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Briefing on How To Use the Federal Register
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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

(TWO BRIEFINGS)

WHEN: September 13 at 9:00 am and 1:30 pm

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

RESERVATIONS: 202–523–4538

DENVER, CO

WHEN: September 21, 9:00 am–12 noon

WHERE: Colorado National Bank Building 12345 W. Alameda Parkway, Room 207, Lakewood, CO

RESERVATIONS: Federal Information Center 1–800–359–3997

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Electronic Bulletin Board
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 13

[Docket No. 27873]

RIN 2120–AF36

Special Federal Aviation Regulation No. 72; Civil Penalties; Streamline Enforcement Test and Evaluation Program

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final Rule; correction.

SUMMARY: This action deletes the words Amendment No. 94–13–25, inadvertently used in the heading of the document, and adds the words "Special Federal Aviation Regulation No. 72", in the subject line; published on August 26, 1994; 59 FR 44266.

EFFECTIVE DATES: This SFAR is effective August 26, 1994 through October 26, 1996.

FOR FURTHER INFORMATION CONTACT:

Brian R. Reed, Attorney, Enforcement Division (AGC–320), Federal Aviation Administration, 900 Independence Ave., SE., Washington, DC 20591; telephone (202)267–7158.

SUPPLEMENTARY INFORMATION: The document was published August 26, 1994, 59 FR 44266, please delete the words "Amdt. No. 94–13–25", from the heading and add to the subject line the words; "Special Federal Aviation Regulation No. 72".

Donald P. Byrne,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 94–22359 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 94–ANE–20; Amendment 39–9019; AD 94–18–06]

Airworthiness Directives; Textron Lycoming LTS101 Series Turboshaft and LTP101 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Textron Lycoming LTS101 series turboshaft and LTP101 series turboprop engines. This action requires a one-time removal of 321 No. 2 bearings with serial numbers from suspect manufacturing lots, and replacement with serviceable parts. This amendment is prompted by reports of three in-service bearing failures. The actions specified in this AD are intended to prevent engine power loss and inflight engine shutdown due to No. 2 bearing failure, which could result in possible loss of the aircraft.

DATES: Effective September 26, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 26, 1994.

Comments for inclusion in the Rules Docket must be received on or before November 8, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–20, 12 New England Executive Park, Burlington, MA 01803–5299.

The service information referenced in this AD may be obtained from Textron Lycoming, Stratford Division, 550 Main Street, Stratford, CT 06497. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7148, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has received reports of three in-service bearing failures on Textron Lycoming LTS101 series turboshaft engines. Investigation revealed that three manufacturing lots totaling 321 No. 2 bearings were manufactured with roller cages either undercut or staked improperly, thereby increasing the bearing cage stress levels. The bearings from the incident engines exhibited circumferential fractures spanning across the cage cross web sections. The bearings were the winged design, which incorporates features to improve lubrication.

The FAA has determined through analysis that the fractures were caused due to high cycle fatigue, as no material defects have been found. The failures were caused by an increased stress level at the cross web area, the location of maximum tensile stress of the cage, with crack initiation at the corners of the cross web. Textron Lycoming has determined that two manufacturing lots, with 100 bearings and 147 bearings each, were undercut at the inner diameter (ID) of cage roller pockets to remove burrs after broaching. This undercutting operation removed up to 0.020 inch from the cross web area thickness, about 25% of the total thickness. The two bearing failures were from the lot of 100 undercut-cage bearings. In addition, Textron Lycoming has found that a separate lot of 74 bearings had cage cross webs deformed as the result of an improperly fitted spacer of a staking tool. This condition, if not corrected, could result in engine power loss and inflight engine shutdown due to No. 2 bearing failure, which could result in possible loss of the aircraft.

The FAA has reviewed and approved the technical contents of Textron Lycoming Alert Service Bulletin (ASB) No. A–LT101–72–50–0163, Revision 1, dated March 8, 1994, that describes procedures for removal and replacement of affected No. 2 bearings.

Since an unsafe condition has been identified that is likely to exist or develop on other Textron Lycoming LTS101 series turboshaft and LTP101 series turboprop engines of the same type design, this airworthiness directive (AD) is being issued to prevent engine

power loss and inflight engine shutdown due to No. 2 bearing failure. This AD requires a one-time removal of 321 No. 2 bearings with serial numbers from suspect manufacturing lots, and replacement with serviceable parts. For engines installed on single-engine aircraft and twin-engine aircraft with two affected bearings, the bearings must be removed and replaced prior to further flight. For engines installed on all other aircraft, the bearings must be removed and replaced prior to the next 25 hours time in service (TIS). This timetable is empirically based on the early failure times, on the unpredictable nature of the high cycle fatigue mode, and on the lack of advance warning of failure. At this time, the FAA has not determined an analytically predicted failure time. The compliance timetable of prior to further flight for the single-engine aircraft or twin-engine aircraft with two affected bearings provides for more conservatism based on the possibility of complete loss of engine power. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–ANE–20." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

94–18–06 Textron Lycoming: Amendment 39–9019. Docket 94–ANE–20.

Applicability: Textron Lycoming LTS101 series turboshaft and LTP101 series turboprop engines incorporating No. 2 bearings, Part Number (P/N) 4–301–362–01 that have serial numbers 3–740 through 3–839, 3–1288 through 3–1361, and 4–534 through 4–680. These engines are installed on but not limited to Aerospatiale AS350 and SA–366 series, Bell 222 series, and MBB BK117 series helicopters; and Airtractor AT302, Piaggio P166, Cessna 421 (STC), and Page Thrush airplanes.

Note: Affected bearings, or kits P/N T05K21714, incorporating those bearings, would have been shipped from Textron Lycoming or an approved Service Facility after September 20, 1993.

Compliance: Required as indicated, unless accomplished previously.

To prevent engine power loss and inflight engine shutdown due to No. 2 bearing failure, which could result in possible loss of the aircraft, accomplish the following:

(a) For engines installed on single-engine aircraft and twin-engine aircraft with both engines having affected bearings, prior to further flight remove No. 2 bearings in accordance with Textron Lycoming Alert Service Bulletin (ASB) No. A–LT101–72–50–0163, Revision 1, dated March 8, 1994, and replace with serviceable parts.

(b) For engines installed on all other aircraft, within 25 hours time in service (TIS) after the effective date of this airworthiness directive (AD) remove No. 2 bearings in accordance with Textron Lycoming ASB No. A–LT101–72–50–0163, Revision 1, dated March 8, 1994, and replace with serviceable parts.

(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, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(d) The removal and replacement of the No. 2 bearings shall be done in accordance with the following service document:

Document No.	Pages	Revision	Date
Textron Lycoming ASB No. A–LT101–72–50–0163 ..... Total pages: 3.	1–3	1	Mar. 8, 1994.

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 Textron Lycoming, Stratford Division, 550 Main Street, Stratford, CT 06497. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on September 26, 1994.

Issued in Burlington, Massachusetts, on August 30, 1994.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 94–22075 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–SW–17–AD; Amendment 39–9022; AD 94–18–09]

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 205A, 205A–1, 205B, 212, and 412 Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Bell Helicopter Textron, Inc. Model 205A, 205A–1, 205B, 212, and 412 series helicopters, that requires removal and replacement of a certain design main transmission lower planetary spider (spider), and establishes a 2,500 hours time-in-service retirement life for the spider. This amendment is prompted by five failures of the spider that occurred during the manufacturer's fatigue tests. The actions specified by this AD are intended to prevent fatigue failure of the spider, failure of the main transmission, and subsequent loss of control of the helicopter.

DATES: Effective October 14, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 14, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101. This information may be examined at the Federal Aviation Administration, FAA, Office of the Assistant Chief Counsel, 2601 Meacham Boulevard, Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Uday Garadi, Aerospace Engineer, Rotorcraft Certification Office, FAA, Rotorcraft Directorate, Fort Worth, Texas 76193–0170, telephone (817) 222–5157, fax (817) 222–5959.

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 Bell Helicopter Textron, Inc. Model 205A, 205A–1, 205B, 212, and 412 series helicopters was published in the **Federal Register** on January 5, 1994 (59 FR 555). That action proposed to require removal and replacement of a certain design main transmission lower planetary spider (spider), and proposed to establish a 2,500 hours time-in-service retirement life for the spider.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. However, the FAA has added a sentence to paragraph (c) of this AD to make it clear that the retirement life established is 2,500 hours time-in-service; but, since this AD establishes a new retirement life, those spiders with 2,400 or more hours TIS on the effective date of this AD need not be retired until on or before the accumulation of an additional 100 hours TIS. Additionally, the FAA aerospace engineer to contact regarding this rule has changed since the issuance of the notice and the AD has been changed accordingly. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with the noted changes. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 40 helicopters of U.S. registry will be affected by this AD, that it will take approximately 26 work hours per helicopter to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $8,929 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $414,360.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 94–18–09 Bell Helicopter Textron, Inc.: Amendment 39–9022. Docket No. 93–SW–17–AD.

Applicability: Model 205A, 205A–1, 205B, 212, and 412 series helicopters, with main transmission lower planetary spider (spider) part number (P/N) 412–040–785–101, installed, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue failure of the spider, that could result in failure of the main transmission, and subsequent loss of control of the helicopter, accomplish the following:

(a) For spiders with 2,400 hours or more time-in-service (TIS) on the effective date of this airworthiness directive (AD), within the next 100 hours TIS, remove and replace the spider with an airworthy spider in accordance with the Accomplishment Instructions of Bell Helicopter Textron, Inc. Alert Service Bulletin (ASB) 205–93–54, dated June 18, 1993, for the Models 205A and 205A–1; ASB 205B–93–16, dated June 18, 1993, for the Model 205B; ASB 212–93–83, dated June 18, 1993, for the Model 212; and ASB 412–93–72, Revision A, dated June 18, 1993, for the Model 412 helicopters.

(b) For spiders with less than 2,400 hours TIS on the effective date of this AD, prior to or upon attaining 2,500 hours TIS, remove and replace the spider with an airworthy spider in accordance with the accomplishment instructions of the appropriate ASB referred to in paragraph (a).

(c) This AD revises the Airworthiness Limitations sections of the applicable helicopter maintenance manuals by establishing a retirement life of 2,500 hours TIS for the spider. However, spiders with 2,400 or more hours TIS on the effective date of this AD need not be retired until on or before the accumulation of an additional 100 hours TIS.

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

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

(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 helicopter to a location where the requirements of this AD can be accomplished.

(f) The removal and replacement of the spider shall be done in accordance with Bell Helicopter Textron, Inc. Alert Service Bulletin (ASB) 205–93–54, dated June 18, 1993, for the Models 205A and 205A–1; ASB 205B–93–16, dated June 18, 1993, for the Model 205B; ASB 212–93–83, dated June 18, 1993, for the Model 212; and ASB 412–93–72, Revision A, dated June 18, 1993, for the Model 412 helicopters. 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 Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Boulevard, Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on October 14, 1994.

Issued in Fort Worth, Texas, on August 30, 1994.

James D. Erickson,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 94–21965 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 94–ANE–16; Amendment 39–9016; AD 94–18–03]

Airworthiness Directives; Rolls-Royce plc RB211 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Rolls-Royce plc (R–R) RB211 series turbofan engines. This action requires removing from service intermediate pressure (IP) compressor stage 6–7 rotor shafts that exceed new, reduced cyclic life limits. This amendment is prompted by a report of an uncontained failure of an IP compressor stage 6–7 rotor shaft. The actions specified in this AD are intended to prevent an uncontained engine failure due to rupture of an IP compressor stage 6–7 rotor shaft.

DATES: Effective September 26, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 26, 1994.

Comments for inclusion in the Rules Docket must be received on or before November 8, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–16, 12 New England Executive Park, Burlington, MA 01803–5299.

The service information referenced in this AD may be obtained from Rolls-Royce plc, Technical Publications Department, P.O. Box 31, Derby, England. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Daniel Kerman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7130, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on Rolls-Royce plc (R–R) RB211–22B and –524 series turbofan engines. The CAA advises that they received a report of a cracked intermediate pressure (IP) compressor stage 6–7 rotor shaft that was removed from an R–R RB211–22B engine due to expiration of its life limit. The crack emanated from a corrosion pit, extending 0.45 inches radially inward from the bolt holes in the rotor shaft diaphragm. The manufacturer performed fracture mechanics analysis and determined that the rotor shaft would not reach its published life limit without cracking under normal operating conditions. Consequently, the CAA took mandatory action to reduce the life limit and remove suspect rotor shafts from service.

The CAA received an additional report of an uncontained failure of an IP compressor stage 6–7 rotor shaft installed in an R–R RB211–22B engine that failed during takeoff roll. Investigation determined that the failure may have been caused by stress corrosion cracking of the tierod bolt holes. Laboratory examination revealed that the crack originated at a corrosion pit that had been present for, at minimum, two-thirds of the rotor shaft's service life. The investigation revealed additional rotor shafts with corrosion pitting and cracking. This condition, if not corrected, can result in an uncontained engine failure due to rupture of an IP compressor stage 6–7 rotor shaft.

The R–R RB211–524 IP compressor stage 6–7 rotor shaft is similar in design and construction to the –22B, shares the same material composition, and has also exhibited bolt hole corrosion pitting and cracking. The –524 rotor shaft operates at higher stress levels than the –22B due to increased operational speeds.

