS was conducted on May 26, 1999. The period between exercises could be as long as 42 months if the exercise were conducted in December of 2002. This is outside the period of time normally allowed for the scheduling of biennial exercises. However, it is recognized that rescheduling the exercise is a challenge to the licensee. This being the case, a schedular exemption for conducting the remaining portions of the offsite exercise before the end of the third quarter of 2002 is appropriate. This could result in a maximum interval between FEMA-evaluated exercises of about 39 months if the licensee conducted the exercise in September of 2002. While this interval is longer than the 36 month period allowed by regulations, it is consistent with other exemptions recently granted due to the national emergency.

Exelon is among several licensees requesting exercise exemptions in the wake of the national emergency of September 11, 2001. It is recognized that it was not appropriate to conduct an exercise during the period of disruption and heightened security after the national emergency. The State of Illinois was initially involved with the recovery response to the national emergency and continues to respond to heightened security needs. Considering the extraordinary circumstances, a schedular exemption is acceptable. However, in this period of heightened security concerns regarding nuclear plant vulnerability, it is prudent to conduct the exercise as soon as practicable to maintain and demonstrate readiness. The following evaluation addresses the technical issues necessary to grant a schedular exemption from the requirements of 10 CFR Part 50, Appendix E, section IV.F.2.c, to conduct an evaluated biennial exercise.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Under 10 CFR 50.12(a)(2)(v), special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

The exemption only provides temporary relief from the applicable regulation, in that the licensee has committed to conduct the exercise during the next calendar year (2002) and has not requested any permanent changes in future exercise scheduling. The staff has also determined that conduct of the exercise as early as practicable in 2002 is prudent, but the exemption is not predicated on the licensee following this recommendation.

The licensee has stated that due to the number of Exelon nuclear facilities in the area around DNPS, most of the OROs have participated in other biennial exercises. There are three counties responsible for offsite emergency preparedness in support of DNPS. Will County participated in the Braidwood Exercise of March 1, 2000, and Grundy County participated in the LaSalle exercise of October 4, 2000. Kendall County, which is located in the five-to-ten mile portion of the DNPS emergency planning zone, has not participated in an exercise during the last two years. The Illinois Department of Nuclear Safety (IDNS) participated in the May 26, 2001, DNPS exercise (and four others during the last two years) and the Illinois Emergency Management Agency (IEMA) participated with various Exelon sites as follows: Braidwood, March 1, 2000; LaSalle, October 4, 2000; Clinton, August 28, 2001; and Byron, November 28, 2001.

The licensee stated that all past exercises were conducted using the Exelon standard evaluation techniques. Weaknesses and deficiencies were identified and entered into the corrective action program and are tracked to completion. Future exercises are to be conducted in the same manner. The licensee stated that an appropriate level of emergency preparedness is being maintained as evidenced by ORO participation.

For this exemption request, the special circumstances described in Section 50.12(a)(2) of 10 CFR 50 are present:

> 50.12(a)(2)(v) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made a good faith effort to comply with the regulation.

The national emergency of September 11, 2001, and the subsequent recovery and security responses prevented the OROs from participating in the re-scheduled biennial exercise. The licensee made a good faith effort to comply with regulations through the conduct of an exercise on May 26, 2001, and the rescheduling of the ORO participation aspects of that exercise for September 18, 2001. The circumstances dictating the request for exemption are beyond the licensee's control. Additionally, the licensee's exercise program includes multiple opportunities for the participation of OROs and is a compensating measure contributing to justification of the exemption. The exemption only provides temporary relief from the applicable regulation, in that the licensee has committed to conduct the remaining portions of the offsite exercise during the next calendar year (2002) and has not requested any permanent changes in future exercise scheduling. The staff has determined that conduct of the exercise as early as practicable in 2002, but no later than the end of the third quarter, is prudent even though the licensee is expected to conduct another full or partial participation exercise in 2003.

4.0 Conclusion

The staff finds that granting the licensee's request for a one-time schedular exemption from the requirement of section IV.F.2.c. of appendix E to 10 CFR part 50 to conduct a full participation emergency preparedness exercise in 2001 will not present an undue risk to the public health and safety, is consistent with the

common defense and security, and that special circumstances are present as set forth in 10 CFR 50.12(a)(2). This conclusion is based on the expectation that the licensee will conduct the remaining offsite portions of the postponed exercise before the end of the third quarter 2002.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 66948).

This exemption is effective upon issuance and expires on September 30, 2002.

Dated at Rockville, Maryland, this 28th day of December, 2001.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–229 Filed 1–3–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–08794]

Notice of Consideration of Amendment Request for Molycorp, Inc., York, PA, Site and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Source Materials License SMB–1408 issued to Molycorp, Inc., (Molycorp), to defer the second round of sampling groundwater monitoring wells in 2001 at the Molycorp, York, PA, site until the completion of its decommissioning activities in 2002. Molycorp's license requires that samples are to be drawn from designated wells biannually. One round of groundwater sampling results was submitted to NRC in March 2001, with the reported data below levels of concern. Molycorp then plugged and abandoned all existing groundwater wells on site in order to proceed with decommissioning. Due to the increased volume of contaminated soil encountered during the decommissioning of the York facility, and the extension of decommissioning activities, Molycorp will not be able to reinstall and sample the monitoring wells in 2001. Prior to installing the new wells, Molycorp has committed to confer with both NRC and the Pennsylvania Department of Environmental Protection to ensure that the new well locations are satisfactory. Molycorp shall install the new wells following the completion of decommissioning activities in 2002, and will sample the new wells on a biannual basis until its license is terminated. Molycorp's request is contained in a letter to NRC dated November 19, 2001.

If the NRC approves this request, the approval will be documented in a license amendment to NRC License SMB–1408. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a safety evaluation report and an environmental assessment.

NRC hereby provides notice that this is a proceeding on an application for an amendment of a license falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules of practice for domestic licensing proceedings in 10 CFR part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for ahearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary by mail or facsimile (301–415–1101) addressed to: The Rulemaking and Adjudications Staff of the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally, or by mail, to:

1. The applicant, Molycorp, Inc., 300 Caldwell Avenue, Washington, PA 15301, Attention: George Dawes, and,

2. The NRC staff, General Counsel, by mail, addressed to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

In addition to meeting other applicable requirements of 10 CFR part 2 of NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and,

4. The circumstance establishing that the request for a hearing is timely in accordance with § 2.1205(d).

FOR FURTHER INFORMATION CONTACT: The application for the license amendment and supporting documentation are available for inspection at NRC's Public Electronic Reading Room at *http://www.nrc.gov/NRC/ADAMS/index.html.* Any questions with respect to this action should be referred to Tom McLaughlin, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Telephone: (301) 415–5869. Fax: (301) 415–5398.

Dated at Rockville, Maryland, this 27th day of December 2001.

For the Nuclear Regulatory Commission.

Tom McLaughlin,

Project Manager, Facilities Decommissioning Section, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–230 Filed 1–3–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8905]

Quivira Mining Company

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of receipt of a request from Quivira Mining Company to revise a site-reclamation milestone in License No. SUA–1473 for the Ambrosia Lake, New Mexico facility and notice of opportunity for a hearing.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated November 6, 2001, a request from Quivira Mining Company to amend License Condition (LC) 40 B.(1) of Source Material License SUA–1473 for the Ambrosia Lake, New Mexico, facility. The license amendment request proposes to modify LC 40 B.(1) to change the completion date for placement of the erosion protection on the pile to December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Jill Caverly, Project Manager, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T–8 A33, Washington, D.C. 20555. Telephone (301) 415–6699, e-mail *jsc1@nrc.gov.*

SUPPLEMENTARY INFORMATION: The portion of LC 40 B.(1) with the proposed change would read as follows:

40 B. Reclamation, to ensure required longevity of the covered tailings and groundwater protection, shall be completed as expeditiously as is reasonably achievable, in accordance with the following target dates for completion:

(1) Placement of erosion protection as part of reclamation to comply with Criterion 6 of Appendix A of 10 CFR part 40—

For impoundment No. 1—December 31, 2001

For impoundment No. 2, excluding portions used for approved byproduct material disposal—December 31, 2003

Quivira's request to amend LC 40 B.(1) of Source Material License SUA–1473, which describes the proposed changes to the license condition and the reason for the request, is being made available for public inspection at the NRC's Public Document Room at NRC Headquarters in Rockville, Maryland.

The NRC hereby provides notice of an opportunity for a hearing on the license amendment under the provision of 10 CFR part 2, subpart L, ''Informal Hearing Procedures for Adjudications of Materials and Operator Licensing Proceedings.'' Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**. The request for a hearing must be filed with the Office of the Secretary, either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch.

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, Quivira Mining Company, 6305 Waterford Blvd., Suite 325, Oklahoma City, Oklahoma 73118, Attention: William Paul Goranson; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceedings, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's area of concern about the licensing activity that is the subject matter of the proceedings; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

In addition, members of the public may provide comments on the subject application within 30 days of the publication of this notice in the **Federal Register**. The comments may be provided to Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Rockville, Maryland, this 27th day of December 2001.

For the Nuclear Regulatory Commission.

Melvyn N. Leach,

Chief, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–231 Filed 1–3–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC—25346]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

December 28, 2001.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of December 2001. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549–0102 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 22, 2002, and should be accompanied by proof of service on the applicant, 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 who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549–0506.

Somerset Exchange Fund [File No. 811–7703]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 2, 2001, applicant's shareholders approved a proposal to convert applicant from a closed-end investment company to an open-end investment company. Shareholders of applicant were informed in proxy materials that following conversion to an open-end investment company, applicant would seek to deregister under the Act if redemptions caused the number of applicant's beneficial owners to fall below 100. Applicant will continue to operate as an unregistered pooled investment vehicle in reliance on section 3(c)(1) or section 3(c)(7) of the Act.

Filing Dates: The application was filed on November 13, 2001, and amended on December 20, 2001.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08536.

Kemper National Tax-Free Income Series [File No. 811–2353]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 11, 2001, applicant's two series, Kemper Municipal Bond Fund and Kemper Intermediate Municipal Bond Fund, transferred their assets and liabilities to Scudder Managed Municipal Bonds, a series of Scudder Municipal Trust, and Scudder Medium Term Tax Free Fund, a series of Scudder Tax Free Trust, based on net asset value. Expenses of $315,583 incurred in connection with the reorganization were paid by applicant and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

Kemper Income Trust [File No. 811–8983]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On May 29, 2001, applicant transferred its assets to Scudder High Yield Fund (formerly Kemper High Yield Fund), a series of Scudder High Yield Series (formerly Kemper High Yield Series), based on net asset value. Expenses of $42,990 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

Kemper Asian Growth Fund [File No. 811–7731]

Kemper International Fund [File No. 811–3136]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On May 29, 2001 and June 18, 2001, respectively, each applicant transferred its assets to a series of Scudder International Fund, Inc., based on net asset value. Expenses of $39,129 and $360,873, respectively, incurred in connection with the reorganizations were paid by applicants and Zurich Scudder Investments, Inc., investment adviser to the applicants.

Filing Date: The applications were filed on December 5, 2001.

Applicants' Address: 222 South Riverside Plaza, Chicago, IL 60606.

PaineWebber Investment Series [File No. 811–5259]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 9, 2001, applicant transferred its assets to PACE Global Fixed Income Investments, a series of PaineWebber PACE Select Advisors Trust, based on net asset value. Expenses of $161,041 incurred in connection with the reorganization were paid by applicant's investment adviser, Brinson Advisors, Inc.

Filing Date: The application was filed on December 17, 2001.

Applicant's Address: 51 West 52nd St., New York, NY 10019–6114.

Scudder California Tax Free Trust [File No. 811–3729]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 18, 2001, applicant transferred its assets to Scudder California Tax-Free Income Fund (formerly Kemper California Tax-Free Income Fund), a series of Kemper State Tax-Free Income Series, based on net asset value. Expenses of $94,058 incurred in connection with the reorganization were paid by applicant, the acquiring fund and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: Two International Place, Boston, MA 02110–4103.

Farmers Investment Trust [File No. 811–9085]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 9, 2001, applicant's five portfolios, Farmers Income Portfolio, Farmers Income with Growth Portfolio, Farmers Balanced Portfolio, Farmers Growth with Income Portfolio and Farmers Growth Portfolio, transferred their assets and liabilities to corresponding portfolios of Scudder Pathway Series based on net asset value. All expenses incurred in connection with the reorganization were paid by Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: Two International Place, Boston, MA 02110–4103.

AARP Tax Free Income Trust [File No. 811–4050]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 11, 2000, applicant's two series, AARP Insured Tax Free General Bond Fund and AARP High Quality Tax Free Money Fund, transferred their assets and liabilities to Scudder Managed Municipal Bonds, a series of Scudder Municipal Trust, and Scudder Tax-Free Money Fund, respectively, based on net asset value. Expenses of $626,383 incurred in connection with the reorganization were paid by applicant, Scudder Tax-Free Money Fund, and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: Two International Place, Boston, MA 02110–4103.

AARP Managed Investment Portfolios Trust [File No. 811–7933]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 25, 2000, applicant's two series, AARP Diversified Income with Growth Portfolio and AARP Diversified Growth Portfolio, transferred their assets and liabilities to corresponding series of Scudder Pathway Series, based on net asset value. Expenses of $149,688 incurred in connection with the reorganization were paid by Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: Two International Place, Boston, MA 02110–4103.

Scudder GNMA Fund [File No. 811–3699]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 17, 2000, applicant transferred its assets to Scudder GNMA Fund (formerly AARP GNMA and U.S. Treasury Fund), a series of Scudder Income Trust (formerly AARP Income Trust), based on net asset value. Expenses of $838,829 incurred in connection with the reorganization were paid by applicant and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: Two International Place, Boston, MA 02110–4103.

Kemper Global Income Fund [File No. 811–5829]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 18, 2001, applicant transferred its assets to Scudder Global Bond Fund, a series of Global/International Fund, Inc., based on net asset value. Expenses of $48,049 incurred in connection with the reorganization were paid by applicant and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

Mercury Internet Strategies Fund, Inc. [File No. 811–9853]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By May 23, 2001, applicant's sole shareholder redeemed its shares at net asset value. Expenses of $3,000 incurred in connection with the liquidation were paid by applicant.

Filing Dates: The application was filed on November 28, 2001, and amended on December 18, 2001.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08536.

Master Internet Strategies Trust [File No. 811–9851]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 15, 2001, applicant transferred its assets to Merrill Lynch Global Technology Fund, Inc. based on net asset value. Applicant incurred no expenses in connection with the reorganization.

Filing Dates: The application was filed on November 28, 2001, and amended on December 18, 2001.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08536.

Kemper Income and Capital Preservation Fund [File No. 811–2305]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 25, 2001, applicant transferred its assets to Scudder Income Fund, a series of Scudder Portfolio Trust, based on net asset value. Expenses of $173,273 incurred in connection with the reorganization were paid by applicant and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

Kemper Short-Term U.S. Government Fund [File No. 811–5195]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 25, 2001, applicant transferred its assets to Scudder Short Term Bond Fund, a series of Scudder Funds Trust, based on net asset value. Expenses of $55,843 incurred in connection with the reorganization were paid by applicant and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

Kemper Horizon Fund [File No. 811–7365]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 11, 2001, applicant transferred its assets to Scudder Total Return Fund (formerly Kemper Total Return Fund), based on net asset value. Expenses of $933,275 incurred in connection with the reorganization were paid by applicant, the acquiring fund and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

Kemper Securities Trust [File No. 811–8393]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 11, 2001, applicant transferred its assets to Scudder Growth and Income Fund, a series of Investment Trust, based on net asset value. Expenses of $31,147 incurred in connection with the reorganization were paid by applicant and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 2001.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

MCG Capital Corporation [File No. 811–10587]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company as of December 4, 2001, the date applicant elected to be regulated as a business development company.

Filing Dates: The application was filed on December 4, 2001, and amended on December 17, 2001.

Applicant's Address: 1100 Wilson Blvd., Suite 800, Arlington, VA 22209.

AARP Cash Investment Funds [File No. 811–3650]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 11, 2000, applicant's two series, AARP Premium Money Fund and AARP High Quality Money Fund, transferred their assets and liabilities to Scudder Money Market Series, a series of Scudder Money Market Trust, and Scudder Cash Investment Trust, respectively, based on net asset value. Expenses of $478,645 incurred in connection with the reorganization were paid by applicant, the surviving funds, and Zurich Scudder Investments, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 4, 2001.

Applicant's Address: Two International Place, Boston, MA 02110–4103.

Trust for Financial Institutions [File No. 811–7067]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By April 7, 1995, applicant's shareholders had voluntarily redeemed their shares at net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on September 4, 2001.

Applicant's Address: 5800 Corporate Dr., Pittsburgh, PA 15237–7000.

Merrill Lynch Internet Strategies Fund, Inc. [File No. 811–9783]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 15, 2001, applicant transferred its assets to Merrill Lynch Global Technology Fund, Inc. based on net asset value. Expenses of $714,832 incurred in connection with the reorganization were paid by the surviving fund.

Filing Date: The application was filed on November 28, 2001.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08536.

Mercury Senior Floating Rate Fund, Inc. [File No. 811–10023]

Summary: Applicant, a feeder fund in a master-feeder structure, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on December 4, 2001.

Applicant's Address: Merrill Lynch Investment Managers, L.P., 800 Scudders Mill Rd., Plainsboro, NJ 08536.

Blue Ridge Total Return Fund [File No. 811–8391]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 15, 2001, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of approximately $26,700 incurred in connection with the liquidation were paid by applicant and its investment adviser, Colonial Asset Management, Inc.

Filing Date: The application was filed on December 4, 2001.

Applicant's Address: 116 South Franklin St., P.O. Box 69, Rocky Mount, NC 27802–0069.

Mentor Funds [File No. 811–6550]

Cash Resource Trust [File No. 811–7862]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On September 21, 2001, each applicant made a liquidating distribution to its shareholders based on net asset value. Total expenses of $1,794,983 incurred in connection with both liquidations were paid by Wachovia Corporation, parent of the investment adviser to all series of the applicants.

Filing Dates: The applications were filed on October 1, 2001, and amended on December 7, 2001.

Applicants' Address: Evergreen Funds, 200 Berkeley St., Boston, MA 02116.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–177 Filed 1–3–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45207; File No. SR–OPRA–2001–03]

Options Price Reporting Authority; Notice of Filing of Amendment to OPRA Plan To Exclude Foreign Currency Options From the Calculation of Capacity Allocation Provided for in the OPRA Plan

December 28, 2001.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 10, 2001, the Options Price Reporting Authority (''OPRA''),[2] submitted to the Securities and Exchange Commission (''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan''). The amendment would exclude foreign currency options (''FCOs'') from the calculation of capacity allocation provided for in the OPRA Plan. The Commission is publishing this notice to solicit comments on the proposed amendment from interested persons.

I. Description and Purpose of the Amendment

The proposed amendment would revise certain provisions of section III, ''Definitions'' and section V(d), ''Quarterly Calculation of Capacity Allocation'' in order to exclude FCOs from the calculation of system capacity allocation that is provided for in the OPRA Plan and make available exclusively for the processing and dissemination of FCO market data a fixed amount of system capacity as determined by OPRA from time to time. The proposed amendment provides that the capacity available for FCO market data will be capable of handling at least 350 messages per second (''mps''), the amount currently assigned by OPRA to FCO market data. OPRA represents that such capacity is sufficient to meet the anticipated needs of the FCO market. OPRA represents that the proposed amendment would make no substantive change to the provisions of the OPRA Plan.

II. Implementation of Plan Amendment

OPRA intends to make the proposed amendment to the OPRA Plan effective immediately upon approval of the amendment by the Commission pursuant to Rule 11Aa3–2 under the Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed plan amendment 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, and all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment between the Commission and any person, other than those 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 the filing will also be available at the principal offices of OPRA. All submissions should refer to File No. SR–OPRA–2001–03 and should be submitted by January 22, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret F. McFarland,

Deputy Secretary.

[FR Doc. 02–215 Filed 1–3–02; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45199; File No. SR–MSRB–2001–09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Rule A–4, on Meetings of the Board

December 27, 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 December 13, 2001, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. The MSRB has designated the proposed rule change as concerned solely with the administration of the Board under section 19(b)(3)(A) of the Act, which renders the proposed rule change effective upon receipt by the Commission. 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 MSRB has filed with the Commission a proposed rule change to amend rule A–4, on meetings of the Board, to include E-mail as a method of contacting and polling Board members. The text of the proposed rule change is set forth below. Additions are italicized; deletions are bracketed.

Rule A–4. Meetings of the Board

(a) No change.

(b) Notice of Meetings. Notice of the time and place of special meetings of the Board shall be mailed to each member, at such member's address appearing in the records of the Board, not later than the seventh calendar day preceding the date on which the

[1] 17 CFR 240.11Aa3–2.