Rolls-Royce plc has issued Service Bulletin (SB) No. RB.211–72–9594, Revision 5, dated February 12, 1993, that specifies rework of the IP

compressor stage 6–7 rotor shaft; and SB No. RB.211–72–5787, dated March 20, 1981, that introduces a thicker IP compressor stage 6–7 rotor shaft. Rotor shafts complying with either of these SB's are not affected by this AD.

This engine model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other R–R RB.211 series turbofan engines of the same type design registered in the United States, this AD requires removing from service IP compressor stage 6–7 rotor shafts that exceed new, reduced cyclic life limits. This AD is not applicable to those engines that incorporate the thicker IP compressor stage 6–7 rotor shafts in accordance with R–R SB RB.211–72–5787, dated March 20, 1981. If operators elect to rework rotor shafts in accordance with R–R SB No. RB.211–72–9594, Revision 5, dated February 12, 1993, the rotor shafts may operate up to the assigned life limits.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–ANE–16." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

94–18–03 Rolls-Royce plc: Amendment 39–9016. Docket 94–ANE–16.

Applicability: Rolls-Royce plc (R–R) Model RB211–22B and –524 series turbofan engines, not incorporating thicker intermediate pressure (IP) compressor stage 6–7 rotor shafts in accordance with R–R Service Bulletin (SB) RB.211–72–5787, dated March 20, 1981, and incorporating IP compressor stage 6–7 rotor shafts that have not been reworked in accordance with R–R SB RB.211–72–9594, Revision 5, dated February 12, 1993. These engines are installed on but not limited to Boeing 747 series and 767 series, and Lockheed L–1011 series aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncontained engine failure due to rupture of an IP compressor stage 6–7 rotor shaft, accomplish the following:

(a) For R–R RB211–22B series engines, accomplish the following:

(1) For IP compressor stage 6–7 rotor shafts that have greater than or equal to 14,000 cycles in service (CIS) on the effective date of this AD, remove the rotor shafts within 15 days after the effective date of this AD, and replace with a serviceable part.

(2) For IP compressor stage 6–7 rotor shafts that have less than 14,000 CIS but greater than 11,000 CIS on the effective date of this AD, remove the rotor shafts at the next shop visit, or prior to 45 days after the effective date of this AD, whichever occurs first, and replace with a serviceable part.

(3) For IP compressor stage 6–7 rotor shafts that have 11,000 or less CIS on the effective date of this AD, remove the rotor shafts on or before 11,000 CIS, or 45 days after the effective date of this AD, whichever occurs later, and replace with a serviceable part.

(4) Subsequent to 45 days after the effective date of this AD, the new life limit for the IP compressor stage 6–7 rotor shafts that have not been reworked in accordance with R–R SB RB.211–72–9594, Revision 5, dated February 12, 1993, shall be 11,000 CIS.

(5) Rotor shafts that are reworked in accordance with R–R Service Bulletin No. RB.211–72–9594, Revision 5, dated February 12, 1993, may remain in service until their assigned life limits are reached.

(b) For all affected R–R RB211–524 series engines excluding R–R Models RB211–524D4, –524G, and –524H, accomplish the following:

(1) For IP compressor stage 6–7 rotor shafts that have greater than or equal to 10,500 CIS on the effective date of this AD, remove the

rotor shafts within 15 days after the effective date of this AD, and replace with a serviceable part.

(2) For IP compressor stage 6–7 rotor shafts that have less than 10,500 CIS but greater than 7,500 CIS on the effective date of this AD, remove the rotor shafts at the next shop visit, or January 31, 1995, whichever occurs first, and replace with a serviceable part.

(3) For IP compressor stage 6–7 rotor shafts that have 7,500 or less CIS on the effective date of this AD, remove the rotor shafts on or before 7,500 CIS, or January 31, 1995, whichever occurs later, and replace with a serviceable part.

(4) After January 31, 1995, the new life limit for the IP compressor stage 6–7 rotor shafts that have not been reworked in accordance with R–R SB RB.211–72–9594, Revision 5, dated February 12, 1993, shall be 7,500 CIS.

(5) Rotor shafts that are reworked in accordance with R–R Service Bulletin No. RB.211–72–9594, Revision 5, dated February 12, 1993, may remain in service until their assigned life limits are reached.

(c) For R–R Models RB211–524D4, –524G, and –524H engines, and all other models of R–R RB211–524 series engines with the thicker IP compressor stage 6–7 rotor shaft in accordance with R–R SB RB.211–72–5787, dated March 20, 1981, accomplish the following:

(1) For IP compressor stage 6–7 rotor shafts that have greater than or equal to 10,500 CIS on the effective date of this AD, remove the rotor shafts within 15 days after the effective date of this AD, and replace with a serviceable part.

(2) For IP compressor stage 6–7 rotor shafts that have less than 10,500 CIS but greater than 8,500 CIS on the effective date of this AD, remove the rotor shafts at the next shop visit, or January 31, 1995, whichever occurs first, and replace with a serviceable part.

(3) For IP compressor stage 6–7 rotor shafts that have 8,500 or less CIS on the effective date of this AD, remove the rotor shafts on or before 8,500 CIS, or January 31, 1995, whichever occurs later, and replace with a serviceable part.

(4) After January 31, 1995, the new life limit for the IP compressor stage 6–7 rotor shafts shall be 8,500 CIS.

(5) Rotor shafts that are reworked in accordance with R–R Service Bulletin No. RB.211–72–9594, Revision 5, dated February 12, 1993, may remain in service until their assigned life limits are reached.

(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, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(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 aircraft to a location where the requirements of this AD can be accomplished.

(f) The rework, if accomplished, shall be done in accordance with the following service documents:

Document No.	Pages	Revision	Date
R–R SB No. RB.211–72–9594	1	5	February 12, 1993.
	2	Original	February 5, 1992.
	3	4	November 13, 1992.
	4	2	May 8, 1992.
	5	4	November 13, 1992.
	6–6A	2	May 8, 1992.
	7	Original	February 5, 1992.
	8–9	2	May 8, 1992.
	10	3	August 7, 1992.
	11–14	2	May 8, 1992.
	15–18	Original	February 5, 1992.
	19–20	4	November 13, 1992.
	21	Original	February 5, 1992.
	22–25	2	May 8, 1992.
Supplement	1	2	May 8, 1992.
Appendix 1	1–4	5	February 12, 1993.
	5	Original	February 5, 1992.
Total pages: 32.			
R–R SB No. RB.211–72–5787	1–6	Original	March 20, 1981.
Supplement	1	Original	March 20, 1981.
Total pages: 7.			

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 Rolls-Royce plc, Technical Publications Department, P.O. Box 31, Derby, England. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on September 26, 1994.

Issued in Burlington, Massachusetts, on August 24, 1994.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 94–21723 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 91–NM–23–AD; Amendment 39–9015; AD 94–18–02]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Airbus Industrie Model A300 series airplanes, that requires the implementation of a corrosion prevention and control program, either by revising the maintenance program or by accomplishing specific inspection procedures. This amendment is prompted by reports of incidents involving corrosion and fatigue cracking in transport category airplanes that are approaching or have exceeded their economic design goal; these incidents have jeopardized the airworthiness of the affected airplanes. The actions specified by this AD are intended to prevent degradation of the structural capabilities of the airplane due to the problems associated with corrosion.

DATES: Effective October 11, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 11, 1994.

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: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

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 Airbus Model A300 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on May 27, 1993 (58 FR 30722). That action proposed to require the implementation of a corrosion prevention and control program, either by revising the maintenance program or by accomplishing specific inspection procedures.

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 supports the proposal.

Several commenters request that the proposed rule specify whether or not the proposed requirements are applicable to Airbus Model A300–600 series airplanes. These commenters consider that the rule should not be applicable to the Model A300–600, since the rule is intended to address problems associated with structural failure of aging airplanes, and the Model A300–600 fleet is not close to reaching its economic design goal. The FAA acknowledges that some clarification of the applicability of the rule is warranted. The FAA did not intend for the rule to be applicable to the Model A300–600. Therefore, to eliminate any confusion that may arise among affected operators, the FAA has revised the applicability of the final rule to indicate clearly that the requirements of the rule are not applicable to Model A300–600 series airplanes.

Another commenter requests that NOTE 2 of the proposal be expanded to explain the extent of FAA involvement in paragraphs (c), (d), (e), and (f). The FAA does not consider that any additional explanation is necessary. NOTE 2 specifically defines the term "FAA" for affected operators conducting their operations under various parts of the Federal Aviation Regulations. The information presented in NOTE 2 is valid for each use of the term "FAA" throughout the AD.

This same commenter requests that, in order to ensure consistent implementation of the program and to provide a reliable statistical data base, the proposal be revised to indicate that credit for completion of the initial task is limited to only those inspections that are accomplished at a time beyond the implementation age (IA) for the particular area. In support of this request, the commenter refers to NOTE 7 of the proposal, which states that paragraph (a) does not require inspection of any area that has not exceeded the implementation age for that area. The FAA does not agree. If an operator elects to perform an inspection prior to the IA for a certain area, that inspection must then be repeated at the appropriate repeat interval (RI). The FAA considers that this will ensure a consistent implementation of the program.

In its comments to the notice, the manufacturer requests that the FAA clarify the fact that the issuance of the revised Airbus Industrie Document, "A300 Corrosion Prevention and Control Program," was intended only to help improve the understanding and handling of the inspection procedures described in the baseline corrosion prevention and control program (CPCP). However, the baseline program itself, as detailed in the original issuance of that Document, was not changed in the revised version. The FAA acknowledges this information.

The manufacturer also notes that the economic impact information contained in the preamble to the notice presented the CPCP as if it were a program separate from the affected operators' current maintenance programs, and that the calculated costs would be supplemental to those costs currently incurred through regular maintenance practices. The commenter points out that many of the tasks listed in the CPCP existed as part of operators' maintenance programs prior to the issuance of the Airbus CPCP document (and, thus, prior to the issuance of this AD). Therefore, the commenter considers that the economic impact of the rule should be adjusted accordingly. The FAA acknowledges this information, and has revised the economic impact information, below, to clarify this aspect.

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.

Economic Impact

The FAA estimates that 54 airplanes of U.S. registry will be affected by this AD.

There are 50 corrosion inspection areas called out in the Airbus Industrie Document, and it will take approximately 16 work hours per area to accomplish the required actions. The average labor rate is approximately $55 per work hour. Based on these figures, the total impact of this AD on U.S. operators is approximately $2,376,000, or $44,000 per airplane, for the initial 6-year inspection cycle. This total cost impact figure 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 FAA points out that the total cost impact figure discussed above is presented as if the actions required by this AD were to be conducted as "stand alone" actions. However, in actual practice, these actions will be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Some affected operators already have been performing these actions as part of their regular maintenance program. Therefore, the actual number of necessary "additional" work hours and associated labor costs will be minimal in many instances. Additionally, any costs associated with special airplane scheduling also will be minimal.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

94–18–02 Airbus: Amendment 39–9015. Docket 91–NM–23–AD.

Applicability: Model A300 series airplanes (excluding Model A300–600 series), certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

Note 1: This AD references Airbus Industrie Document, "A300 Corrosion Prevention and Control Program," dated November 1992, for corrosion instructions, compliance times, and reporting requirements. In addition, this AD specifies inspection and reporting requirements beyond those included in that Document. Where there are differences between the AD and the Document, the AD prevails.

Note 2: As used throughout this AD, the term "the FAA" is defined differently for different operators, as follows: For those operators complying with paragraph (a) of this AD, "the FAA" is defined as "the Manager of the Standardization Branch, ANM–113, FAA, Transport Airplane Directorate." For those operators operating under Federal Aviation Regulations (FAR) part 121 or 129 (14 CFR part 121 or part 129), and complying with paragraph (b) of this AD, "the FAA" is defined as "the cognizant Principal Maintenance Inspector (PMI)." For those operators operating under FAR part 91 or 125 (14 CFR part 91 or part 125), and complying with paragraph (b) of this AD, "the FAA" is defined as "the cognizant Maintenance Inspector at the appropriate FAA Flight Standards office."

To prevent degradation of the structural capabilities of the airplane due to the problems associated with corrosion damage, accomplish the following:

(a) Except as provided in paragraph (b) of this AD, complete each of the corrosion instructions specified in Section 5 of Airbus Industrie Document, "A300 Corrosion Prevention and Control Program," dated November 1992 (hereinafter referred to as "the Document"), in accordance with the procedures of the Document, and the schedule specified in paragraphs (a)(1) and (a)(2) of this AD.

Note 3: A "corrosion instruction," as defined in Section 5 of the Document, includes inspections; procedures for a corrective action, including repairs, under identified circumstances; application of corrosion inhibitors; and other follow-on actions.

Note 4: Corrosion instructions completed in accordance with the Document before the effective date of this AD may be credited for compliance with the initial corrosion instruction requirements of paragraph (a)(1) of this AD.

Note 5: Where non-destructive inspection (NDI) methods are employed, in accordance with Section 5 of the Document, the standards and procedures used must be acceptable to the Administrator in accordance with FAR section 43.13 (14 CFR 43.13).

Note 6: Procedures identified in the Document as "informational only" are not required to be accomplished by this AD.

(1) Complete the initial corrosion instruction of each "corrosion inspection area" defined in Section 5 of the Document as follows:

(i) For aircraft areas that have not yet reached the "implementation age" (IA) as of one year after the effective date of this AD, initial compliance must occur no later than the IA plus the "repeat interval" (RI).

(ii) For aircraft areas that have exceeded the IA as of one year after the effective date of this AD, initial compliance must occur within the RI for the area, measured from a date one year after the effective date of this AD.

(iii) For airplanes that are 20 years old or older as of one year after the effective date of this AD, initial compliance must occur for all areas within one RI, or within six years, measured from a date one year after the effective date of this AD, whichever occurs first.

(iv) Notwithstanding paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) of this AD, accomplish the initial task, for each area that exceeds the IA for that area, at a minimum rate of one such area per year, beginning one year after the effective date of this AD.

Note 7: This paragraph does not require inspection of any area that has not exceeded the IA for that area.

Note 8: This minimum rate requirement may cause a hardship on some small operators. In those circumstances, requests for adjustments to the implementation rate will be evaluated on a case-by-case basis under the provisions of paragraph (h) of this AD.

(2) Repeat each corrosion instruction at a time interval not to exceed the RI specified in the Document for that task.

(b) As an alternative to the requirements of paragraph (a) of this AD: Prior to one year after the effective date of this AD, revise the FAA-approved maintenance/inspection program to include the corrosion prevention and control program specified in the Document; or to include an equivalent program that is approved by the FAA. In all cases, the initial corrosion instruction for each corrosion inspection area must be completed in accordance with the compliance schedule specified in paragraph (a)(1) of this AD.

(1) Any operator complying with paragraph (b) of this AD may use an alternative recordkeeping method to that otherwise required by FAR section 91.417 (14 CFR 91.417) or section 121.380 (14 CFR 121.380) for the actions required by this AD, provided it is approved by the FAA and is included in a revision to the FAA-approved maintenance/inspection program.

(2) Subsequent to the accomplishment of the initial corrosion instruction, extensions of RI's specified in the Document must be approved by the FAA.

(c) To accommodate unanticipated scheduling requirements, it is acceptable for an RI to be increased by up to 10%, but not to exceed 6 months. The FAA must be informed, in writing, of any such extension within 30 days after such adjustment of the schedule.

(d)(1) If, as a result of any inspection conducted in accordance with paragraph (a) or (b) of this AD, Level 3 corrosion is determined to exist in any area, accomplish either paragraph (d)(1)(i) or (d)(1)(ii) of this AD within 7 days after such determination:

(i) Submit a report of that determination to the FAA and complete the corrosion instruction in the affected areas on all Model A300 series airplanes in the operator's fleet; or

(ii) Submit to the FAA for approval one of the following:

(A) A proposed schedule for performing the corrosion instructions in the affected areas on the remaining Model A300 series airplanes in the operator's fleet, which is adequate to ensure that any other Level 3 corrosion is detected in a timely manner, along with substantiating data for that schedule; or

(B) Data substantiating that the Level 3 corrosion found is an isolated occurrence.

Note 9: Notwithstanding the provisions of Section 2 of the Document, which would permit corrosion that otherwise meets the definition of Level 3 corrosion (i.e., which is determined to be a potentially urgent airworthiness concern requiring expeditious action) to be treated as Level 1 if the operator finds that it "can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet," this paragraph requires that data substantiating any such finding be submitted to the FAA for approval.

(2) The FAA may impose schedules other than those proposed, upon finding that such changes are necessary to ensure that any other Level 3 corrosion is detected in a timely manner.

(3) Within the time schedule approved under paragraph (d)(1) or (d)(2) of this AD, accomplish the corrosion instructions in the affected areas of the remaining Model A300 series airplanes in the operator's fleet.

(e) If, as a result of any inspection, after the initial inspection, conducted in accordance with paragraph (a) or (b) of this AD, it is determined that corrosion findings exceed Level 1 in any area, within 60 days after such determination a means approved by the FAA must be implemented to reduce future findings of corrosion in that area to Level 1 or better.

(f) Before any operator places into service any airplane subject to the requirements of this AD, a schedule for the accomplishment of corrosion instructions required by this AD must be established in accordance with paragraph (f)(1) or (f)(2) of this AD, as applicable:

(1) For airplanes previously maintained in accordance with this AD, the first corrosion instruction in each area to be performed by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that task. After each corrosion instruction has been performed once, each subsequent task must be performed in accordance with the new operator's schedule.

(2) For airplanes that have not been previously maintained in accordance with this AD, the first corrosion instruction for each area to be performed by the new operator must be accomplished prior to further flight or in accordance with a schedule approved by the FAA.

(g) Reports of Level 2 and Level 3 corrosion must be submitted at least quarterly to Airbus in accordance with Section 6 of the Document.

Note 10: Reporting of Level 2 and Level 3 corrosion found as a result of any opportunity inspection is highly desirable.

(h) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through the cognizant Maintenance Inspector at the appropriate FAA Flight Standards office, who may concur or comment and then send it to the Manager, Los Angeles ACO.

Note 11: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(j) Reports of corrosion inspection results required by this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(k) The actions shall be done in accordance with Airbus Industrie Document, "A300 Corrosion Prevention and Control Program," dated November 1992. 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.

(l) This amendment becomes effective on October 11, 1994.

Issued in Renton, Washington, on August 19, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–20995 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–NM–03–AD; Amendment 39–9014; AD 94–18–01]

Airworthiness Directives; Boeing Model 757 and 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757 and 767 series airplanes, that requires modification of the latch hook installation for the number two cockpit window frame. This amendment is prompted by reports of the flight crew executing rejected takeoffs (RTO) and air turnbacks (ATB) due to false "closed" indications for the number two cockpit window. The actions specified by this AD are intended to prevent unlatched (not completely closed) number two cockpit windows and the resultant execution of RTO's and ATB's by the flight crew.

DATES: Effective October 11, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 11, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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: Roy Boffo, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2780; fax (206) 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 Boeing Model 757 and 767 series airplanes was published in the **Federal Register** on March 8, 1994 (59 FR 10759). That action proposed to require modification of the latch hook installation for the number two cockpit window frame.

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 supports the proposal.

Several commenters question the need for the rule and consider that the proposal should be withdrawn for various reasons:

One of these commenters contends that the nature of the addressed problem does not constitute an unsafe condition. This commenter states that, if the window is not completely closed, it is not possible for the latch cams to engage with the latch posts; thus, improperly closed windows are readily identified by physically trying to open the window. The FAA does not concur. If the window latch cams do not engage with the latch posts, it is still possible to rotate the latch handle. Whenever the latch handle is rotated, a "closed" indicator appears above the window. This makes it possible for the window actually to be open, but to appear to be closed and to have a "closed" indicator as well. The modification required by this AD addresses that situation, since it will prevent the possibility of rotating the latch handle into the forward, latched position unless the window is fully closed. Because of the consequences associated with an open window, the FAA considers this modification to be warranted and appropriate.

Some of these commenters consider that current flight crew procedures are adequate to address the problem that is the subject of the proposed AD. These

commenters point out that current procedures provide for a check of these windows to ensure that they are closed and locked; some operators' procedures require that the flight crew check the windows twice. The FAA does not concur. As described above, the current configuration of the window latching mechanism and associated indicator make it possible for the window to appear to be closed and to have a "closed" indicator, even though the window is not actually closed and latched. Service experience has shown that the flight crew will not always verify that the window is closed if they have a "closed" indication. For these reasons, the FAA finds that flight crew procedures alone are not effective in addressing the identified unsafe condition.

Another of these commenters states that there has been only a limited number of operators that have experienced difficulty with the subject windows; this commenter does not consider that it is reasonable for the FAA to burden all operators with the requirements of the rule because of the service experience of only a few operators. The FAA acknowledges that only a few operators have experienced in service the problems addressed by this AD action. However, since the configuration of the windows, the window latching mechanism, and the associated indicating system is similar on all of the affected Model 757 and 767 series airplanes, the FAA has determined that the potential exists for this problem to occur on any of these airplanes.

Another of these commenters states that the referenced service bulletin describes the modification as desirable only to "reduce noise in the cockpit" should the subject windows not be latched. This commenter states that at no time have there been reports of an uncommanded window opening; instead, there have been reports only of false window latching, which resulted in air leakage and noise. Therefore, the commenter considers the proposed modification to be merely a "product improvement" and not necessarily meant to correct an unsafe condition. The FAA does not concur. The modifications described in the referenced service bulletins eliminate the possibility of the "closed" indicator being visible when the window is not actually fully closed. The air leakage and noise that have resulted from open windows have led to rejected takeoffs (RTO's) and air turnbacks (ATB's); some of the RTO's have resulted in considerable damage to the airplane. To address this unsafe condition, the FAA has determined that the need for the proposed modification is warranted.

Finally, one of these commenter states that there have been reports of RTO's and ATB's involving airplanes that have incorporated the modification; therefore, the modification will not eliminate these occurrences. The FAA acknowledges that RTO's and ATB's have taken place after modification, and points out that the subject modification is not intended to prevent all future occurrences of these incidents. Conversely, it is not intended that the modification terminate any requirements for crew preparation of the flight deck for flight. The modification does address a design problem that can lead the crew to believe that the window is closed when, in fact, it is not.

One commenter requests that the proposed rule be revised to provide "credit" to operators with Model 767 series airplanes that have been previously modified only in accordance with Boeing Service Bulletin 767–56–0002, dated August 30, 1985, and not in accordance with that service bulletin as amended by Notice of Status Change (NSC) 1, dated July 3, 1986, as specified in the notice. This commenter points out that NSC 1 simply added data concerning existing part accountability; additionally, NSC 1 contains a statement indicating that "no more work is necessary on airplanes changed by the initial release of this service bulletin." The FAA concurs, and has revised the final rule accordingly.

This same commenter requests that the comment period be extended by an additional 60 days in order to obtain information as to whether or not all affected Model 767 series airplanes have already been modified in accordance with the proposed requirements of the rule. The commenter considers that, by obtaining such affirmative data, the Model 767 could be eliminated from the applicability of the rule. The FAA does not concur, and considers that such a delay in this rulemaking action is inappropriate. Regardless, as specified in the "Compliance" statement of the final rule, airplanes that have been modified previously in accordance with the requirements of the rule are considered in compliance and require no additional work relative to this rule.

One commenter requests that the proposed compliance time of 18 months be extended to 30 months in order to accommodate parts delivery time and orderly modification of the fleet. This commenter states that the lead time necessary for obtaining the modification parts is extensive (44 weeks), and an 18-month compliance time is unreasonably short to expect operators of large fleets to modify all of the affected airplanes. The FAA concurs. In developing an appropriate compliance time for this AD action, the FAA intended that it fall during a time of regularly scheduled maintenance in order to allow the modification to be performed at a base where special equipment and trained maintenance personnel will be available if necessary. The FAA considers that extending the compliance time to 30 months will not adversely affect safety and will allow timely and orderly modification of the affected fleet.

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.

There are approximately 640 Model 757 and 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 409 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $2,000 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $997,960, or $2,440 per airplane.

The total 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. However, the FAA has been advised that at least 44 of the affected airplanes have already been modified in accordance with the requirements of this AD, and that numerous others are either currently undergoing or will have undergone modification by the date that this AD is effective. Therefore, the future economic cost impact of this rule on U.S. operators is now only $890,600 (and, most likely, considerably less than that amount as of the effective date of this AD).

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this

appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, most prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the required actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this AD would be redundant and unnecessary.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

94–18–01 Boeing: Amendment 39–9014. Docket 94–NM–03–AD.

Applicability: Model 757 series airplanes having line positions 1 through 534 inclusive, and Model 767 series airplanes having line positions 1 through 114 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent unlatched (not completely closed) number two cockpit windows and the resultant execution of rejected takeoffs and air turnbacks by the flight crew, accomplish the following:

(a) Within 30 months after the effective date of this AD, modify the latch hook installation for the number two cockpit window frame in accordance with the applicable service bulletin indicated in either paragraph (a)(1) or (a)(2) of this AD.

(1) For Model 757 series airplanes: Boeing Service Bulletin 757–56–0007, dated May 6, 1993.

(2) For Model 767 series airplanes: either Boeing Service Bulletin 767–56–0002, dated August 30, 1985; or Boeing Service Bulletin 767–56–0002 as amended by Notice of Status Change Number 767–56–0002 NSC 1, dated July 3, 1986.

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

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

(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.

(d) The modification shall be done in accordance with Boeing Service Bulletin 757–56–0007, dated May 6, 1993; or Boeing Service Bulletin 767–56–0002, dated August 30, 1985; or Boeing Service Bulletin 767–56–0002, as amended by Notice of Status Change Number 767–56–0002 NSC 1, dated July 3, 1986; as applicable. 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 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.

(e) This amendment becomes effective on October 11, 1994.

Issued in Renton, Washington, on August 18, 1994.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–20754 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 93–NM–234–AD; Amendment 39–9018; AD 94–18–05]

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SF340A and SAAB 340B series airplanes. This amendment requires inspections to detect discrepancies of certain main landing gear (MLG) retract actuator bracket retaining bolts; replacement of discrepant parts; installation of washers, if necessary; and eventual replacement of certain MLG retract actuator bracket retaining bolts and certain nose landing gear (NLG) trunnion pin cross bolts. This amendment is prompted by reports of extension and retraction problems on the MLG, due to loose retract actuator brackets on the MLG shock struts. The actions specified by this AD are intended to prevent a loose retract actuator bracket from interfering with the MLG shock strut trunnion support, which could result in the inability of the MLG to extend or retract.