[2] OPRA is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act, 15 U.S.C. 78k–1, and Rule 11Aa3–2 thereunder, 17 CFR 240.11Aa3–2. *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The five signatories to the OPRA Plan that currently operate an options market are the American Stock Exchange, the Chicago Board Options Exchange, the International Securities Exchange, the Pacific Exchange, and the Philadelphia Stock Exchange. The New York Stock Exchange is a signatory to the OPRA Plan, but sold its options business to the Chicago Board Options Exchange in 1997. *See* Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

[3] 17 CFR 200.30–3(a)(29).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

meeting is to be held, or by telephone, [telegraph,] *E-mail* or personal delivery not later than the third calendar day preceding the date on which the meeting is to be held. Written notice of special meetings of the Board shall be signed by the Secretary to the Board. Notice of a special meeting shall also set forth the purpose or purposes of the meeting and the name or names of the person or persons at whose request the meeting is being called. Notice of a special meeting need not be given to any member who submits a signed waiver of notice before or after the meeting, or who attends the meeting without protesting, prior thereto or at the commencement thereof, the lack of notice to such member. No notice of regular meetings of the Board shall be required.

(c) No change.

(d) Action Without a Meeting. Action by the Board may be taken without a meeting by written consent of the Board setting forth the action so taken or by telephone *or E-mail* poll of all members of the Board, provided that, in the case of action taken by telephone *or E-mail* poll, the Board, at a meeting, or the chairman of the Board authorizes the action to be taken by such means. The Executive Director shall transmit to each Board member, as soon as practicable after a telephone *or E-mail* poll is taken, a written statement setting forth the question or questions with respect to which the telephone *or E-mail* poll was taken and the results of the telephone *or E-mail* poll. Such statement shall also be entered in the minutes of the next Board meeting. In the case of action taken without a meeting by written consent, [or] telephone *or E-mail* poll, an affirmative vote of a majority of the whole Board is required.

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 Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board 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

Rule A–4, on meetings of the Board, establishes the procedures and requirements for holding Board meetings, the notice of the time and place required for special meetings, the quorum and voting requirements, and the procedures for taking action without a Board meeting.

Rule A–4(b), on notice of meetings, provides that notice of the time and place of special meetings of the Board shall be mailed to each Board member not later than the seventh calendar day preceding the date on which the meeting is to be held, or by telephone, telegraph or personal delivery not later than the third calendar day preceding the date on which the meeting is to be held. Notice of a special meeting shall also set forth the purposes or purposes of the meeting and the name or names of the person or persons at whose request the meeting is being called.

Rule A–4(d), on action without a meeting, provides that action by the Board may be taken without a meeting by written consent of the Board or by telephone poll of all members of the Board, provided that certain administrative procedures are followed.[3]

The proposed rule change amends rules A–4(b) and A–4(d) to include E-mail as a method of contacting and polling Board members. The amendment to rule A–4(b) provides that notification of special meetings of the Board may be made by e-mail and it removes notification of such meetings by the use of telegraph. The amendment to rule A–4(d) provides that e-mail may be used in conducting a poll of the Board for action taken without a meeting.

2. Basis

The MSRB has adopted the proposed rule change pursuant to section 15B(b)(2)(I) of the Act, which authorizes the MSRB to adopt rules that provide for the operation and administration of the Board.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it only applies to the operation and administration of the MSRB.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The MSRB has designated the proposed rule change as concerned solely with the administration of the MSRB under section 19(b)(3)(A) of the Act, which renders the proposed rule change effective upon receipt by the Commission. At any time within 60 days of filing of the proposed rule change, the Commission may summarily abrogate the proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submissions, 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 the filing will also be available for inspection and copying at the MSRB's principal offices. All submissions should refer to File No. SR–MSRB–2001–09 and should be submitted by January 25, 2002.

[3] The administrative procedures contained in rule A–4(d) are:

* * * in the case of action taken by telephone poll, the Board, at a meeting, or the chairman of the Board authorizes the action to be taken by such means. The Executive Director shall transmit to each Board member, as soon as practicable after a telephone poll is taken, a written statement setting forth the question or questions with respect to which the telephone poll was taken and the results of the telephone poll. Such statement shall also be entered in the minutes of the next Board meeting. In the case of action taken without a meeting by written consent or telephone poll, an affirmative vote of a majority of the whole Board is required.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–180 Filed 1–3–02; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45206; File No. SR–NASD–2001–76]

Self-Regulatory Organizations; Order Granting Accelerated Approval to a Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Amending NASD Rules 4510, 4520 and 4530 Relating to Issuer Entry and Annual Fee Schedules

December 28, 2001.

I. Introduction

On October 31, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Association Rules 4510, 4520, and 4530 pertaining to issuer entry and annual fee schedules for The Nasdaq National and The Nasdaq SmallCap Markets for both domestic and non-U.S. listings as well as additional conforming changes. On November 21, 2001, Nasdaq filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on November 30, 2001.[4] No comments were received regarding the proposed rule change, as amended. This order approves the proposed rule change, as amended, on an accelerated basis.

II. Description of the Proposed Rule Change

The NASD proposed to amend the Association Rules 4510, 4520, 4530 pertaining to issuer entry and annual fees on The Nasdaq National Market and The Nasdaq SmallCap Market for both domestic and foreign listings. It has been approximately ten years since the NASD amended the entry and annual fees for SmallCap[5] and American Depository Receipts (''ADR'') listings,[6] and four years since it amended The Nasdaq National Market entry and annual fees.[7]

The NASD proposed to increase entry and annual fees for The Nasdaq National Market, including ADRs. The Nasdaq National Market entry fees would be split into two fee schedules: one schedule for all U.S. issuers and foreign issuers raising capital in conjunction with their listing on Nasdaq; and another schedule for foreign issuers that are not raising capital in connection with their listing. This second schedule has somewhat lower fees for foreign listings under 5 million shares, in recognition of the fact that these listings are non-capital raising and generally represent secondary market listings. The NASD will also increase its existing annual fee structure for The Nasdaq National Market.

The NASD proposed to increase entry and annual fees for The Nasdaq SmallCap Market as well. ADRs on The Nasdaq SmallCap Market will follow the same annual fee schedule as domestic and foreign issues. Finally, the NASD intends to add a new fee schedule to the NASD Rule 4500 Series for Other Securities qualified under NASD Rule 4420(f). Finally, the NASD requested that the new fees apply as of January 1, 2002 in order to be consistent with the expectations of Nasdaq listed companies and to ease administration of the fees.[8]

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[9] In particular, the Commission finds that the proposed rule change, as amended, is consistent with section 15A(b)(6) of the Act[10] because it is designed to promote just and equitable principles of trade. In addition, the Commission finds that the proposed rule change, as amended, is consistent with section 15A(b)(5) of the Act[11] because it provides for the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using any facility or systems which the association operates. Specifically, the increase reflects additional costs that Nasdaq has represented it incurs for services provided to issuers. As represented by the NASD, it has committed increased resources to provide regulatory oversight, client coverage, and professional services to listed companies. The Nasdaq represents that additional resources were committed to fund regulatory costs associated with the institution of corporate governance requirements on The Nasdaq SmallCap Market in 1997. Furthermore, Nasdaq represents that it has made several market improvements such as Nasdaq Online, the Nasdaq Marketsite, and enhancements to Nasdaq.com, as well as market quality improvements such as decimalization, SuperSOES, and the development of SuperMontage. In addition, Nasdaq has represented that it also intends to allocate resources to fund service enhancements requested by Nasdaq companies, such as creating a telephone and technology-based corporate-client information center to provide Nasdaq companies with a range of integrated products and services in a more centralized and timely manner.[12]

Nasdaq seeks to implement the proposed fees on January 1, 2002. In order to be consistent with the expectations of Nasdaq listed companies and to ease administration of the fees, Nasdaq has requested that the Commission find good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after publication in the **Federal Register**. The Commission notes that the proposed rule change and Amendment No. 1 were noticed for the full 21-day comment period and the Commission received no comments regarding the proposed rule change, as amended. The Commission believes that granting accelerated approval to the proposed rule change will allow Nasdaq to implement the new fees by January 1, 2002, and will provide issuers with notice and an opportunity to budget for the additional costs. Accordingly, the Commission finds good cause, consistent with

[4] 17 CFR 200.30–3(a)(12)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Sara Nelson Bloom, Associate General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated November 21, 2001 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 45101 (November 23, 2001), 66 FR 59827.

[5] *See* Securities Exchange Act Release No. 30143 (January 2, 1992), 57 FR 726 (January 8, 1992).

[6] *See* Securities Exchange Act Release No. 28731 (January 2, 1991), 59 FR 906 (January 9, 1991).

[7] *See* Securities Exchange Act Release No. 39613 (February 2, 1998), 63 FR 6789 (February 10, 1998).

[8] *See* Amendment No. 1, *supra* note 3.

[9] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78*o*–3(b)(6).

[11] 15 U.S.C. 78*o*–3(b)(5).

[12] *See* Amendment No. 1, *supra* note 3.

section 15A(b)[13] and section 19(b)(2) of the Act[14] to approve the proposed rule change, as amended, on an accelerated basis.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposal, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[15] that the proposed rule change (SR–NASDA–2001–76), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–178 Filed 1–3–02; 8:45 am]

BILLING CODE

[13] 15 U.S.C. 78*o*-3(b).

[14] 15 U.S.C. 78s(b)(2).

[15] *Id.*

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45184; File No. SR–Phlx–2001–98]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendments No. 1 and 2 Relating to the Establishment of a Remote Specialist Program

December 21, 2001.

On October 22, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish a remote specialist program.

The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on November 12, 2001.[3] No comments were received on the proposal. The proposal was amended on November 29, 2001.[4] In this order, the Commission is approving the proposed rule change, as amended.

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[5] and, in particular, with the requirements of section 6(b)(5).[6]

The Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act[7] because it is designed to perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. The Commission believes that a remote specialist program will assist the Exchange in maintaining an efficient and open market.

The Commission approves this proposed rule change provided that the Exchange meet the following conditions: (i) The Exchange shall have place specific information barrier policies and surveillance policies that are consistent with the Exchange's existing rules and that are acceptable be the Commission's Office of Compliance Inspections and Examinations (''OCIE''); (ii) each remote PACE terminal shall be individually identified and associated with (an) authorized and qualified specialist(s) and/or registered clerk(s) and will require a non-transferable Remote Authorization; and (iii) all registered specialists and clerks, except those currently operating as floor specialists and clerks, must complete a floor training program.[8] The training may be waived by the Exchange for people in exceptional circumstances if other arrangements are made with and approved by the Exchange. However, a waiver will only be permitted if the Exchange is assured that the person requesting the waiver has made other arrangements that ensure that the person meet all of the training requirements. The training may not be waived for easily remedied reasons such as geographical location or inconvenience.