DATES: Effective October 11, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 11, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Saab Aircraft AB, Product Support, S581.88, Linköping, Sweden. 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: Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

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 Saab Model SF340A and SAAB 340B series airplanes was published in the **Federal Register** on March 24, 1994 (59 FR 13898). That action proposed to require a one-time visual inspection to detect corrosion, cracking, or damage of certain MLG retract actuator bracket retaining bolts and to determine if the nut is bottoming the threads of certain other bolts; replacement of any discrepant bolt; and the installation of washers, if any nut is found bottoming the threads. It also proposed to require a one-time visual and magnaflux inspection during MLG overhaul to detect any scored, cracked, or out-of-tolerance condition of certain MLG retract actuator bracket retainer bolts; replacement of any discrepant bolt; and eventual replacement of certain MLG retract actuator bracket retaining bolts and certain NLG trunnion pin cross bolts.

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 supports the proposal.

Another commenter requests that the proposed rule be revised to include reference to Revision 1 of the specified Saab service bulletin. The FAA concurs. Since issuance of the notice, Saab has issued Revision 1 of Service Bulletin 340–32–094, dated March 4, 1994. This revised service bulletin is essentially identical to the originally released version, which was referenced in the notice, but contains certain clarifications, revised illustrations, and provisions for use of an alternative washer. The Luftfartsverket, which is the airworthiness authority for Sweden, has approved the technical content of this revised service bulletin. The FAA has revised the final rule to include reference to the revised service bulletin as an additional source of appropriate service information.

This same commenter requests clarification as to whether or not the proposed rule would require replacement of corroded bolts if any were found during the magnaflux inspection that would be required by paragraph (b)(1) of the proposal. The FAA notes that the Saab Service Bulletin 340–32–094, which is referenced in the notice, mentions hydrogen embrittlement (corrosion) as one of the reasons for fractures of the subject retaining bolts; however, that service bulletin does not directly address corrosion in its instructions for inspection. That service bulletin does contain attachments comprised of several AP Precision Hydraulic, Ltd., service bulletins, however, and several of those service bulletins do contain instructions for visually inspecting the retainer bolts for corrosion, cracking, or damage, and removing any bolt that exhibits such discrepancies. Further, the FAA points out that, under normal maintenance practices, these bolts are inspected visually to detect cracks, corrosion, or other damage whenever they are removed, and are replaced if discrepancies exist. Since the bolts must be removed for the visual and magnaflux inspections required by paragraph (b)(1) of the rule, they would necessarily be inspected for corrosion at that time if normal maintenance practices are followed. The FAA has added "Note 1" to paragraph (b)(1) of the final rule to remind operators of the need to visually inspect the bolts for corrosion and to replace any corroded bolts.

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 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.

The FAA estimates that 217 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will be provided at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $47,740, or $220 per airplane.

The total 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 regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

39.13 [Amended]

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

94–18–05 Saab Aircraft AB: Amendment 39–9018. Docket 93–NM–234–AD.

Applicability: Saab Model SF340A series airplanes, serial numbers 004 through 159, inclusive; and SAAB 340B series airplanes, serial numbers 160 through 346, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability of the main landing gear (MLG) to extend or retract, accomplish the following:

(a) Within 600 landings after the effective date of this AD, or within 120 days after the

effective date of this AD, whichever occurs earlier, accomplish the requirements of paragraphs (a)(1) and (a)(2) in accordance with Paragraphs 2.A. and 2.B. of the Accomplishment Instructions of Saab Service Bulletin 340–32–094, dated October 29, 1993, or Revision 1, dated March 4, 1994.

(1) Perform a visual inspection of each MLG retract actuator bracket retaining bolt, Item 792A or 792 [part number (P/N) AIR 124792], as applicable, to detect corrosion, cracking, or damage, in accordance with the service bulletin. If any corrosion, cracking, or damage is detected during that inspection, prior to further flight, replace the existing bolt with a new or serviceable bolt in accordance with the service bulletin.

(2) Perform a visual inspection of each MLG retract actuator bracket retaining bolt, Item 840 (P/N AIR 123940), to determine if the nut of the bolt is bottoming the threads in accordance with the service bulletin. If any nut bottoms the threads, prior to further flight, install washers in accordance with the service bulletin.

(b) At the next MLG overhaul, or within 12,000 landings after the effective date of this AD, whichever occurs earlier, accomplish the requirements of paragraphs (b)(1) and (b)(2) of this AD in accordance with Paragraphs C. through F. of the Accomplishment Instructions of Saab Service Bulletin 340–32–094, dated October 29, 1993, or Revision 1, dated March 4, 1994.

(1) Perform a visual and magnaflux inspection of each MLG retract actuator bracket retainer bolt, Item 792A or 792 (P/N AIR 124792), as applicable, to detect any scored, cracked, or out-of-tolerance condition, in accordance with the service bulletin. If any bolt is found to be scored, cracked, or out-of-tolerance, prior to further flight, replace the bolt with a serviceable magnafluxed bolt or with a new bolt, in accordance with the service bulletin.

Note 1: In accordance with normal maintenance practices, the retainer bolts also should be visually inspected for corrosion when they are removed during the accomplishment of the inspections required by this paragraph. Any corroded bolt that is detected should be replaced with a serviceable bolt or a new bolt. Instructions for performing visual inspections of the retainer bolts to detect corrosion are contained in Attachments 1, 2, 5, 6, and 7 of Saab Service Bulletin 340–32–094.

(2) Replace each existing MLG retract actuator bracket retaining bolt, Item 840 (P/N AIR 123940), with a new bolt, P/N AIR 134736, in accordance with the service bulletin.

(c) At the next MLG overhaul, or within 12,000 landings after the effective date of this AD, whichever occurs earlier, remove the existing nose landing gear trunnion pin cross bolt, P/N NAS 1305–54D, and replace it with a new bolt, P/N NAS 1305–50D, in accordance with Paragraphs C. through F. of the Accomplishment Instructions of Saab Service Bulletin 340–32–094, dated October 29, 1993, or Revision 1, dated March 4, 1994

(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, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Standardization Branch, ANM–113.

(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.

(f) The actions shall be done in accordance with the following Saab service bulletins, which contain the following list of effective pages:

Saab service bulletin and date	Page No.	Revision level shown on page	Date shown on page
340–32–094, Oct. 29, 1993	Title page	Original	Oct. 29, 1993.
	1–5	(These pages are not dated.)	
	Attachment 1		
	1–4	Original	Apr. 1993.
	Attachment 2		
	1–4	Original	Apr. 1993.
	Attachment 3		
	1–6	Original	Aug. 1993.
	Attachment 4		
	1–6	Original	Aug. 1993.
	Attachment 5		
	1, 3	(These pages are not dated.)	June 1993.
	2, 4	Original	
	Attachment 6		
	1–4	(These pages are not dated.)	
	Attachment 7		
	1–4	(These pages are not dated.)	
	Attachment 8		
	1–4	(These pages are not dated.)	

Saab service bulletin and date	Page No.	Revision level shown on page	Date shown on page
340–32–094, Revision 1, Mar. 4, 1994	Title page	1	Mar. 4, 1994.
	1–6	1	Mar. 4, 1994.
Attachment 1			
	2, 4	1	Jan. 1994.
	1, 3	Original	Apr. 1993.
Attachment 2			
	2, 4	1	Jan. 1994.
	1, 3	Original	Apr. 1993.
Attachment 3			
	1–4, 6–7	1	Jan. 1994.
	5	Original	Aug. 1993.
Attachment 4			
	1–4, 6–7	1	Jan. 1994.
	5	Original	Aug. 1993.
Attachment 5			
	1–5	2	Jan. 1994.
Attachment 6			
	1–5	2	Jan. 1994.
Attachment 7			
	1–5	2	Jan. 1994.
Attachment 8			
	1–5	2	Jan. 1994.

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 Saab Aircraft AB, Product Support, S581.88, 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.

(g) This amendment becomes effective on October 11, 1994.

Issued in Renton, Washington, on August 24, 1994.

N.B. Martenson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–21361 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–42–AD; Amendment 39–9009; AD 94–17–14]

Airworthiness Directives; British Aerospace Model BAe 146–100A, –200A, and –300A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to British Aerospace Model BAe 146–100A, –200A, and –300A series airplanes, that currently requires replacing the quick release coupling halves on each end of the pump case drain line on the hydraulic engine driven pump (EDP) on the number 2 and number 3 engines with improved fire resistant coupling halves. This amendment revises the applicability of the existing AD. This amendment is prompted by the identification of additional airplanes that are subject to the addressed unsafe condition. The actions specified by this AD are intended to prevent hydraulic fluid leakage from the pump case drain line quick release coupling, which could fuel the flames in the event of an engine fire.

DATES: Effective on October 11, 1994.

The incorporation by reference of British Aerospace Service Bulletin SB.29–31–01339A, Revision 1, dated July 8, 1993, as listed in the regulations, is approved by the Director of the Federal Register as of October 11, 1994.

The incorporation by reference of British Aerospace Service Bulletin SB.29–31–01339A, dated May 24, 1993, as listed in the regulations, was approved previously by the Director of the Federal Register as of January 20, 1994 (58 FR 67310, December 21, 1993).

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. 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: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 93–24–05, amendment 39–8754 (58 FR 67310, December 21, 1993), which is applicable to certain British Aerospace Model BAe 146–100A, –200A, and –300A series airplanes, was published in the **Federal Register** on May 12, 1994 (59 FR 24670). The action proposed to continue require replacement of the quick release coupling halves on each end of the pump case drain line on the hydraulic engine driven pump (EDP) on the number 2 and number 3 engines with improved fire resistant coupling halves, and proposed to revise the applicability of the existing AD to add additional airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 46 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,590, or $165 per airplane.

The total 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 regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8754 (58 FR 67310), and by adding a new airworthiness directive (AD), amendment 39–9009, to read as follows:

94–17–14 British Aerospace: Amendment 39–9009. Docket 94–NM–42–AD. Supersedes AD 93–24–05, Amendment 39–8754.

Applicability: Model BAe 146–100A series airplanes, serial numbers E1002 through E1199 inclusive; Model BAe 146–200A series airplanes, serial numbers E2008 through E2204 inclusive, and E2210 through E2220 inclusive; and Model BAe 146–300A series airplanes, serial numbers E3001 through E3219 inclusive, and E3222; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent hydraulic fluid leakage from the pump case drain line quick release couplings, which could fuel the flames in the event of an engine fire, accomplish the following:

(a) For airplane serial numbers E3001 through E3207 inclusive, E3209 through E3219 inclusive, and E3222: Within 6 months after January 20, 1994 (the effective date of AD 93–24–05, Amendment 39–8754), replace the quick release coupling halves on each end of the pump case drain line on the hydraulic engine driven pump (EDP) on the number 2 and number 3 engines with improved fire resistant coupling halves, in accordance with British Aerospace Service Bulletin SB.29–31–01339A, dated May 24, 1993, or SB.29–31–01339A, Revision 1, dated July 8, 1993.

(b) For airplane serial numbers E1002 through E1199 inclusive, E2008 through E2204 inclusive, E2210 through E2220 inclusive, and E3208: Within 6 months after the effective date of this AD, replace the quick release coupling halves on each end of the pump case drain line on the hydraulic EDP on the number 2 and number 3 engines with improved fire resistant coupling halves, in accordance with British Aerospace Service Bulletin SB.29–31–01339A, Revision 1, dated July 8, 1993.

(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, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(e) The replacement shall be done in accordance with British Aerospace Service Bulletin SB.29–31–01339A, Revision 1, dated July 8, 1993, which includes the following list of effective pages:

Page	Revision level shown on page	Date shown on page
1	1	July 8, 1993.
2–11	Original	(These pages are not dated).

This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The incorporation by reference of British Aerospace Service Bulletin SB.29–31–01339A, dated May 24, 1993, 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 January 20, 1994 (58 FR 67310, December 21, 1993). Copies may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box

17414, Dulles International Airport, Washington, DC 20041–0414. 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.

(f) This amendment becomes effective on October 11, 1994.

Issued in Renton, Washington, on August 16, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–21966 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

22 CFR Part 121

[Public Notice 2066]

Amendments to the International Traffic in Arms Regulations (ITAR)

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule removes from the U.S. Munitions List (USML) certain articles which are now on the Commerce Control List (CCL).

This rule reduces the burden on exporters by removing articles from the USML and thus from the controls of the International Traffic in Arms Regulations. Among the items being removed from the USML and left subject only to the CCL are non-military inertial navigation systems and related technical data, non-military focal plane arrays, non-military image intensification tubes, non-military accelerometers and non-military gyroscopes. In addition, military second and third generation image intensification tubes and military focal plane arrays will be licensed by the Department of Commerce when a part of a commercial system.

EFFECTIVE DATE: This rule is effective on September 9, 1994.

FOR FURTHER INFORMATION CONTACT: Rose Marie Biancaniello, Office of Defense Trade Controls, Department of State, telephone (703) 875–6618 or FAX (703) 875–6647.

SUPPLEMENTARY INFORMATION: In the Memorandum of Disapproval on the Omnibus Export Amendments Act of 1990, the President directed as follows:

"By June 1, 1991, the United States will remove from the U.S. Munitions List all items contained on the COCOM dual use list unless significant U.S. national security interests would be jeopardized." (26 Weekly Compilation of Presidential Documents 1839).

As part of its effort to implement this Presidential directive, the Department published a notice of final rule-making at 57 Federal Register 15227, dated April 27, 1992. This notice related to the coverage of articles in all categories of the USML, 22 CFR 121. It was stated in this rule that, upon establishment and implementation of foreign policy controls by the Department of Commerce, the following items would be removed from the Department of State USML and left subject only to the CCL:

Any non-military aircraft inertial navigation systems not currently covered by the CCL;

Non-military inertial navigation system design, development, production or manufacture technical data currently in category VIII(m) of the USML;

Commercial imaging systems containing military second or third generation image intensification tubes or military focal plane arrays;

All non-military focal plane arrays and non-military second generation or above image intensification tubes;

Non-military accelerometers and gyroscopes.

The required foreign policy controls have been established and implemented.

Another aspect of the Department's effort to implement the President's directive involved the chairman of a Space Technical Working Group (STWG). This STWG identified spacecraft and related equipment which could be removed from the USML without significantly jeopardizing national security. Based on the recommendations of the STWG, several **Federal Register** notices were published. This **Federal Register** notice makes minor corrections to and completes implementation of these amendments.

The Department of State views the changes set forth in this notice as beneficial to U.S. persons and industry and has decided to implement them immediately by publication of a final rule. Notwithstanding this final rule, public comment is welcomed.

This amendment involves a foreign affairs function of the United States. It is exempt from review under Executive Order 12866, but has been reviewed internally by the Department to ensure consistency with the purposes thereof. It is also excluded from the procedures of 5 U.S.C. 553 and 554.

List of Subjects in 22 CFR Part 121

Arms and munitions, Classified information, Exports.

Accordingly, for the reasons set forth in the preamble, 22 CFR Subchapter M Part 121, is amended as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for Part 121 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311, 3 CFR 1977 Comp. p. 79; 22 U.S.C. 2658.

§ 121.1 [Amended]

2. Section 121.1 is amended by removing paragraph (c) and by redesignating paragraph (d) as (c).

3. Section 121.1, Category VIII is amended by revising the title to read as follows:

Category VIII—Aircraft and Associated Equipment

4. In § 121.1, Category VIII, paragraphs (b), (c), and (d) are revised as set forth below, paragraphs (h), (i), (l), and (m) are removed, and paragraphs (j) and (k) are redesignated as (h) and (i) and revised to read as follows:

Category VIII—Aircraft and Associated Equipment

* * * * *

*(b) Military aircraft engines, except reciprocating engines, specifically designed or modified for the aircraft in paragraph (a) of this category.

*(c) Cartridge-actuated devices utilized in emergency escape of personnel and airborne equipment (including but not limited to airborne refueling equipment) specifically designed or modified for use with the aircraft and engines of the types in paragraphs (a) and (b) of this category.

(d) Launching and recovery equipment for the articles in paragraph (a) of this category, if the equipment is specifically designed or modified for military use. Fixed land-based arresting gear is not included in this category.

* * * * *

(h) Components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for the articles in paragraphs (a) through (e) of this category, excluding aircraft tires and propellers used with reciprocating engines.

(i) Technical Data (as defined in § 120.21) and defense services (as defined in § 120.8) directly related to the defense articles enumerated in paragraphs (a) through (h) of this category. (See § 125.4 for exemptions.) Technical data directly related to the manufacture or production of any

defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME.

5. In § 121.1, Category XI is amended by revising the title, paragraph (c) is removed, paragraphs (d) and (e) are redesignated as (c) and (d), and newly redesignated paragraph (d) is revised to read as follows:

Category XI—Military Electronics

* * * * *

(d) Technical data (as defined in § 120.21) and defense services (as defined in § 120.8) directly related to the defense articles enumerated in paragraphs (a) through (c) of this category. (See § 125.4 for exemptions.) Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated as SME.

6. In § 121.1, Category XII, paragraphs (c) and (d) are revised, paragraph (e) is removed, paragraphs (f) and (g) are redesignated as (e) and (f), and newly redesignated paragraphs (e) and (f) are revised to read as follows:

Category XII—Fire Control, Range Finder, Optical and Guidance and Control Equipment

* * * * *

*(c) Infrared focal plane array detectors specifically designed, modified or configured for military use; image intensification and other night sighting equipment or systems specifically designed, modified, or configured for military use; second generation and above military image intensification tubes (defined below) specifically designed, developed, modified or configured for military use, and infrared, visible and ultraviolet devices specifically designed, developed, modified, or configured for military application. Military second and third generation image intensification tubes and military infrared focal plane arrays identified in this subparagraph are licensed by the Department of Commerce (ECCN 6A02A and 6A03A) when a part of a commercial system (i.e. those systems originally designed for commercial use). This does not include any military system comprised of non-military specification components. Replacement tubes or focal plane arrays identified in this paragraph being exported for commercial systems are subject to the controls of the ITAR.

Note: *Special Definition.* For purposes of this subparagraph, *second and third generation image intensification tubes* are defined as having:

A peak response within the 0.4 to 1.05 micron wavelength range and incorporating a microchannel plate for electron image amplification having a hold pitch (center-to-center spacing) of less than 25 microns and having either:

(a) An S–20, S–25 or multialkali photocathode; or

(b) A GaAs, GaInAs, or other compound semiconductor photocathode.

*(d) Inertial platforms and sensors for weapons or weapon systems; guidance, control and stabilization systems except for those systems covered in Category VIII; astro-compasses and star trackers and military accelerometers and gyros. For aircraft inertial reference systems and related components refer to Category VIII.

(e) Components, parts, accessories, attachments and associated equipment specifically designed or modified for the articles in paragraphs (a) through (d) of this category, except for such items as are in normal commercial use.

(f) Technical data (as defined in § 120.21) and defense services (as defined in § 120.8) directly related to the defense articles enumerated in paragraphs (a) through (e) of this category. (See § 125.4 for exemptions.) Technical data directly related to manufacture and production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated as SME.

7. In § 121.1, Category XIII, paragraph (a) is revised to read as follows:

Catetory XIII—Auxiliary Military Equipment

(a) Cameras and specialized processing equipment therefor, photointerpretation, stereoscopic plotting, and photogrammetry equipment which are specifically designed or modified for military purposes, and components specifically designed or modified therefor;

* * * * *

Dated: August 11, 1994.

Lynn E. Davis,

Under Secretary for Arms Control and International Security Affairs.

[FR Doc. 94–22208 Filed 9–8–94; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF JUSTICE

Office of the Assistant Attorney General, Criminal Division

28 CFR Part 0

Redelegation of Authority of Assistant Attorney General, Criminal Division

AGENCY: Office of the Assistant Attorney General, Criminal Division, Department of Justice.

ACTION: Final rule.

SUMMARY: 28 CFR 0.64–4 delegates to the Assistant Attorney General in charge of the Criminal Division all power and authority vested in the Attorney General under section 3508 of title 18, United States Code, which has not been delegated to the Director, United States Marshals Service under 28 CFR 0.111a. Section 3508 authorizes the temporary transfer of witnesses who are in foreign custody to the United States for purposes of giving testimony in Federal or State criminal proceedings. Section 0.64–4 also authorizes the Assistant Attorney General in charge of the Criminal Division to redelegate this authority to her Deputy Assistant Attorneys General and to the Director and Deputy Directors of the Office of International Affairs. This final rule amends the Appendix to Subpart K of Part 0 by adding a new Directive formally redelegating the authority of the Assistant Attorney General to Deputy Assistant Attorneys General and the Director and Deputy Directors, Office of International Affairs, Criminal Divison.

EFFECTIVE DATE: September 9, 1994.

FOR FURTHER INFORMATION CONTACT: George W. Proctor, Director, Office of International Affairs, Criminal Division, Department of Justice, Washington, DC 20530; 202–514–0000.

SUPPLEMENTARY INFORMATION: This rule is a matter of internal Department management. It has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866. The Assistant Attorney General for the Criminal Division has determined that this rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and accordingly this rule has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, (5 U.S.C. 605(b)), the Assistant Attorney General for the Criminal Division has reviewed this rule, and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, International agreements, Organization and functions (Government agencies), Treaties, Whistleblowing.

For the reasons stated in the preamble, Title 28, Chapter 1, Part 0, Subpart K, of the Code of Federal Regulations is amended as set forth below.

PART 0—ORGANIZATION OF THE DEPARTMENT

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

2. Appendix to Subpart K is amended by adding a new Directive No. 81B, which reads as follows:

APPENDIX TO SUBPART K

Criminal Division

* * * * *

[Directive No. 81B]

Redelegation of Authority to Deputy Assistant Attorneys General and Director and Deputy Directors of the Office of International Affairs Respecting Temporary Transfers, in Custody, of Certain Prisoner-Witnesses from a Foreign Country to the United States .

By virtue of the authority vested in me by 28 CFR 0.64–4, the authority delegated to me by that section to exercise all of the power and authority vested in the Attorney General under section 3508 of title 18, United States Code, which has not been delegated to the Director, United States Marshals Service under 28 CFR 0.111a, is hereby redelegated to each of the Deputy Assistant Attorneys General, and to the Director and each of the Deputy Directors of the Office International Affairs, Criminal Division.

Dated: August 26, 1994.

Jo Ann Harris,

Assistant Attorney General.

[FR Doc. 94–22328 Filed 9–8–94; 8:45 am]

BILLING CODE 4410–01–M

Office of the Attorney General

28 CFR Part 0

[AG Order No. 1913–94]

Delegations and Authorizations Respecting Certain Temporary Prisoner-Witness Transfers

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: When the testimony of a witness who is in the custody of foreign law enforcement authorities is needed in a Federal or State criminal proceeding, the Attorney General is authorized, when deemed appropriate in the exercise of his or her discretion, to request foreign authorities to authorize the temporary transfer of such witness to the United States for purposes of giving such testimony. This final rule delegates to the Assistant Attorney General for the Criminal Division all such authority vested in the Attorney General, except for transport and custody functions, which, also pursuant to this rule, are delegated to the Director, United States Marshals Service.

EFFECTIVE DATE: September 9, 1994.

FOR FURTHER INFORMATION CONTACT: George W. Proctor, Director, Office of International Affairs, Criminal Division, Department of Justice, Washington, D.C. 20530; 202–514–0000.

SUPPLEMENTARY INFORMATION: The growth of transnational crime and the commensurate increase in formal cooperation between law enforcement authorities in affected countries have spawned an increasing number of situations in which one country's prosecutors may require the testimony of a cooperating witness who is in another country's custody. This situation has been addressed in the many mutual legal assistance treaties the United States has entered over the past decade, and, with respect to temporary transfers of witnesses to the United States, was specifically authorized by Congress in section 3508 of title 18, United States Code (Pub. L. 100–690, Nov. 18, 1988).

Section 3508 provides a statutory basis for requesting such transfers, transporting prisoner-witnesses in custody to the United States, maintaining their custody while in this country, and effecting their return to the cooperating foreign country without resort to extradition or immigration proceedings in the United States upon completion of their testimony.

These transfers require careful consideration, especially when the witness is a United States citizen or other person who might resist being returned to the cooperating foreign country, or an alien whose circumstances suggest the likelihood of a request for political asylum. The United States has arranged transfers of willing prisoner-witnesses from several countries under section 3508, and the number of such requests is likely to increase.

Consistent with past practice in matters of international law enforcement cooperation, including the practice whereby the Office of International Affairs, Criminal Division, exercises the functions of the Central Authority under mutual legal assistance treaties to which the United States is a party, this rule delegates to the Assistant Attorney General for the Criminal Division, with authority to redelegate to Deputy Assistant Attorneys General and the Director and Deputy Directors, Office of International Affairs, all power and authority vested in the Attorney General under section 3508, except for transport and custody functions which, also pursuant to this rule, are delegated to the Director, United States Marshals Service.

This rule is a matter of internal Department management. It has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866. It has been determined that this rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and accordingly this rule has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Attorney General has reviewed this rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities.

This rule will not have substantial direct impact upon the states, on the relationship between the national government and the states, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, International agreements, Organization and functions (Government agencies), Treaties, Whistleblowing.

For the reasons stated in the preamble, Chapter I, Part 0 of title 28 of

the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

2. A new § 0.64–4 is added to Subpart K, to read as follows:

§ 0.64–4 Delegation respecting temporary transfers, in custody of certain prisoner-witnesses from a foreign country to the United States to testify in Federal or State criminal proceedings.

The Assistant Attorney General in charge of the Criminal Division is authorized to exercise all of the power and authority vested in the Attorney General under 18 U.S.C. 3508 which has not been delegated to the Director of the United States Marshals Service under 28 CFR 0.111a, including specifically the authority to determine whether and under what circumstances temporary transfer of a prisoner-witness to the United States is appropriate or inappropriate; to determine the point at which the witness should be returned to the transferring country; and to enter into appropriate agreements with the transferring country regarding the terms and conditions of the transfer. The Assistant Attorney General in charge of the Criminal Division is authorized to redelegate this authority to the Deputy Assistant Attorneys General, Criminal Division, and to the Director and Deputy Directors of the Office of International Affairs, Criminal Division.

3. A new § 0.111a is added to Subpart T, to read as follows:

§ 0.111a Temporary prisoner-witness transfers.

The Director of the United States Marshals Service and officers of the United States Marshals Service designated by him are authorized to exercise the power and authority vested in the Attorney General under 18 U.S.C. 3508 to receive custody from foreign authorities of prisoner-witnesses whose temporary transfer to the United States has been requested; to transport such persons in custody from the cooperating foreign country to the place in the United States at which the criminal proceedings in which they are to testify are pending; to maintain such persons in custody while they are in the United States, subject to any agreement entered into by the Assistant Attorney General for the Criminal Division or his or her delegee with the transferring country regarding the terms or conditions of the transfer; and to return such persons, in custody, to the foreign country when and in the manner designated by the Assistant Attorney General for the Criminal Division or his or her delegee. The Director of the United States Marshals Service and officers of the United States Marshals Service designated by him shall also be authorized to transport, surrender, receive and maintain custody of prisoner-witnesses temporarily transferred from or to the United States pursuant to a treaty, executive agreement, or other legal authority, and accept reimbursement from foreign authorities when appropriate.