The Commission finds good cause for approving Amendment No. 2 prior to the thirtieth day after notice of the publication in the **Federal Register**. Amendment No. 2 makes minor technical changes to the proposed rule language, dealing with non-transferability of the remote authorizations. The Commission therefore finds that acceleration of Amendment No. 2 is appropriate.

Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether the proposed amendments are 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 amendments that are filed with the Commission, and all written communications relating to the amendments between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–98 and should be submitted by January 25, 2002.

It Is Therefore Ordered, pusuant to section 19(b)(2) of the Act,[9] that the proposed rule change (SR–Phlx–2001–98), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–179 Filed 1–3–02; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 45014 (November 2, 2001), 66 FR 56888.

[4] *See* letter from Carla Behnfeldt, Director, Legal Department New Product Development Group, Phlx to John Riedel, Attorney Adviser, Division of Market Regulation (''Division''), Commission, dated November 28, 2001 (''Amendment No. 2''). In Amendment No. 2, several technical edits are made to subsection (n) of proposed rule 461 that do not need to be published for comment.

[5] 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).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(5).

[8] The floor training must include, among other things: communication procedures with Floor Brokers, PACE Desk, Surveillance, Systems Support, and ITS coordination with the Floor; remote/competing specialist program and Unlisted Trading Privilege applications and procedures, stock allocation procedures; trading halt procedures; and books and records/reports available.

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3873]

Exchange Visitor Program Designation Staff, Bureau of Educational and Cultural Affairs; 30-Day Notice of Proposed Information Collection: Certificate of Eligibility for Exchange Visitor (J–1) Status; Control No. 1405–0119; Department of State Form DS–2019 and IAP–66P

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Submit comments to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Extension of a currently approved collection.

Originating Office: Exchange Visitor Program Designation Staff, Bureau of Educational and Cultural Affairs (ECA/EC/ECD).

Title of Information Collection: Certificate of Eligibility for Exchange Visitor (J–1) Status.

Frequency: On occasion.

Form Numbers: DS–2019 and IAP–66P.

Respondents: U.S. Department of State designated Exchange Vistor Program sponsors and exchange visitors.

Estimated Number of Respondents: 300,000.

Average Hours Per Response: 45 minutes.

Total Estimated Burden: 1,350,000 hours.

Public comments are being solicited to permit the agency to:

- 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 collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from the Exchange Visitor Program Designation Staff (ECA/EC/PS), Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, 301 Fourth Street, SW., Room 734, U.S. Department of State, Washington, DC 20520; telephone: 202–401–9810. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: December 6, 2001.

James D. Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 02–237 Filed 1–3–02; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 3872]

Privacy Act of 1974, as Amended: New System of Records

Notice is hereby given that the Department of State proposes to create a new system of records, STATE–40, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a(r)), and the Office of Management and Budget Circular No. A–130, Appendix I. The Department's report was filed with the Office of Management and Budget on December 18, 2001.

This system of records is being implemented by the Department of State to facilitate an electronic database of official, publicly accessible locator information for all Department of State personnel, domestic and overseas; overseas employees of other foreign affairs agencies receiving payroll services from the Department; and contractors. Emergency contact information is also maintained, but is not publicly available.

Any persons interested in commenting on this system of records may do so by submitting comments in writing to Margaret Peppe, Chief; Programs and Policies Division; Office of IRM Programs and Services; A/RPS/IPS/PP; U.S. Department of State, SA–2; Washington, D.C. 20522–6001 or by fax at 202–261–8571.

This system of records will be effective 40 days from the date of publication, unless we receive comments that will result in a contrary determination.

The new system description, ''Electronic Telephone Directory (e*Phone), STATE–40'' will read as set forth below.

Dated: December 18, 2001.

William A. Eaton,

Assistant Secretary for the Bureau of Administration.

State–40

SYSTEM NAME:

Electronic Telephone Directory (e*Phone).

SECURITY CLASSIFICATION:

Sensitive but Unclassified (SBU).

SYSTEM LOCATION:

Department of State; 2201 C Street, NW; Washington, DC 20520.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current Civil Service (CS) and Foreign Service (FS) direct hire employees of the Department of State, domestic and overseas, regardless of employee type (i.e., full-time, part-time); direct hire overseas employees of other foreign affairs agencies who receive payroll services from the Department, regardless of employee type; direct hire personal service contractors, domestic and overseas; and all other contractor staff, domestic and overseas.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information in this system contains employees' and contractors' public and private contact information. Information, deemed part of the public domain, includes employee name, organization, office room number and building, and office phone number. Private information includes supervisor's name, e-mail address, date of birth, gender, marital status, category of employee, home address and home phone number for the individual, as well as emergency contact information, including name, home and work phone numbers of the contact, and the contact's relationship to the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 (Management of the Department of State);

22 U.S.C. 2581 (General Authority of Secretary of State); 22 U.S.C. 2651a (Organization of the Department of State).

PURPOSE(S):

The information contained in this system of records is collected and maintained by the Bureau of Information Resources Management in the administration of its responsibility for maintaining the Department's centralized database of official, publicly accessible locator information for all

personnel, both domestic and overseas, as well as contractors. Further, home and designated emergency contact information, not publicly accessible, is maintained for emergency use only.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information in this system may be used by any Department employee or contractor who needs an office address, including room number and building location as applicable, or office phone number for any other employee or contractor. Home and designated emergency contact information is provided on a need-to-know basis to specific, authorized Department of State officials in the event of an individual or general emergency, where such contact needs to be notified of the well-being of said employee(s) or contractor(s).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation and contractors have background investigations in accordance with their contracts. Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. The database server is located in a restricted area, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with published record schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street NW., Washington, DC 20522–6001 or by fax at 202–261–8571.

SYSTEM MANAGER AND ADDRESS:

Executive Director; Bureau of Information Resources Management; Department of State; 2201 C Street NW., Washington, DC 20520.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Bureau of Information Resources Management might have records pertaining to themselves should write to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street NW., Washington, DC 20522–6001 or send by fax at 202–161–8571. The individual must specify that he/she wishes the Electronic Telephone Directory (e*Phone) to be checked. At a minimum, the individual should include: name; date and place of birth; current mailing address and zip code; signature; and preferably his/her social security number; a brief description of the circumstances that caused the creation of the record, and the approximate dates which give the individual cause to believe that he/she is/was listed in the Electronic Telephone Directory (e*Phone).

RECORD ACCESS AND AMENDMENT PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should log on to e*Phone using their user-id and password to make updates/amendments. You may also request access or amendments by writing to the Director; Office of IRM Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information about employees that is automatically fed into e*Phone via a weekly interface with the Department's Human Resources System (Global Employment Management System). Information not publicly available is provided by the individual who is the subject of these records. Information regarding contractors and any other direct hire information is added by request of the individual, by the Post Administrative Office or the IRM Executive Office.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 02–236 Filed 1–3–02; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Henry Tift Myers Airport, Tifton, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from the Tift County Airport Authority to waive the requirement that a 9.246-acre parcel of surplus property, located at the Henry Tift Myers Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before February 4, 2002.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, 1701 Columbia Ave, Suite 2–260, Campus Building, College Park, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed to Dr. Greg Anderson, Authority Chairman, of the Tift County Airport Authority at the following address: PO Box 826, Tifton, GA 31793–0826.

FOR FURTHER INFORMATION CONTACT: Rusty Nealis, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave, Suite 2–260, Campus Building, College Park, GA 30337–2747, (404) 305–7142. The Application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by Tift County Airport Authority to release 9.246 acres of surplus property at the Henry Tift Myers Airport. The property will be purchased by Georgia Department of Transportation and will used as their maintenance facility as it has been for over 20 years. The use of this property as a maintenance facility has never adversely effected the airport's operations and is considered compatible. The property fronts State Route 125 and is adjacent and east of the existing National Guard Facility. The net proceeds from the sale of this property will be used for airport purposes.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the request, notice and other documents germane to the

request in person at the Tift County Airport Authority.

Issued in Atlanta, Georgia, on November 20, 2001.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 02–167 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice and Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Seattle-Tacoma International Airport under the provisions of 49 U.S.C. Sec. 47503(a) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing the proposed noise compatibility program that was submitted for Seattle-Tacoma International Airport under part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before April 26, 2002.

EFFECTIVE DATE: The effective date of the FAA's determination on the Seattle-Tacoma International Airport noise exposure maps and the start of its review of the associated noise compatibility program is October 29, 2001. The public comment period ends December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM–611, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps for Seattle-Tacoma International Airport are in compliance with applicable requirements for part 150, effective October 29, 2001. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before April 26, 2002. This notice also announces the availability of this program for public review and comment.

Under 49 U.S.C. 47503(a), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. 49 U.S.C. 47503(a)(1) requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) part 150, promulgated pursuant to 49 U.S.C. 47503(a) may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The Manager of the Airfield Line of Business for Seattle-Tacoma International Airport submitted to the FAA noise exposure maps, descriptions and other documentation which were produced during an airport Noise Compatibility Study. It was requested that the FAA review the noise exposure compatibility program under 49 U.S.C. 47504.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Seattle-Tacoma International Airport. The specific maps under consideration are Figures C40 and F1 in the submission. The FAA has determined that these maps for Seattle-Tacoma International Airport are in compliance with applicable requirements. This determination is effective on October 29, 2001. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the maps were developed in accordance with the procedures contained in Appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under 49 U.S.C. 47503, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of 49 U.S.C. 47507. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under 49 U.S.C. 47503(a)(1). The FAA has relied on the certification by the airport operator, under section 150.21 of the FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Seattle-Tacoma International Airport, also effective on October 29, 2001. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before April 26, 2002.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, paragraph 150.33.

The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to the local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 621, Washington, DC.

Federal Aviation Administration, Airports Division, Suite 315, 1601 Lind Avenue, SW., Renton, Washington.
Federal Aviation Administration, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington.
Seattle-Tacoma International Airport, Noise Abatement Office, Main Terminal, Room 6619, Mezzanine Level, Seattle, Washington.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Renton, Washington, October 29, 2001.

Lowell H. Johnson,

Manager, Airports Division, ANM–600, Northwest Mountain Region.

[FR Doc. 02–260 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aging Transport Systems Rulemaking Advisory Committee Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aging Transport Systems Rulemaking Advisory Committee (ATSRAC).

DATES: The FAA will hold the meeting on January 23 and 24, 2002 from 9 a.m. to 4 p.m. on the first day and from 8 a.m. to 3:30 p.m. on the second day.

ADDRESSES: Northwest Airlines Training Facility, 1000 Inner Loop Road, Atlanta, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Shirley Stroman, Office of Rulemaking, ARM–208, FAA, 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 267–7470; fax (202) 267–5075; or e-mail *shirley.stroman@faa.gov.*

SUPPLEMENTARY INFORMATION: This notice announces a meeting of the Aging Transport Systems Rulemaking Advisory Committee, which will be held at the Northwest Airlines Training Facility, 1000 Inner Loop Road, Atlanta, Georgia 30337.

The agenda topics for the meeting will include the following:

Day One

- Aging Affects on Engine Wiring
- Small Transport Aircraft Study Plan
- Enhanced Airworthiness Program for Airplane Systems Update
- Research and Development Update
- Flammability Presentation
- FAA Economist Overview
- Intrusive Inspection Recommendations Status

Day Two

- Standard Wire Practice Manual Working Group and Enhanced Training Program for Wire Systems Working Group Interim Reports
- Wire System Certification Requirements Working Group and Enhance Maintenance Criteria for Systems Working Group Status Reports

Meeting attendance is open to the public. However, space will be limited by the size of the available meeting room. The FAA will provide teleconference services to individuals who wish to participate by telephone and who submit their requests before January 15th. If you use the teleconference service from within the Washington, DC metropolitan calling area, the call would be considered local. However, callers from outside this calling area will be responsible for paying long-distance charges.

In addition to teleconferencing services, we will provide sign and oral interpretation, as well as a listening device if requests are made within 7 calendar days before the meeting. You may arrange for these services by contacting the person listed under the **FOR FURTHER INFORMATION CONTACT** heading of this notice.

The public may present written statements to the Committee by providing 20 copies to the Committee's Executive Director or by bringing the copies to the meeting. Public statements will only be considered if time permits.

Issued in Washington, DC on December 31, 2001.

Ida M. Klepper,

Acting Director, Office of Rulemaking.

[FR Doc. 02–259 Filed 1–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 213X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Wise County, VA

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.66-mile line of railroad between mileposts LT–0.0 and LT–0.66 at Banner, Wise County, VA. The line traverses United States Postal Service ZIP Code 24293.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 5, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 14, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 24, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by a $1000 filing fee. *See* 49 CFR 1002.2(f)(25).

contains false or misleading information, the exemption is void *ab initio.*

NSR has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by January 11, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historical preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by January 4, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: December 27, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–102 Filed 1–3–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 17, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before February 4, 2002.

Internal Revenue Service

OMB Number: 1545–1554.

Form Number: IRS Form MTQ/941.

Type of Review: Extension.

Title: Montana Quarterly Tax Report/ Employer's Quarterly Federal Tax Return.

Description: Form MTQ/941 is used by employers to report payments made to employees subject to income and Social Security and Medicare taxes and the amounts of these taxes. The state of Montana and the Simplified Tax and Wage Reporting System (STAWRS) have formed a partnership to explore the potential of combining Montana's quarterly reports for state withholding, Old Fund Liability tax, and Unemployment Insurance with the Employer's Quarterly Federal Tax Return (Form 941). One form will satisfy both State and Federal requirements and will make employer filing faster and easier.

Respondents: Business or other for-profit, Individual or households, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 710.

Estimated Burden Hours Per Respondent/Recordkeeper:

For Form 941:

Recordkeeping—9 hr., 34 min.

Learning about the law or the form—30 min.

Preparing the form—40 min.

Copying, assembling, and sending the form to the IRS—16 min.

For Form 941 TeleFile:

Recordkeeping—5 hr., 16 min.

Learning about the law or the Tax Record—18 min.

Preparing the Tax Record—23 min.

TeleFile phone call—11 min.

Frequency of Response: Quarterly.

Estimated Total Reporting/ Recordkeeping Burden: 30,661 hours.

Clearance Officer: George Freeland, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 02–168 Filed 1–3–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 18, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before February 4, 2002 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545–0047.

Form Number: IRS Form 5300 and Schedule Q (Form 5300).

Type of Review: Extension.

Title: Application for Determination for Employee Benefit Plan, Schedule Q (Form 5300); and Elective Determination Requests (Schedule Q).

Description: IRS needs certain information on the financing and operating of employee benefit and employee contribution plans set up by employers. IRS uses Form 5300 to obtain the information needed to determine whether the plans qualify under Code sections 401(a) and 501(a). Schedule Q provides information related to the manner in which a plan satisfies certain qualification requirements relating to minimum participation, coverage, and nondiscrimination.

Respondents: Individual or households, Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 185,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form/schedule	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS
Form 5300	41 hr., 7 min	7 hr., 54 min	13 hr., 34 min	1 hr., 20 min.
Schedule Q (Form 5300)	6 hr., 13 min	9 hr., 14 min	9 hr., 45 min.	

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 17,955,750 hours.

OMB Number: 1545–0200.

Form Number: IRS Form 5307.

Type of Review: Extension.

Title: Application for Determination of Adopters of Master or Prototype or Volume Submitter Plans.

Description: This form is filed by employers or plan administrators who have adopted a master or prototype plan approved by the IRS District Director to obtain a ruling that the plan adopted is qualified under Internal Revenue Code sections 401(a) and 501(a). It may not be used to request a letter for a multiple employer plan.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 100,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—27 hr., 58 min.
Learning about the law or the form—6 hr., 40 min.
Preparing the form—10 hr., 12 min.
Copying, assembling, and sending the form to the IRS—48 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 538,250 hours.

OMB Number: 1545–0229.

Form Number: IRS Form 6406.

Type of Review: Extension.

Title: Short Form Application for Determination for Minor Amendment of Employee Benefit Plan.

Description: This form is used by certain employee plans who want a determination letter or an amendment to the plan. The information gathered will be used to decide whether the plan is qualified under section 401(a).

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 25,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—14 hr., 21 min.
Learning about the law or the form—2 hr., 13 min.
Preparing the form—4 hr., 25 min.
Copying, assembling, and sending the form to the IRS—32 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 538,250 hours.

Clearance Officer: George Freeland, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 02–169 Filed 1–3–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary; List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the bet information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Bahrain
Iraq
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Dated: December 20, 2001.

Barbara Angus,

International Tax Counsel (Tax Policy).

[FR Doc. 02–170 Filed 1–3–02; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease Development of Property at the Department of Veterans Affairs Medical Center, Batavia, NY

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Designation and Intent to Award.

SUMMARY: The Secretary of the Department of Veterans Affairs (VA) is designating the Department of Veterans Affairs Medical Center, Batavia, NY, for an enhanced-use leasing development. The Department intends to enter into a 50-year lease of real property with a competitively selected lessee/developer who will finance, design, develop, maintain and manage a transitional housing and homeless services facility, all at no cost to VA.

FOR FURTHER INFORMATION CONTACT: Jake Gallun, Office of Asset Enterprise Management (004B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8862.

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: December 27, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 02–181 Filed 1–3–02; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 67, No. 3

Friday, January 4, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 000629197-1282-02; I.D. 032900A]

RIN 0648-AN06

Atlantic Highly Migratory Species; Monitoring of Recreational Landings

Correction

In proposed rule document 01–31662 beginning on page 66386 in the issue of Wednesday, December 26, 2001, make the following correction:

On page 66386, in the first column, under the heading **DATES:**, in the third line, ''February 25, 2002'' should read ''February 19, 2002''.

[FR Doc. C1–31662 Filed 1–3–02; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act of 1934, Release No. 45179/December 20, 2001]

Securities Industry Association 1401 Eye Street, NW., Washington DC 20005–2225; Order Extending Broker-Dealer Exemption From Sending Financial Information to Customers

Correction

In notice document 01–31918 beginning on page 67341 in the issue of Friday, December 28, 2001 make the following correction:

On page 67341, in the second column, the subject line is corrected to read as set forth above.

[FR Doc. C1–31918 Filed 1–3–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

49 CFR Part 1

[Docket No. OST-1999-6189]

RIN 2105-ZZ04

Organization and Delegation of Powers and Duties to the under Secretary of Transportation for Security, Transportation Security Administration

Correction

In rule document 01–32021 beginning on page 67117 in the issue of Friday, December 28, 2001, make the following corrections:

§1.2 [Corrected]

1. On page 67118, in the first column, in § 1.2, in amendatory instruction 2, in the first line ''new paragraph (1)'' should read ''new paragraph (l).''

2. On the same page, in the same column, in the same section, in the amendatory text ''(1) The Under Secretary of Transportation for Security.'' should read ''(l) The Under Secretary of Transportation for Security.''

[FR Doc. C1–32021 Filed 1–3–02; 8:45 am]

BILLING CODE 1505–01–D

Corrections

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BILLING CODE 1505–01–D

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BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

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[FR Doc. C1–32021 Filed 1–3–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,

January 4, 2002

Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 23 and 52

Federal Acquisition Regulation; Hazardous Material Safety Data; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 23 and 52

[FAR Case 1998–020]

RIN 9000–AJ21

Federal Acquisition Regulation; Hazardous Material Safety Data

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 revise the language that provides policies and procedures for contractor submission of Material Safety Data Sheets (MSDSs).

DATES: Interested parties should submit comments in writing on or before March 5, 2002 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.1998–020@gsa.gov.*

Please submit comments only and cite FAR case 1998–020 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. Laura Smith, Procurement Analyst, (202) 208–7279. Please cite FAR case 1998–020.

SUPPLEMENTARY INFORMATION:

A. Background

The Occupational Safety and Health Act of 1970 (OSHA) and the Federal Hazard Communication Standard (29 CFR 1910.1200) provide protection for most of this nation's employees against the hazards of exposure to domestically produced or imported chemicals. This protection is provided by requiring the manufacturer or importer of chemicals to label their products and to develop and distribute detailed MSDSs that evaluate and discuss the impact of hazardous materials used in the nation's workplaces. The manufacturer or importer is required to provide a copy of the MSDS with initial shipments of the product and whenever revisions to the product require revising the MSDS. OSHA excludes public sector employees from the protection provided by the Federal Hazard Communication Standard. FED-STD 313 was originally developed to extend to Federal employees the protection provided by OSHA laws and regulations to private sector employees.