Dated: August 23, 1994.

Janet Reno,

Attorney General.

[FR Doc. 94–22329 Filed 9–8–94; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Kansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Interim rule.

SUMMARY: This document reinstates a paragraph that was inadvertently removed and pertains to a permanent program amendment from the State of Kansas under the Surface Mining Control and Reclamation Act of 1977.

EFFECTIVE DATE: September 9, 1994.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Telephone: (816) 374–6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Kansas Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Kansas program. General background information on the Kansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Kansas program can be found in the January 21, 1981, **Federal Register** (46 FR 5892). Subsequent actions concerning Kansas' program and program amendments can be found at 30 CFR 916.12, 916.15, and 916.16.

II. Submission of Amendment

By letter dated July 10, 1989 (Administrative Record No. KS–440), Kansas submitted a proposed guideline titled "Guidelines for the Repair of Rills and Gullies in Kansas," as a revision to the June 29, 1989, amendment package. Kansas submitted the proposed guidelines for approval as a normal husbandry practice pursuant to SMCRA. The guideline that Kansas proposes will augment K.A.R. 47–9–1(c)(42), revegetation: Standards of success.

During its review, OSM identified concerns it had with the guideline and notified Kansas of these concerns by letter dated September 8, 1989 (Administrative Record No. KS–445). Kansas responded by submitting a revised guideline on October 30, 1989 (Administrative Record No. KS–449). OSM published a notice in the December 1, 1989, **Federal Register** (54 FR 49773) that included announcement of receipt of the revised guideline and invited public comment on its adequacy (Administrative Record No. KS–470). The public comment period ended December 18, 1989. OSM published a final **Federal Register** notice [April 13, 1992 (57 FR 12718)] announcing the approval of the Kansas amendment regarding the practice for repair of rills and gullies as normal husbandry practices. That final rule amended the Federal regulations at 30 CFR part 916 codifying decisions concerning the Kansas program. Specifically, 30 CFR 916.15 was amended by adding a new paragraph (1).

In subsequent rulemaking and correction notices the removal of 30 CFR 915.16(l) resulted. These actions included: a June 14, 1993, final rule (58 FR 34126) that incorrectly added a new paragraph at 30 CFR 915.16 titled (1); a subsequent correction notice to the June 14, 1993, rule that was published on June 22, 1993 (58 FR 33986) that corrected § 916.15(1) (one) to § 916.15(l) (the letter L) and in doing so replaced the original April 13, 1992 (57 FR 12718), § 916.15(l) language with the language added in the June 14, 1993 final rule; and finally a correction notice dated August 30, 1993 (58 FR 45438), did correct the original June 14, 1993, codification from § 916.15(l) to § 916.15(n), but neglected to reinstate the April 13, 1992, codified language at § 915.16 paragraph (l).

Accordingly, the rule amending 30 CFR 916.15 that was published at (57 FR 12718) on April 13, 1992, is adopted as a final rule without change. The Federal Regulations at 30 CFR 916.15 codifying decisions concerning the Kansas program will be amended by reinstating paragraph (l).

V. Director's Decision

Based on the above findings, the Director is approving the proposed amendment submitted by Kansas by letter dated July 10, 1989, and revised on October 30, 1989. The Director is approving the Kansas regulations with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR part 916 codifying decisions concerning the Kansas program are being amended to implement this decision. This final rule is being made effective immediately. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Compliance With Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Compliance With Executive Order 12866

This final rule is exempted from review by the Office of Management and Budget under Executive Order 12866 (Regulatory Planning and Review).

Compliance With the National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA [30 U.S.C. 1292(d)] provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

Compliance With the Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 916

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 1, 1994.

Russell F. Price,

Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T, of the Code of Federal Regulations is amended as set forth below:

PART 916—KANSAS

1. The authority citation for Part 916 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 916.15 is amended by adding paragraph (1) to read as follows:

§ 916.15 Approval of regulatory program amendments.

* * * * *

(1) The procedures in "Guidelines for the repair of rills and gullies in Kansas" submitted by Kansas for approval as a normal husbandry practice on July 10, 1989, and revised on October 30, 1989, is approved September 9, 1994.

* * * * *

[FR Doc. 94–22235 Filed 9–8–94; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–43–1–6554a; FRL–5064–5]

Approval and Promulgation of Implementation Plans Florida: Approval of Revisions to the Florida State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Florida State Implementation Plan (SIP) submitted by the State of Florida through the Florida Department of Environmental Protection (FDEP) on July 9, 1991. This revision adds a heating device to the list of devices approved for open burning frost protection.

DATES: This final rule will be effective November 8, 1994 unless someone submits adverse or critical comments by October 11, 1994. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Copies of the material submitted by the State of Florida may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region IV Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Air Resources Management Division, Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, The telephone number is 404/347–3555 ext.4215.

SUPPLEMENTARY INFORMATION: On July 9, 1991, the State of Florida through the FDEP submitted a revision to section

17–256.450 *Approved Frost Protection Devices*, of the Florida SIP. This revision was made in response to a petition from Sebring Forest Products.

The FDEP recommended and the Florida Environmental Regulation Commission granted approval to add Sebring's "Fireball" frost protection device to the list of approved frost protection devices contained in the referenced section of 17–256 of the Florida Administrative Code (FAC). This device, which is similar to a spool-shaped fireplace log, complies with air quality standards as specified in the rule and provides the agricultural community with an additional approved device for frost protection.

Final Action

In this action, EPA is approving the frost protection SIP revision submitted by the State of Florida through the FDEP on July 9, 1991. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 8, 1994, unless, by October 11, 1994, adverse or critical comments are received. If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 8, 1994.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 8, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607 (b)(2).)

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for 2 years. The EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Nothing in this action shall be construed as permitting, allowing, or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: August 22, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart K—Florida

2. Section 52.520 is amended by adding paragraph (c)(87) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(87) Revisions to chapter 17–256 of the Florida Administrative Code (FAC) regarding Open Burning submitted on July 9, 1991.

(i) Incorporation by reference. Amendments to FAC 17–256.450, effective June 27, 1991.

(ii) Other material. None.

[FR Doc. 94–22236 Filed 9–8–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[MN14–2–6324; FRL–5058–4]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In this action, the United States Environmental Protection Agency (USEPA) is approving revisions to Minnesota's State Implementation Plan (SIP) for sulfur dioxide (SO_2) for the Dakota County/Pine Bend area of Air Quality Control Region (AQCR) 131. The USEPA's action is based upon a revision request which was submitted by the State on July 29, 1992, to satisfy the requirements of the Clean Air Act. The submittal consisted of Administrative Orders (AOs) for the following facilities: Continental Nitrogen and Resources Company, Northern States Power-Inver Hills Generating facility, and Koch Refining Company and Sulfuric Acid Unit.

EFFECTIVE DATE: This final rule becomes effective on October 11, 1994.

ADDRESSES: Copies of the SIP revision, and other materials relating to this rulemaking are available for inspection

at the following address: (It is recommended that you telephone Randy Robinson, (312) 353–6713, before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE–17J), Chicago, Illinois 60604.

A copy of this revision request to the Minnesota SO_2 SIP is available for inspection at the following address: Air Docket 6102, United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Randy Robinson, Air Enforcement Branch, Regulation Development Section (AE–17J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–6713.

SUPPLEMENTARY INFORMATION:

I. Background

On August 3, 1992, USEPA received from the Minnesota Pollution Control Agency (MPCA) a revision to the SO_2 plan for the Dakota County/Pine Bend area of AQCR 131. This area has been designated, by USEPA, as nonattainment for SO_2. The revisions were submitted by the MPCA as a means of demonstrating attainment of the National Ambient Air Quality Standards (NAAQS) for SO_2. The USEPA proposed to disapprove the originally submitted SIP revisions on January 28, 1994 (59 FR 4016). However, that notice of proposed rulemaking stated that if the issues identified within were satisfactorily addressed by the State by the end of the 30-day comment period, and if no other significant adverse comments were received, USEPA would proceed with a final approval. The issues were adequately addressed by the State and the revised AOs were submitted to USEPA on February 25, 1994. No public comments were received on the January 28, 1994, proposed action.

This final rule presents a brief summary of State submittal, discusses how USEPA identified issues were addressed, and describes USEPA's final action.

II. Submittal Summary

The State submittal, dated July 29, 1992 and received on August 3, 1992, consisted of revisions to the Minnesota SO_2 SIP in the form of administrative orders (AOs), along with technical support information, for the following facilities in the Dakota County/Pine Bend area: Koch Refining Company and Koch Sulfuric Acid Plant, Continental Nitrogen and Resources Corporation, and Northern States Power-Inver Hills Generating Facility. An amendment to the original AO for Koch Refining Company, dated February 11, 1993, revised the completion dates for construction and operation of a new stack and control equipment.

Specific issues regarding the July 29, 1992, submittal were identified in a June 4, 1993, letter from George Czerniak, Chief, Air Enforcement Branch, USEPA, to David Thornton, Program Administrator, Program Development and Air Analysis Section, Division of Air Quality, MPCA. The issues were also detailed in the notice of proposed rulemaking (59 FR 4016). In response to those issues, the MPCA submitted revised AOs and administrative materials to USEPA. The revisions affected Continental Nitrogen and Resources Corporation, Northern States Power-Inver Hills Facility, and Koch Refining Company and will be discussed in more detail below.

Attainment Demonstration

Section 172(c)(6) of the Clean Air Act requires that revisions include enforceable emission limitations and other control measures, means or techniques, necessary to provide for attainment of the applicable NAAQS. The State submittal demonstrated attainment through the use of air dispersion modeling. The primary guidance for such demonstrations is the "Guideline on Air Quality Models (Revised)" (1986), Supplement A (1987), and Supplement B (1993), which specifies the criteria for selection of dispersion models and for estimation of emissions and other model inputs. In accordance with that guidance, the dispersion modeling conducted for the three administrative orders in this submittal was performed using the Industrial Source Complex Short-term (ISCST) model (version 90346) for calculation of the 24-hour and 3-hour concentrations, and the Long-term (ISCLT) model (version 90008) for calculation of the annual concentrations. The analysis used urban dispersion coefficients, five years of National Weather Service meteorological data (surface data from the Minneapolis/St. Paul airport and upper air data from St. Cloud), regulatory default parameters, and receptors spaced at 100 meter intervals at areas of maximum impact. The emissions used in the modeling demonstration were based on the maximum emissions allowed at each facility. The modeled concentrations, plus background concentrations and growth margins, showed attainment with the 3-hour, 24-hour, and annual NAAQS.

Compliance

The administrative orders for the facilities each contain sections detailing how compliance is to be determined. The methods used include continuous emissions monitors (CEMS), stack testing conducted in accordance with Reference Methods 1 through 4, 6, 6a, or 6b, and regular fuel sampling and fuel supplier certification. The USEPA has determined, based on guidance in the "General Preamble for Future Proposed Rulemakings," published in the **Federal Register** on April 16, 1992 (57 FR 13498), that these compliance methods are adequate to provide for SO_2 compliance monitoring at the affected facilities.

III. State Responses to USEPA Comments

The following section discusses the principal revisions made by the State and submitted to USEPA on February 25, 1994, in response to USEPA comments detailed in the notice of proposed rulemaking.

For the Continental Nitrogen and Resources Corporation: an averaging time was added for the emission limit, and a formula was added which specified how to determine compliance with the emission limits based on the fuel recordkeeping requirements.

For the Northern States Power-Inver Hills Facility: an averaging time was added for the emission limit, a formula was added which specified how to determine compliance with the emission limits based on the fuel recordkeeping requirements, and an American Society for Testing and Materials (ASTM) method was added for determining sulfur content of the fuel oil. Additionally, a diesel engine generator was added to the AO and was subject to an emission limit and a fuel quality limit.

For the Koch Refining Company: a section of the AO was revised to allow USEPA to require stack tests, a table was added to the AO which details emission limits that apply during maintenance of the SCOT units associated with SRU 3, 4, and 5, compliance with these limits is detailed in the revisions made to Exhibit 5, a method for determining the amount of H_2S in the sour water tank purge gas and sulfur degassing gas for use in establishing an upper limit was added to the order. Additionally, supplemental technical support information was submitted which addressed comments pertaining to sources which were not included in the original modeling demonstration.

IV. Public Comment/USEPA Response

There were no public comments received on the notice of proposed rulemaking published on January 28, 1994.

V. Rulemaking Action

The original SO_2 SIP revisions submitted to USEPA on July 29, 1992, for the Dakota County/Pine Bend area of AQCR 131, and the supplemental amendments, dated February 11, 1993, and February 25, 1994, satisfy the general requirements for implementation plans as detailed in section 110(a)(2) of the Clean Air Act and also the nonattainment area plan requirements listed in subpart I of part D of subchapter I of the Clean Air Act. The February 25, 1994, submittal satisfactorily addressed the issues identified in the January 28, 1994, notice of proposed rulemaking. Consequently, given that no other comments on the proposed rulemaking were received, USEPA is taking final action to approve Minnesota's SO_2 SIP revision submittals for the above specified area of AQCR 131.