The current Federal Standard is FED–STD–313D, Material Safety Data, Transportation Data and Disposal Data for Hazardous Materials Furnished to Government Activities, dated April 3, 1996, including Change Notice 1, dated March 21, 2000. The standard establishes the requirement for the preparation and submission of MSDSs by Government contractors who provide hazardous materials to the Government. The standard includes in its definition of hazardous materials any item or chemical that—

1. Is a health hazard or physical hazard as defined by OSHA in 29 CFR 1910.1200;

2. Is reportable or potentially reportable or noticeable as inventory under the reporting requirements of the Hazardous Chemical Reporting (40 CFR part 302), or as an environmental release under the reporting requirements of the Toxic Chemical Release Reporting: Community Right to Know (40 CFR part 372);

3. When being transported or moved, is a risk to public safety or an environmental hazard; and

4. Is a special nuclear source, or by-product material as defined in 10 CFR part 40 or is regulated or referred to as radioactive.

FAR Subpart 23.3, Hazardous Material Identification and Material Safety Data, and FAR 52.223–3, Hazardous Material Identification and Material Safety Data, implement Federal Standard 313 requirements in Government contracts that require the delivery of hazardous materials. The FAR policies and procedures ensure that the Government has notice of hazardous materials that will be supplied under Government contract and receives MSDSs necessary for employee safety and health programs and information necessary for the safe handling, storage, use, transportation and environmentally acceptable disposal of hazardous materials. These policies and procedures also ensure that Federal agencies that have facilities that are required by Executive order to meet reporting and notice requirements under the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001–11050) and the Pollution Prevention Act of 1990 (42 U.S.C. 13101–13109) have the necessary information to make those reports or provide essential information in emergencies.

The Councils initiated this case at the request of industry to consider changes to FAR Subpart 23.3 and FAR 52.223–3. Industry's concerns with the existing FAR text include—

1. The definition of ''hazardous material;''

2. The requirement to comply with any future revisions to Federal Standard 313 after contract award without an equitable adjustment;

3. Requiring from contractors information over and above information required by the Federal Hazard Communication Standard. (The FAR Council is analyzing the differences between the OSHA standard and FED STD 313. This analysis will be complete prior to promulgation of a final rule. The FAR Council requests comments whether further changes to FED STD 313 are needed to make it more in line with the Federal Hazard Communication Standard);

4. Ambiguous wording (*e.g.*, term of contract);

5. Virtually unlimited Government rights in the MSDS information and data without any protection for trade secrets or other proprietary data; and

6. Liability issues.

The Councils are proposing the following revisions to the FAR to address industry's concerns:

1. Removing the automatic inclusion of future Federal Standard 313 revisions into the contract. FAR 52.223–3(a) defines ''hazardous material'' as any material defined as hazardous under the latest version of Federal Standard 313 including revisions adopted during the term of the contract. The Councils agree with industry that the phrase ''term of the contract'' was ambiguous and that it is difficult to anticipate future changes and their cost impact. This rule modifies the clause to require the contractor to comply with only the version of the Federal Standard in effect at the time of award of the contract. The contracting officer may modify the contract to address subsequent revisions to FED–STD–313, and make an equitable adjustment, if appropriate.

2. Conforming FAR policy for proprietary information and information protected as trade secrets to policies provided in the Federal Hazard Communication Standard and Environmental Protection Agency (EPA) regulation at 40 CFR part 350.

3. Deleting FAR 52.223–3(f) that states that ''neither the requirements of this clause nor any act or failure to act by the Government shall relieve the contractor of any responsibility or liability for the safety of the Government, contractor, or subcontractor personnel or property.''

Additionally, the rule—

(a) Removes the solicitation provision requirements from FAR 52.223–3 and establishes a separate provision at FAR 52.223–XX;

(b) Clarifies that the rule applies if hazardous materials are expected to be delivered under the contract or incorporated into end items to be delivered under the contract (if certain conditions are met); and

(c) Makes a number of editorial changes.

This is a significant regulatory action and, therefore, was 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 simply provides additional guidance on the current requirement at FAR Subpart 23.3 and the FAR clause at 52.223–3 for contractors to submit MSDSs if they provide hazardous materials to the Government. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR parts 23 and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 1998–020), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) applies because the proposed rule contains information collection requirements. Accordingly, the FAR Secretariat has submitted a request for approval of a new information collection requirement concerning OMB Control Number 9000–00XX, FAR case 1998–020, Hazardous Material Safety Data, to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average .268 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows:

Respondents: 37,000.

Responses per respondent: 1.45.

Total annual responses: 53,600.

Preparation hours per response: .268

Total response burden hours: 14,350.

D. Request for Comments Regarding Paperwork Burden

Submit comments, including suggestions for reducing this burden, not later than March 5, 2002 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.

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.

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVP), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control Number 9000–00XX, FAR Case 1998–020, Hazardous Material Safety Data, in all correspondence.

List of Subjects in 48 CFR parts 23 and 52

Government procurement.

Dated: December 28, 2001.

Victoria Moss,

Acting Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 23 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 23 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 23—ENVIRONMENT, CONVSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. Revise Subpart 23.3, consisting of sections 23.300 through 23.303, to read as follows:

Subpart 23.3—Hazardous Material Identification and Material Safety Data

Sec.

23.300 Scope of subpart.
23.301 General.
23.302 Procedures.
23.303 Solicitation provision and contract clause.

23.300 Scope of subpart.

This subpart—

(a) Prescribes policies and procedures for acquisitions, other than for ammunition and explosives, that require the furnishing of data involving hazardous materials as defined in Federal Standard 313, Material Safety Data, Transportation Data and Disposal Data for Hazardous Materials Furnished to Government Activities; and

(b) Applies if hazardous material is expected to be—

(1) Delivered under the contract; or

(2)(i) Incorporated into end items to be delivered under the contract; and

(ii) Incorporation into the end items does not eliminate their hazardous nature throughout the life cycle of the end items.

(c) Agencies may prescribe special procedures for ammunition and explosives.

23.301 General.

(a) Federal Standard 313, issued and maintained by GSA—

(1) Includes criteria for identification of hazardous materials; and

(2) Establishes requirements for the preparation and submission of Material Safety Data Sheets (MSDSs) by contractors that provide hazardous materials to the Government.

(b) Agencies must obtain MSDSs on hazardous materials delivered under Government contracts to—

(1) Provide for safe handling, storage, use, transportation, and environmentally acceptable disposal of hazardous materials; and

(2) Apprise employees, in accordance with regulations issued by the Occupational Safety and Health Administration (OSHA), of—

(i) All hazards to which they may be exposed;

(ii) Relative symptoms and appropriate emergency treatment; and

(iii) Proper conditions and appropriate protective measures for safe use and handling.

(c) OSHA Standards (29 CFR 1910.1200) or Environmental Protection Agency regulations (40 CFR part 350), as applicable, provide policy when the MSDS indicates that the specific chemical identity of the hazardous material is being withheld as a trade secret.

23.302 Procedures.

The contracting officer must—

(a) Require the apparently successful offeror or quoter to submit MSDSs before contract award; and

(b) Provide the safety officer or other designated individual with a copy of all MSDSs received.

23.303 Solicitation provision and contract clause.

(a) Insert the provision at 52.223–XX, Hazardous Materials, in solicitations that include the clause at 52.223–3, Hazardous Material Identification and Material Safety Data.

(b)(1) Insert the clause at 52.223–3, Hazardous Material Identification and Material Safety Data, in solicitations and contracts if the contract will require the delivery of—

(i) A hazardous material; or

(ii) An end item that includes a hazardous material that does not lose its hazardous nature throughout the life cycle of the end item.

(2) If the agency awarding the contract is not the Department of Defense, use the clause with its Alternate I.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Add section 52.223–XX to read as follows:

52.223–XX Hazardous Materials.

As prescribed in 23.303(a), insert the following provision:

Hazardous Materials (Date)

(a) *Definition. Hazardous material*, as used in this provision, means any material defined as hazardous in the version of Federal Standard 313, Material Safety Data, Transportation Data and Disposal Data for Hazardous Materials Furnished to Government Activities, in effect on the date of issuance of the solicitation.

(b) The offeror or quoter shall—

(1) Submit a list of hazardous materials to be—

(i) Delivered under the contract; or

(ii)(A) Incorporated into end items to be delivered under the contract; and

(B) Incorporation into the end items does not eliminate their hazardous nature throughout the life cycle of the end items; and

(2) Properly identify the hazardous materials and include any applicable identification numbers, such as the National Stock Numbers or the Special Item Numbers.

HAZARDOUS MATERIALS

(If none, insert "None")	Identification Nos.

(c) *Material Safety Data Sheets.* (1) The apparently successful offeror or quoter shall submit on or before the date specified by the Contracting Officer a Material Safety Data Sheet (MSDS) meeting the requirements of the version of Federal Standard 313 in effect on the date of issuance of the solicitation, for all hazardous materials identified in paragraph (b) of this provision, even if the apparently successful offeror or quoter is not the actual manufacturer.

(2) Failure to submit the MSDS prior to award may result in the apparently successful offeror or quoter being considered nonresponsible.

(End of provision)

4. Revise section 52.223–3 to read as follows:

52.223–3 Hazardous Material Identification and Material Safety Data.

As prescribed in 23.303 (b)(1), insert the following clause:

Hazardous Material Identification and Material Safety Data (Date)

(a) *Definition. Hazardous material*, as used in this clause, means any material defined as hazardous in the version of Federal Standard 313, Material Safety Data, Transportation Data and Disposal Data for Hazardous Materials Furnished to Government Act, in effect at the time of award of the contract.—

(b) *Hazardous material identification.* The Contractor shall—

(1) Update the list of hazardous materials provided under FAR 52.223–XX, Hazardous Materials. This list must be updated during performance of the contract whenever the Contractor determines that any other hazardous material will be—

(i) Delivered under the contract; or

(ii)(A) Incorporated into an end item to be delivered under the contract; and

(B) Incorporation into the end item does not eliminate its hazardous nature throughout the life cycle of the end item; and

(2) Provide the updated list to the Contracting Officer.

(c) *Material Safety Data Sheets (MSDSs).* The Contractor shall—

(1) Promptly notify and submit a revised MSDS to the Contracting Officer whenever there is a change in the composition of an item(s) that renders incomplete or inaccurate any MSDS previously submitted under FAR 52.223–XX, or this clause;

(2) Submit an MSDS if the Contractor determines that any other material to be delivered under this contract is hazardous, even if the Contractor is not the actual manufacturer;

(3) Submit any revised or new MSDS consistent with the version of Federal Standard 313 in effect at the time of award of the contract; and

(4) Make MSDSs available to the Government when using any hazardous materials in areas where Government employees may be exposed, including MSDSs for hazardous materials not included on the list of hazardous materials (see paragraph (b)(1) of this clause).