The enforceable element of the State's submittals are the administrative orders for three facilities in AQCR 131. The codification portion of this notice identifies the effective dates of the administrative orders and the names and locations of the facilities covered. This final action incorporates into the SIP and makes federally enforceable the administrative orders for: (1) Continental Nitrogen and Resources Corporation; (2) Northern States Power-Inver Hills Facility; and (3) Koch Refining Company and Koch Sulfuric Acid Plant.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*. 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action makes final the action proposed at 59 FR 4016. The USEPA received no adverse public comment on the proposed action. As a direct result, the Regional Administrator has reclassified this action from Table 2 to a Table 3 under the processing procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 22291 for a period of 2 years. The USEPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 8, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Clean Air Act.)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Reporting and record keeping requirements, Sulfur oxides.

Note–Incorporation by reference of the State Implementation Plan for the State of Minnesota was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: August 15, 1994.

Valdas V. Adamkus,

Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart Y—Minnesota

2. Section 52.1220 is amended by adding paragraph (c)(35) to read asfollows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(35) On July 29, 1992, February 11, 1993, and February 25, 1994, the State of Minnesota submitted revisions to its State Implementation Plans (SIPs) for sulfur dioxide for Dakota County Pine Bend area of Air Quality Control Region (AQCR) 131.

(i) Incorporation by reference.

(A) For Continental Nitrogen and Resources Corporation, located in Rosemount, Dakota County, Minnesota:

(*1*) An administrative order, dated and effective July 28, 1992, submitted July 29, 1992.

(*2*) Amendment One to the administrative order, dated and effective February 25, 1994, submitted February 25, 1994.

(B) For Northern States Power Company, Inver Hills Generating Facility, located in Dakota County, Minnesota:

(*1*) An administrative order, dated and effective July 28, 1992, submitted July 29, 1992.

(*2*) Amendment one to the administrative order, dated and effective February 25, 1994, submitted February 25, 1994.

(C) For Koch Refining Company and Koch Sulfuric Acid Unit, located in the Pine Bend area of Rosemount, Dakota County, Minnesota:

(*1*) An administrative order, identified as Amendment One to Findings and Order by Stipulation, dated and effective March 24, 1992, submitted July 29, 1992.

(*2*) Amendment two to the administrative order, dated and effective January 22, 1993, submitted February 11, 1993.

(*3*) Amendment three to the administrative order, dated and effective February 25, 1994, submitted February 25, 1994.

(ii) Additional material.

(A) A letter from Charles Williams to Valdas Adamkus dated July 29, 1992, with enclosures providing technical support (e.g., computer modeling) for the revisions to the administrative orders for three facilities.

(B) A letter from Charles Williams to Valdas Adamkus dated February 11, 1993, submitting Amendment Two to the administrative order for Koch Refining Company.

(C) A letter from Charles Williams to Valdas Adamkus dated February 25, 1994, with enclosures providing technical support for amendments to administrative orders for three facilities.

[FR Doc. 94–22238 Filed 9–8–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[TX–8–1–5221a; FRL–5065–1]

Approval and Promulgation of State Implementation Plans Texas; Prevention of Significant Deterioration, Nitrogen Dioxide Increments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves a revision to the Texas Prevention of Significant Deterioration (PSD) State Implementation Plan (SIP) which incorporates by reference the Federal nitrogen dioxide (NO_2) increment standards. The effect of this action is to make this revision a part of the Texas SIP and thus federally enforceable.

DATES: This final rule will become effective on November 8, 1994 unless adverse or critical comments are received by October 11, 1994. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Planning Section, at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-A), First Interstate Bank Building, 1445 Ross Avenue, suite 700, Dallas, Texas 75202–2733.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Bill Deese of the EPA Region 6 Air Programs Branch at (214) 665–7253 and at the above address.

SUPPLEMENTARY INFORMATION:

The EPA approved the Texas PSD SIP in the **Federal Register** (FR) on June 24, 1992, on pages 28093 to 28098 (57 FR 28093–28098). This approval gave the Texas Natural Resource Conservation Commission (TNRCC) (formerly the Texas Air Control Board (TACB)) direct authority, as of July 24, 1992, to issue and enforce PSD permits in most areas of Texas, with the limitations described in the rule. The revisions incorporated by reference, with certain exceptions, the regulations in 40 CFR 52.21, as they existed on August 1, 1987, into section 116.3(a)(13) of TACB Regulation VI, "Control of Air Pollution by Permits for New Construction or Modification." At the time the revisions were adopted by the TACB and approved by the EPA, Regulation VI was codified in Chapter 116 of title 31 of the Texas Administrative Code (31 TAC Chapter 116).

The Governor of Texas submitted to EPA on February 18, 1991, a revision to section 116.3(a)(13) of TACB Regulation VI. The revision was adopted by the TACB on December 14, 1990, after conducting a complete public participation program pursuant to 40 CFR 51.102. This revision changed the date in section 116.3(a)(13) from "August 1, 1987" to "October 17, 1988" to reflect the amendments to 40 CFR 52.21 as promulgated in the **Federal Register** on October 17, 1988 (53 FR 40656–40672). By revising this date, the State will have, with certain exceptions, the authority to implement and enforce the Federal PSD rules, including the PSD NO_2 increments, as promulgated in the **Federal Register** on October 17, 1988. The exceptions are the same as those discussed in the action published June 24, 1992, approving the Texas PSD SIP. The EPA has determined that the State of Texas has adequately revised its existing PSD SIP to incorporate the provisions of the NO_2 increments promulgated by the EPA on October 17, 1988.

The TACB, on August 16, 1993, adopted the repeal of Regulation VI (31 TAC Chapter 116), "Control or Air Pollution by Permits for New Construction or Modification," and adopted a new Regulation VI (31 TAC Chapter 116) with the same name. The new Regulation VI has been submitted to EPA as a revision to the Texas SIP. The EPA has not yet acted on the submittal.

The TACB became the Office of Air Quality in the new TNRCC on September 1, 1993. The TACB air quality control regulations were transferred from title 31 of the Texas Administrative Code (31 TAC) to new title 30 of the Texas Administrative Code (30 TAC). The designation for Regulation VI changed from 31 TAC Chapter 116 to 30 TAC Chapter 116.

In this **Federal Register** action, EPA is approving the revision to section 116.3(a)(13) of TNRCC Regulation VI (31 TAC Chapter 116) as adopted by the TACB on December 14, 1990, and submitted by the Governor on February 18, 1991. This action is not approving or disapproving any part of TNRCC Regulation VI (31 TAC Chapter 116) as adopted by the TACB on August 16, 1993. This action is also not approving or disapproving the transfer of Regulation VI from 31 TAC to 30 TAC.

Final Action

The EPA is approving a revision to section 116.3(a)(13) of TNRCC Regulation VI (31 TAC Chapter 116), "Control of Air Pollution by Permits for New Construction or Modification" adopted by the TACB on December 14, 1990, and submitted by the Governor to EPA on February 18, 1991. This revision will give the State the authority to implement, with certain exceptions, the Federal PSD regulations codified at 40 CFR 52.21 as revised in the **Federal Register** on October 17, 1988. The exceptions are discussed in the **Federal Register** action published June 24, 1992, approving the Texas PSD SIP.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. Thus, today's direct final action will be effective November 8, 1994 unless, by October 11, 1994, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any

parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 8, 1994.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act (CAA) do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 8, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide.

Note: Incorporation by reference of the SIP for the State of Texas was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: August 23, 1994.

W.B. Hathaway,

Acting Regional Administrator (6A).

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(78) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(78) Revision to the Texas State Implementation Plan for Prevention of Significant Deterioration adopted by the Texas Air Control Board (TACB) on December 14, 1990, and submitted by the Governor on February 18, 1991.

(i) Incorporation by reference.

(A) Revision to TACB Regulation VI (31 TAC Chapter 116)—Control of Air Pollution by Permits for New Construction or Modification: Section 116.3(a)(13) as adopted by the TACB on December 14, 1990, and effective January 7, 1991.

(B) TACB Board Order No. 90–13, as adopted on December 14, 1990.

* * * * *

3. Section 52.2303 is amended by revising paragraph (a) to read as follows:

§ 52.2303 Significant deterioration of air quality.

(a) The plan submitted by the Governor of Texas on December 11, 1985 (as adopted by the TACB on July 26, 1985), October 26, 1987 (as revised by the TACB on July 17, 1987), September 29, 1988 (as revised by the TACB on July 15, 1988), and February 18, 1991 (as revised by the TACB on December 14, 1990) containing Regulation VI—Control of Air Pollution for New Construction or Modification, Section 116.3(a)(13); the Prevention of Significant Deterioration (PSD) Supplement document, submitted by the Governor on October 26, 1987 (as adopted by the TACB on July 17, 1987); and revision to General Rules, Rule 101.20(3), submitted by the Governor on December 11, 1985 (as adopted by the TACB on July 26, 1985), is approved as meeting the requirements of part C, Clean Air Act for preventing significant deterioration of air quality.

* * * * *

[FR Doc. 94–22239 Filed 9–8–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[OR–40–1–6396a, OR–41–1–6397a, OR44–1–6543a; FRL–5023–5]

Approval and Promulgation of State Implementation Plans; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA approves the State Implementation Plan (SIP) revision submitted by the State of Oregon. This revision establishes and requires the implementation of a basic motor vehicle inspection and maintenance (I/M) program in the Portland Metropolitan Service district and the Medford-Ashland Air Quality Maintenance Area. The intended effect of this action is approval of a basic motor vehicle I/M program. This action is being taken under section 110 of the Clean Air Act.

DATES: This final rule will be effective on November 8, 1994, unless adverse or critical comments are received by October 11, 1994. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Air & Radiation Branch (AT–082), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and the Oregon Department of Environmental Quality, Vehicle Inspection Program, 1301 SE., Morrison Street, Portland, Oregon 97214.

FOR FURTHER INFORMATION CONTACT: Christi Lee, EPA, Air and Radiation Branch (AT–082), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–1814.

SUPPLEMENTARY INFORMATION:

I. Clean Air Act Requirements

The Clean Air Act, as amended in 1990 (CAAA or Act), requires states to make changes to improve existing I/M programs or implement new ones. Section 182(a)(2)(B) requires any ozone nonattainment area which has been classified as "marginal" (pursuant to section 181(a) of the Act) or worse with an existing I/M program that was part of a SIP, or any area that was required by the 1977 Amendments to the Act to have an I/M program, to immediately submit a SIP revision to bring the program up to the level required in past EPA guidance or to what had been committed to previously in the SIP whichever was more stringent. All carbon monoxide (CO) nonattainment areas were also subject to this requirement to improve existing or previously required programs to this level.

In addition, Congress directed the EPA in section 182(a)(2)(B) to publish updated guidance for state I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The states were to incorporate this guidance into the SIP for all areas required by the Act to have an I/M program.

On November 5, 1992 (57 FR 52950), the EPA published a final regulation establishing the I/M requirements, pursuant to sections 182 and 187 of the Act. The I/M regulation was codified at 40 CFR part 51, subpart S, and requires states to submit an I/M SIP revision which includes all necessary legal authority and the items specified in 40 CFR 51.372 (a)(1) through (a)(8) by November 15, 1993. The State of Oregon has met these requirements.

The EPA has designated two areas as CO nonattainment in the State of Oregon, one of which is also an ozone nonattainment area. The Portland CO nonattainment area classified as Moderate less than or equal to 12.7 ppm contains portions of the following three counties: Clackamas, Multnomah, and Washington. The Portland ozone nonattainment area classified as Marginal consists of the Air Quality Maintenance Area. The Medford CO nonattainment area classified as Moderate less than or equal to 12.7 ppm contains a portion of Jackson County. The nonattainment designations for CO and ozone were published in the **Federal Register** (FR) on November 6, 1991, and November 30, 1992, and have been codified in the Code of Federal Regulations (CFR). See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.300 through 81.437. Based on these nonattainment designations, basic I/M programs are required in both the Portland and Medford areas.

By this action, the EPA is approving this submittal. The EPA has reviewed the State submittal against the statutory requirements and for consistency with the EPA regulations. EPA summarizes the requirements of the Federal I/M regulations as found in 40 CFR 51.350 through 51.373 and its analysis of the State submittal below. Parties desiring additional details on the Federal I/M regulation are referred to the November 5, 1992 **Federal Register** document (57 FR 52950) or 40 CFR 51.350 through 51.373.

II. Background

On November 15, 1993 the State of Oregon submitted to EPA a SIP revision for a basic I/M program that had an adequate public notice and public hearing (August 17, 1993) process and was adopted by the Environmental Quality Commission (EQC) on November 1, 1993, becoming effective on November 4, 1993. An additional I/M revision was adopted by the EQC on June 3, 1994, and received by EPA on June 14, 1994. Prior to the EQC's signature, the State provided adequate public notice (March 7, 1994) and public hearing (April 5, 1994) on the I/M SIP revision. The June 3, 1994 submittal supplements the November 15, 1993 SIP revision.

The November 15, 1993 and June 3, 1994 SIP revisions were reviewed by EPA to determine completeness shortly after submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V. The submittals were found to be complete and letters dated April 11, 1994 and June 16, 1994 respectively, were forwarded to the Director of the Oregon Department of Environmental Quality (ODEQ) indicating the completeness of the submittal.