(d) The requirements of this clause shall not relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) concerning hazardous material.

(End of clause)

Alternate I (Date) As prescribed in 23.303(b)(2), add the following paragraph (e) to the basic clause:

(e) The Contractor shall—

(1) For items that are shipped to consignees identified by mailing address as agency depots, distribution centers, or customer supply centers, place one copy of the MSDS in—

(i) Each shipping container; or

(ii) A weather resistant envelope affixed to the outside of each shipping container; and

(2) For other consignees—

(i) Include a copy of the MSDS with the packing list or other suitable shipping document accompanying each shipment; or

(ii) If authorized in writing by the Contracting Officer, transmit the MSDSs to consignees in advance of shipment.

[FR Doc. 02–117 Filed 1–3–02; 8:45 am]

BILLING CODE 6820–EP–P

Federal Register

Friday,

January 4, 2002

Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 23 and 52

Federal Acquisition Regulation; Hazardous Material Safety Data; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 23 and 52

[FAR Case 1998–020]

RIN 9000–AJ21

Federal Acquisition Regulation; Hazardous Material Safety Data

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 revise the language that provides policies and procedures for contractor submission of Material Safety Data Sheets (MSDSs).

DATES: Interested parties should submit comments in writing on or before March 5, 2002 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.1998–020@gsa.gov.*

Please submit comments only and cite FAR case 1998–020 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. Laura Smith, Procurement Analyst, (202) 208–7279. Please cite FAR case 1998–020.

SUPPLEMENTARY INFORMATION:

A. Background

The Occupational Safety and Health Act of 1970 (OSHA) and the Federal Hazard Communication Standard (29 CFR 1910.1200) provide protection for most of this nation's employees against the hazards of exposure to domestically produced or imported chemicals. This protection is provided by requiring the manufacturer or importer of chemicals to label their products and to develop and distribute detailed MSDSs that evaluate and discuss the impact of hazardous materials used in the nation's workplaces. The manufacturer or importer is required to provide a copy of the MSDS with initial shipments of the product and whenever revisions to the product require revising the MSDS. OSHA excludes public sector employees from the protection provided by the Federal Hazard Communication Standard. FED-STD 313 was originally developed to extend to Federal employees the protection provided by OSHA laws and regulations to private sector employees.

The current Federal Standard is FED–STD–313D, Material Safety Data, Transportation Data and Disposal Data for Hazardous Materials Furnished to Government Activities, dated April 3, 1996, including Change Notice 1, dated March 21, 2000. The standard establishes the requirement for the preparation and submission of MSDSs by Government contractors who provide hazardous materials to the Government. The standard includes in its definition of hazardous materials any item or chemical that—

1. Is a health hazard or physical hazard as defined by OSHA in 29 CFR 1910.1200;

2. Is reportable or potentially reportable or noticeable as inventory under the reporting requirements of the Hazardous Chemical Reporting (40 CFR part 302), or as an environmental release under the reporting requirements of the Toxic Chemical Release Reporting: Community Right to Know (40 CFR part 372);

3. When being transported or moved, is a risk to public safety or an environmental hazard; and

4. Is a special nuclear source, or by-product material as defined in 10 CFR part 40 or is regulated or referred to as radioactive.

FAR Subpart 23.3, Hazardous Material Identification and Material Safety Data, and FAR 52.223–3, Hazardous Material Identification and Material Safety Data, implement Federal Standard 313 requirements in Government contracts that require the delivery of hazardous materials. The FAR policies and procedures ensure that the Government has notice of hazardous materials that will be supplied under Government contract and receives MSDSs necessary for employee safety and health programs and information necessary for the safe handling, storage, use, transportation and environmentally acceptable disposal of hazardous materials. These policies and procedures also ensure that Federal agencies that have facilities that are required by Executive order to meet reporting and notice requirements under the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001–11050) and the Pollution Prevention Act of 1990 (42 U.S.C. 13101–13109) have the necessary information to make those reports or provide essential information in emergencies.

The Councils initiated this case at the request of industry to consider changes to FAR Subpart 23.3 and FAR 52.223–3. Industry's concerns with the existing FAR text include—

1. The definition of ''hazardous material;''

2. The requirement to comply with any future revisions to Federal Standard 313 after contract award without an equitable adjustment;

3. Requiring from contractors information over and above information required by the Federal Hazard Communication Standard. (The FAR Council is analyzing the differences between the OSHA standard and FED STD 313. This analysis will be complete prior to promulgation of a final rule. The FAR Council requests comments whether further changes to FED STD 313 are needed to make it more in line with the Federal Hazard Communication Standard);

4. Ambiguous wording (*e.g.*, term of contract);

5. Virtually unlimited Government rights in the MSDS information and data without any protection for trade secrets or other proprietary data; and

6. Liability issues.

The Councils are proposing the following revisions to the FAR to address industry's concerns:

1. Removing the automatic inclusion of future Federal Standard 313 revisions into the contract. FAR 52.223–3(a) defines ''hazardous material'' as any material defined as hazardous under the latest version of Federal Standard 313 including revisions adopted during the term of the contract. The Councils agree with industry that the phrase ''term of the contract'' was ambiguous and that it is difficult to anticipate future changes and their cost impact. This rule modifies the clause to require the contractor to comply with only the version of the Federal Standard in effect at the time of award of the contract. The contracting officer may modify the contract to address subsequent revisions to FED–STD–313, and make an equitable adjustment, if appropriate.

2. Conforming FAR policy for proprietary information and information protected as trade secrets to policies provided in the Federal Hazard Communication Standard and Environmental Protection Agency (EPA) regulation at 40 CFR part 350.

3. Deleting FAR 52.223–3(f) that states that ''neither the requirements of this clause nor any act or failure to act by the Government shall relieve the contractor of any responsibility or liability for the safety of the Government, contractor, or subcontractor personnel or property.''

Additionally, the rule—

(a) Removes the solicitation provision requirements from FAR 52.223–3 and establishes a separate provision at FAR 52.223–XX;

(b) Clarifies that the rule applies if hazardous materials are expected to be delivered under the contract or incorporated into end items to be delivered under the contract (if certain conditions are met); and

(c) Makes a number of editorial changes.

This is a significant regulatory action and, therefore, was 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 simply provides additional guidance on the current requirement at FAR Subpart 23.3 and the FAR clause at 52.223–3 for contractors to submit MSDSs if they provide hazardous materials to the Government. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR parts 23 and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 1998–020), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) applies because the proposed rule contains information collection requirements. Accordingly, the FAR Secretariat has submitted a request for approval of a new information collection requirement concerning OMB Control Number 9000–00XX, FAR case 1998–020, Hazardous Material Safety Data, to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average .268 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows:

Respondents: 37,000.

Responses per respondent: 1.45.

Total annual responses: 53,600.

Preparation hours per response: .268

Total response burden hours: 14,350.

D. Request for Comments Regarding Paperwork Burden

Submit comments, including suggestions for reducing this burden, not later than March 5, 2002 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.

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.

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVP), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control Number 9000–00XX, FAR Case 1998–020, Hazardous Material Safety Data, in all correspondence.

List of Subjects in 48 CFR parts 23 and 52

Government procurement.

Dated: December 28, 2001.

Victoria Moss,

Acting Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 23 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 23 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 23—ENVIRONMENT, CONVSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. Revise Subpart 23.3, consisting of sections 23.300 through 23.303, to read as follows:

Subpart 23.3—Hazardous Material Identification and Material Safety Data

Sec.

23.300 Scope of subpart.
23.301 General.
23.302 Procedures.
23.303 Solicitation provision and contract clause.

23.300 Scope of subpart.

This subpart—

(a) Prescribes policies and procedures for acquisitions, other than for ammunition and explosives, that require the furnishing of data involving hazardous materials as defined in Federal Standard 313, Material Safety Data, Transportation Data and Disposal Data for Hazardous Materials Furnished to Government Activities; and

(b) Applies if hazardous material is expected to be—

(1) Delivered under the contract; or

(2)(i) Incorporated into end items to be delivered under the contract; and

(ii) Incorporation into the end items does not eliminate their hazardous nature throughout the life cycle of the end items.

(c) Agencies may prescribe special procedures for ammunition and explosives.

23.301 General.

(a) Federal Standard 313, issued and maintained by GSA—

(1) Includes criteria for identification of hazardous materials; and

(2) Establishes requirements for the preparation and submission of Material Safety Data Sheets (MSDSs) by contractors that provide hazardous materials to the Government.

(b) Agencies must obtain MSDSs on hazardous materials delivered under Government contracts to—

(1) Provide for safe handling, storage, use, transportation, and environmentally acceptable disposal of hazardous materials; and

(2) Apprise employees, in accordance with regulations issued by the Occupational Safety and Health Administration (OSHA), of—

(i) All hazards to which they may be exposed;

(ii) Relative symptoms and appropriate emergency treatment; and

(iii) Proper conditions and appropriate protective measures for safe use and handling.

(c) OSHA Standards (29 CFR 1910.1200) or Environmental Protection Agency regulations (40 CFR part 350), as applicable, provide policy when the MSDS indicates that the specific chemical identity of the hazardous material is being withheld as a trade secret.

23.302 Procedures.

The contracting officer must—

(a) Require the apparently successful offeror or quoter to submit MSDSs before contract award; and

(b) Provide the safety officer or other designated individual with a copy of all MSDSs received.

23.303 Solicitation provision and contract clause.

(a) Insert the provision at 52.223–XX, Hazardous Materials, in solicitations that include the clause at 52.223–3, Hazardous Material Identification and Material Safety Data.

(b)(1) Insert the clause at 52.223–3, Hazardous Material Identification and Material Safety Data, in solicitations and contracts if the contract will require the delivery of—

(i) A hazardous material; or

(ii) An end item that includes a hazardous material that does not lose its hazardous nature throughout the life cycle of the end item.

(2) If the agency awarding the contract is not the Department of Defense, use the clause with its Alternate I.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Add section 52.223–XX to read as follows:

52.223–XX Hazardous Materials.

As prescribed in 23.303(a), insert the following provision:

Hazardous Materials (Date)

(a) *Definition. Hazardous material*, as used in this provision, means any material defined as hazardous in the version of Federal Standard 313, Material Safety Data, Transportation Data and Disposal Data for Hazardous Materials Furnished to Government Activities, in effect on the date of issuance of the solicitation.

(b) The offeror or quoter shall—

(1) Submit a list of hazardous materials to be—

(i) Delivered under the contract; or

(ii)(A) Incorporated into end items to be delivered under the contract; and

(B) Incorporation into the end items does not eliminate their hazardous nature throughout the life cycle of the end items; and

(2) Properly identify the hazardous materials and include any applicable identification numbers, such as the National Stock Numbers or the Special Item Numbers.

HAZARDOUS MATERIALS

(If none, insert "None")	Identification Nos.

(c) *Material Safety Data Sheets.* (1) The apparently successful offeror or quoter shall submit on or before the date specified by the Contracting Officer a Material Safety Data Sheet (MSDS) meeting the requirements of the version of Federal Standard 313 in effect on the date of issuance of the solicitation, for all hazardous materials identified in paragraph (b) of this provision, even if the apparently successful offeror or quoter is not the actual manufacturer.

(2) Failure to submit the MSDS prior to award may result in the apparently successful offeror or quoter being considered nonresponsible.

(End of provision)

4. Revise section 52.223–3 to read as follows:

52.223–3 Hazardous Material Identification and Material Safety Data.

As prescribed in 23.303 (b)(1), insert the following clause:

Hazardous Material Identification and Material Safety Data (Date)

(a) *Definition. Hazardous material*, as used in this clause, means any material defined as hazardous in the version of Federal Standard 313, Material Safety Data, Transportation Data and Disposal Data for Hazardous Materials Furnished to Government Act, in effect at the time of award of the contract.—

(b) *Hazardous material identification.* The Contractor shall—

(1) Update the list of hazardous materials provided under FAR 52.223–XX, Hazardous Materials. This list must be updated during performance of the contract whenever the Contractor determines that any other hazardous material will be—

(i) Delivered under the contract; or

(ii)(A) Incorporated into an end item to be delivered under the contract; and

(B) Incorporation into the end item does not eliminate its hazardous nature throughout the life cycle of the end item; and

(2) Provide the updated list to the Contracting Officer.

(c) *Material Safety Data Sheets (MSDSs).* The Contractor shall—

(1) Promptly notify and submit a revised MSDS to the Contracting Officer whenever there is a change in the composition of an item(s) that renders incomplete or inaccurate any MSDS previously submitted under FAR 52.223–XX, or this clause;

(2) Submit an MSDS if the Contractor determines that any other material to be delivered under this contract is hazardous, even if the Contractor is not the actual manufacturer;

(3) Submit any revised or new MSDS consistent with the version of Federal Standard 313 in effect at the time of award of the contract; and

(4) Make MSDSs available to the Government when using any hazardous materials in areas where Government employees may be exposed, including MSDSs for hazardous materials not included on the list of hazardous materials (see paragraph (b)(1) of this clause).

(d) The requirements of this clause shall not relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) concerning hazardous material.

(End of clause)

Alternate I (Date) As prescribed in 23.303(b)(2), add the following paragraph (e) to the basic clause:

(e) The Contractor shall—

(1) For items that are shipped to consignees identified by mailing address as agency depots, distribution centers, or customer supply centers, place one copy of the MSDS in—

(i) Each shipping container; or

(ii) A weather resistant envelope affixed to the outside of each shipping container; and

(2) For other consignees—

(i) Include a copy of the MSDS with the packing list or other suitable shipping document accompanying each shipment; or

(ii) If authorized in writing by the Contracting Officer, transmit the MSDSs to consignees in advance of shipment.

[FR Doc. 02–117 Filed 1–3–02; 8:45 am]

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Federal Register

Friday,
January 4, 2002

Part III

The President

Notice of January 3, 2002—Continuation of Libya Emergency

Federal Register
Vol. 67, No. 3
Friday, January 4, 2002

Presidential Documents

Title 3—

The President

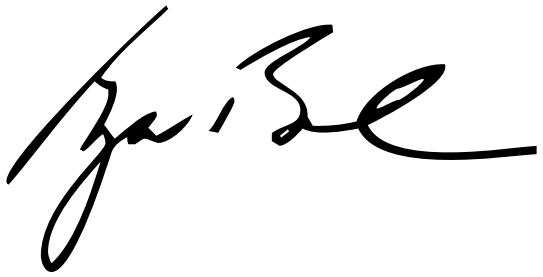
Notice of January 3, 2002

Continuation of Libya Emergency

On January 7, 1986, by Executive Order 12543, President Reagan declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of the Government of Libya. On January 8, 1986, by Executive Order 12544, the President took additional measures to block Libyan assets in the United States. The President has transmitted a notice continuing this emergency to the Congress and the **Federal Register** every year since 1986.

The crisis between the United States and Libya that led to the declaration of a national emergency on January 7, 1986, has not been resolved. Despite the United Nations Security Council's suspension of U.N. sanctions against Libya upon the Libyan government's hand over of the Pan Am 103 bombing suspects, Libya has not yet complied with its obligations under U.N. Security Council Resolutions 731 (1992), 748 (1992), and 883 (1993), which include Libya's obligation to accept responsibility for the actions of its officials and pay compensation.

Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Libya. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
January 3, 2002.

[FR Doc. 02–400
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Federal Register

Friday,
January 4, 2002

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The President

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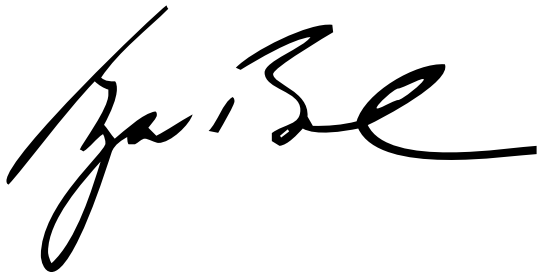
Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Libya. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
January 3, 2002.

[FR Doc. 02–400
Filed 1–3–01; 11:35 am]
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Federal Register

Vol. 67, No. 3

Friday, January 4, 2002

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Presidential Documents

Executive orders and proclamations — **523–5227**

The United States Government Manual — **523–5227**

Other Services

Electronic and on-line services (voice) — **523–3447**

Privacy Act Compilation — **523–3187**

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FEDERAL REGISTER PAGES AND DATE, JANUARY

1–264 2
265–478 3
479–638 4

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7516 479

Executive Orders:
12543 (See Notice of January 3, 2002) 637
12544 (See Notice of January 3, 2002) 637

Administrative Orders:

Notices:
January 3, 2002 637

7 CFR

1464 481
1721 484

Proposed Rules:
Ch. I 525
Ch. IX 525
Ch. X 525
Ch. XI 525
800 25
1464 526

10 CFR

Proposed Rules:
35 274

14 CFR

25 487
39 ..... 1, 123, 265, 489, 491, 492, 494, 495, 497, 499, 500, 502, 503, 505, 507, 509
71 ..... 510, 511, 512, 513, 514, 515, 516, 517
97 ..... 267, 269
330 250

Proposed Rules:
39 ..... 29, 31, 33, 35, 38, 40, 530, 534, 537, 538, 541, 542, 544, 547, 550
71 552
93 123
330 263

15 CFR

743 458
752 458
772 458
774 458

16 CFR

4 123

17 CFR

228 232
229 232
230 228
240 232
241 6
249 232

18 CFR

Proposed Rules:
284 44

21 CFR

173 271

26 CFR

1 8
602 8

Proposed Rules:
1 48

30 CFR

Proposed Rules:
250 275

33 CFR

110 17
165 517

37 CFR

1 520

38 CFR

Proposed Rules:
3 200
17 200
21 200

39 CFR

Proposed Rules:
111 275

40 CFR

52 ..... 18, 19
62 271

Proposed Rules:
3 278
51 278
52 50
60 278
62 279
63 278
70 278
123 278
142 278
145 278
162 278
233 278
257 278
258 278
271 278
281 278

403.....278
501.....278
745.....278
763.....278

48 CFR

Proposed Rules:
23.....631
52.....631

49 CFR

1.....629
219.....21
240.....22

50 CFR

Proposed Rules:
17.....280
635.....629
697.....282

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JANUARY 4, 2002

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Filing fees; annual update; published 12-5-01

ENVIRONMENTAL PROTECTION AGENCY

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; published 11-5-01

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicare and Medicaid:

Physicians' referrals to health care entities with which they have financial relationships; published 1-4-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; published 11-30-01

Boeing; published 11-30-01

Bombardier; published 11-30-01

McDonnell Douglas; published 11-30-01

Sikorsky; published 12-20-01

SOCATA-Groupe Aerospatiale; published 11-19-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Oranges, grapefruit, tangerines, and tangelos grown in—

Florida; comments due by 1-8-02; published 11-9-01 [FR 01-28201]

Tomatoes grown in—

Florida; comments due by 1-8-02; published 11-9-01 [FR 01-28203]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Asian longhorned beetle; comments due by 1-7-02; published 11-8-01 [FR 01-28068]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Caribbean, Gulf, and South Atlantic fisheries—

South Atlantic golden crab; comments due by 1-11-02; published 11-27-01 [FR 01-29494]

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Architect-engineer contractors; new consolidated form for selection; comments due by 1-8-02; published 12-20-01 [FR 01-31304]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Federal Power Act):

Standard generator interconnection agreements and procedures; comments due by 1-11-02; published 12-21-01 [FR 01-31442]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution; standards of performance for new stationary sources:

Testing and monitoring provisions; amendments; comments due by 1-11-02; published 12-12-01 [FR 01-30367]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Iowa; comments due by 1-11-02; published 12-12-01 [FR 01-30738]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Iowa; comments due by 1-11-02; published 12-12-01 [FR 01-30739]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Iowa; comments due by 1-11-02; published 12-12-01 [FR 01-30736]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Iowa; comments due by 1-11-02; published 12-12-01 [FR 01-30737]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Vermont; comments due by 1-10-02; published 12-11-01 [FR 01-30583]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Vermont; comments due by 1-10-02; published 12-11-01 [FR 01-30584]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Illinois; comments due by 1-11-02; published 12-12-01 [FR 01-30581]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Illinois; comments due by 1-11-02; published 12-12-01 [FR 01-30582]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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/nara005.html*. Some laws may not yet be available.

H.R. 3442/P.L. 107–106

National Museum of African American History and Culture Plan for Action Presidential Commission Act of 2001 (Dec. 28, 2001; 115 Stat. 1009)

S. 1438/P.L. 107–107

National Defense Authorization Act for Fiscal Year 2002 (Dec. 28, 2001; 115 Stat. 1012)

H.R. 2883/P.L. 107–108

Intelligence Authorization Act for Fiscal Year 2002 (Dec. 28, 2001; 115 Stat. 1394)

Last List January 3, 2002

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