III. State Submittal

The State submittal provides for the upgrading of the existing I/M program to an EPA approved basic I/M program in the Portland and Medford areas beginning on July 1, 1994. Oregon will be implementing biennial, test-only I/M programs which meet the requirements of EPA's performance standard and other requirements contained in the Federal I/M rule in the applicable nonattainment counties. Testing will be performed by ODEQ. Other aspects of the Oregon I/M program include: testing of 20 year old vehicles in Medford and testing of 1975 and later vehicles in Portland, a test fee to ensure the State has adequate resources to implement the program, enforcement by registration denial, a repair effectiveness program, commitment to testing convenience, quality assurance, data collection, zero waiver rate, reporting, test equipment and test procedure specifications, commitment to ongoing public information and consumer protection programs, inspector training and certification, and penalties against inspector incompetence. An analysis of how the Oregon I/M program meets the Federal SIP requirements by section of the Federal I/M rule is provided below.

A. Applicability

The SIP needs to describe the applicable areas in detail and, consistent with 40 CFR 51.372, needs to include the legal authority or rules necessary to establish program boundaries.

Portland's I/M program, specified in Oregon's Revised Statutes (ORS) 815.300, is to be implemented in the Metropolitan Service District, incorporating portions of Clackamas, Multnomah and Washington Counties. The Medford I/M program described in Oregon's Administrative Rule (OAR) 340–24–301 is to be implemented in the Air Quality Maintenance Area which includes approximately 85 percent of the population of Jackson County. The legal authority for Oregon's EQC to establish geographic boundaries can be found in ORS 468A.390 and 815.300.

B. Basic I/M Performance Standard

The I/M programs provided for in the SIP are required to meet a performance standard for basic I/M for the pollutants that caused the affected area to come under I/M requirements. The performance standard sets an emission reduction target that must be met by a program in order for the SIP to be approvable. The SIP must also provide that the program will meet the performance standard in actual operation, with provisions for appropriate adjustments if the standard is not met.

The State has submitted a modeling demonstration using the EPA computer model MOBILE 5a showing that the basic performance standard is met in both Portland and Medford.

C. Network Type

The SIP needs to include a description of the network to be employed, the required legal authority, and, in the case of areas making claims for case-by-case equivalency, the required demonstration.

Oregon has chosen to implement centralized, test-only basic I/M, programs which are managed and operated by the ODEQ. The Oregon I/M programs, in both Portland and Medford, operate fleet self-testing programs with oversight by ODEQ employees.

Legal authority which is contained in ORS 468A.350 though 468A.415 and OAR 340–24–100 through 340–24–355 authorizes the State to implement this program.

D. Adequate Tools and Resources

The SIP needs to include a description of the resources that will be used for program operation, which includes: (1) A detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, purchase of necessary equipment, and any other requirements discussed throughout, for the period prior to the next biennial self-evaluation required in Federal I/M rule; and (2) a description of personnel resources, the number of personnel dedicated to overt and covert auditing, data analysis, program administration, enforcement, and other necessary functions and the training attendant to each function.

The I/M program as stipulated in ORS 468A.400 is funded solely by collection of fees from vehicle owners at the time of passing the I/M test. The current fee is $10 per certificate issued for ODEQ inspected vehicles and $5 each from certificates issued by fleets. The ODEQ operates the I/M program, including overseeing the construction of testing facilities, purchasing of testing equipment, development of testing procedures, actual testing of vehicles and oversight of program operations. Currently, none of the vehicle testing operations (expect self-inspecting fleet testing) is contracted to a source outside ODEQ.

The SIP narrative also describes the budget, staffing support, and equipment needed to implement the program. The State expects to dedicate approximately 55 full-time employees to support the program.

E. Test Frequency and Convenience

The SIP needs to include the test schedule in detail including the test year selection scheme if testing is other than annual. Also, the SIP needs to include the legal authority necessary to implement and enforce the test frequency requirement and explain how the test frequency will be integrated with the enforcement process.

The Oregon I/M program requires biennial inspections for all subject motor vehicles (see ORS 468A.365). For new vehicles the first test is required for reregistration two years after initial registration. In addition all motor vehicles registered as government-owned vehicles or gasoline powered heavy duty trucks are required to be certified annually.

Since the inspection program has been operating in this manner since 1975 for Portland and 1986 for Medford, no special vehicle testing sequence scheme is required to accomplish a steady month-to-month flow of vehicles. Short waiting times and short driving distances relating to network design are satisfactorily addressed in the SIP. The test stations are located such that approximately 85 percent of all motorists are within five miles of a test facility and 95 percent are within 12 miles of a facility. Monthly average waiting times range between 5 minutes and 12 minutes varying with station location and time of month.

Statutory authority for testing and registration of used vehicles newly arriving into the I/M area is contained in ORS 803.400, 803.350 and 803.415.

F. Vehicle Coverage

The SIP needs to include a detailed description of the number and types of vehicles to be covered by the program, and a plan for how those vehicles are to be identified, including vehicles that are routinely operated in the area but may not be registered in the area. Also, the SIP needs to include a description of any special exemptions which will be granted by the program, and an estimate of the percentage and number of subject vehicles which will be impacted. Such exemptions need to be accounted for in the emission reduction analysis. In addition, the SIP needs to include the legal authority or rule necessary to implement and enforce the vehicle coverage requirement.

The Portland program coverage includes all 1975 and newer model year light-duty cars and trucks and heavy-duty gasoline powered trucks, registered or required to be registered within the nonattainment areas and fleets primarily operated within an I/M program area. The Medford program covers the above vehicles 20 years old and newer. Vehicles will be identified through the State of Oregon's Driver and Motor Vehicle Services database.

ODEQ will not test rental car agencies and private and public fleets that operate vehicles in the I/M areas, but whose fleets are not registered in the I/M areas. ODEQ estimates the quantity of fleet vehicles in this category to be approximately 10,000 vehicles. Federal fleet vehicles garaged in I/M areas are required to be tested. However, Federal vehicles registered to agencies based outside of the I/M program areas, but which are routinely operated within the program area will not be required to be tested. It is estimated that 100 Federal vehicles fall into this category. In addition, vehicles owned by Federal employees living outside the program areas, but working at Federal facilities inside the program areas with employee parking provided, will not be tested. It is estimated this will impact about 250 vehicles. ODEQ will accept a reduction in associated emissions benefits in the Mobile 5A model. Private fleets and local government fleets are allowed to test their own vehicles. However, test records are tracked by the ODEQ and ODEQ employees visit fleet operations on a periodic basis to insure proper test procedures are used and testing equipment is properly calibrated. Fleet licenses can be removed if fleet operation does not meet standards.

In addition, ODEQ has procedures for testing vehicles registered in an Oregon I/M area but temporarily driven in an I/M area of another state.

G. Test Procedures and Standards

The SIP needs to include a description of each test procedure used. The SIP also needs to include the rule, ordinance or law describing and establishing the test procedures.

The authority to establish test procedures and standards is contained in ORS 468A.365. The test procedures and test standards are specified in OAR 340–24–309 through 340–24–355. In the Portland I/M area all 1975 model and newer vehicles are subject to a two speed idle test. In Medford all 20 year old vehicles are subject to a two speed idle test. Vehicles 1981 and newer are required to pass both an idle and 2500 rpm emissions standards for CO and hydrocarbon. Subject vehicles with model years older than 1981 are not judged at the 2500 rpm test point. All tested vehicles are given a second chance idle test.

H. Test Equipment

The SIP needs to include written technical specifications for all test equipment used in the program and shall address each of the requirements in 40 CFR 51.358 of the Federal I/M rule. The specifications need to describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

The Oregon I/M SIP commits to meeting the California BAR 90 accuracy standards. The Oregon SIP addresses the requirements in 40 CFR 51.358 and

includes descriptions of performance features and functional characteristics of the computerized test systems. The necessary test equipment, required features, and acceptance testing criteria are also contained in the SIP.

I. Quality Control

The SIP needs to include a description of quality control and recordkeeping procedures. The SIP needs to include the procedures manual, rule, and ordinance or law describing and establishing the procedures of quality control and requirements.

The Oregon I/M SIP narrative contains descriptions and requirements establishing the quality control procedures in accordance with the Federal I/M rule. These requirements will help ensure that equipment calibrations are properly performed and recorded as well as maintaining compliance document security.

J. Waivers and Compliance Via Diagnostic Inspection

The SIP needs to include a maximum waiver rate expressed as a percentage of initially failed vehicles. This waiver rate needs to be used for estimating emission reduction benefits in the modeling analysis. Also, the state needs to take corrective action if the waiver rate exceeds that estimated in the SIP or revise the SIP and the emission reductions claimed accordingly. In addition, the SIP needs to describe the waiver criteria and procedures, including cost limits, quality assurance methods and measures, and administration. Lastly, the SIP shall include the necessary legal authority, ordinance, or rules to issue waivers, set and adjust cost limits as required, and carry out any other functions necessary to administer the waiver system, including enforcement of the waiver provisions.

The Oregon I/M program does not allow vehicles to by-pass the test with waivers. All vehicles must be repaired and meet testing standards before a certificate is issued and registration can be accomplished.

K. Motorist Compliance Enforcement

The SIP needs to provide information concerning the enforcement process, including: (1) A description of the existing compliance mechanism if it is to be used in the future and the demonstration that it is as effective or more effective than registration-denial enforcement; (2) an identification of the agencies responsible for performing each of the applicable activities in this section; (3) a description of and accounting for all classes of exempt vehicles; and (4) a description of the plan for testing fleet vehicles, rental car fleets, leased vehicles, and any other special classes of subject vehicles, e.g. those operated in (but not necessarily registered in) the program area. Also, the SIP needs to include a determination of the current compliance rate based on a study of the system that includes an estimate of compliance losses due to loopholes, counterfeiting, and unregistered vehicles. Estimates of the effect of closing such loopholes and otherwise improving the enforcement mechanism need to be supported with detailed analyses. In addition, the SIP needs to include the legal authority to implement and enforce the program. Lastly, the SIP needs to include a commitment to an enforcement level to be used for modeling purposes and to be maintained, at a minimum, in practice.

The motorist compliance enforcement program will be implemented, in part, by the Oregon Drivers and Motor Vehicle Services Branch (DMV), which will take the lead in ensuring that owners of all subject vehicles are denied registration unless they provide valid proof of having received a certificate indicating they passed an emissions test. State and local police agencies have the authority to cite motorists with expired registration tags.

The following vehicle types are exempt from the Oregon I/M program: All vehicle model years 1974 and older (in Portland), all vehicle model years older than 20 years (in Medford), electric vehicles, fixed load vehicles, apportioned plate vehicles, motorcycles, snowmobiles, and farm vehicles.

Current compliance rates are estimated at 95 percent in the Portland I/M area and 90 percent in the Medford I/M area. The SIP commits to a level of motorist enforcement necessary to ensure a compliance rate of no less than 90 percent among subject vehicles in the Portland area and no less than 80 percent in the Medford I/M area. The legal authority to implement and enforce the program is included in ORS 468A.365 and 468A.385.

L. Motorist Compliance Enforcement Program Oversight

The SIP needs to include a description of enforcement program oversight and information management activities.

The ODEQ will periodically review the compliance rates of both the Portland and Medford area I/M programs via parking lot surveys.

M. Quality Assurance

The SIP needs to include a description of the quality assurance program, and written procedures manuals covering both overt and covert performance audits, record audits, and equipment audits. This requirement does not include materials or discussion of details of enforcement strategies that would ultimately hamper the enforcement process.

The Oregon I/M SIP includes a description of its quality assurance program. The program includes operation and progress reports and overt and covert audits of all emission inspectors and emission inspection. Overt audits will be conducted by the inspection unit supervisors who supervise the inspectors of the station to be audited. Covert vehicle audits will be conducted by contracted labor as drivers and inspection units supervisors will set-up vehicles and assemble audit trail records. Remote inspector audits will be performed by the inspection units supervisor who supervises that station or inspector. Procedures and techniques for overt and covert performance, record, and equipment audits will be given to auditors and updated as needed.

N. Enforcement Against Contractors, Stations and Inspectors

The SIP needs to include the penalty schedule and the legal authority for establishing and imposing penalties, civil fines, license suspension, and revocations. In the case of state constitutional impediments to immediate suspension authority, the state Attorney General shall furnish an official opinion for the SIP explaining the constitutional impediment as well as relevant case law. Also, the SIP needs to describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts, and jurisdictions are involved; who will prosecute and adjudicate cases; and other aspects of the enforcement of the program requirements, the resources to be allocated to this function, and the source of those funds. In states without immediate suspension authority, the SIP needs to demonstrate that sufficient resources, personnel, and systems are in place to meet the three day case management requirement for violations that directly affect emission reductions.

Oregon Revised Statute 815.320 "Unlawful certification of compliance with pollution control requirements; penalty" describes that the unlawful certification of compliance with pollution control requirements is a class

A misdemeanor. This statute would apply when an inspector is found to have intentionally improperly passed a vehicle that would not otherwise have been issued a Certificate of Compliance. The maximum penalty for a Class A misdemeanors is a $2,500 fine and/or a one year jail sentence. Additionally, Article 12 of the current collective bargaining agreement between ODEQ and American Federation of State, County and Municipal Employees Local 3336 (AFSCME) details the process for disciplining and discharging State employed vehicle emission inspectors. Oregon Administrative Rule 340–24–350 provides the inspector's license may be suspended, revoked or removed if the inspector fails to follow proper test procedures. This would include removal from testing duties for up to six months. However, Article 52 of the ODEQ/AFSCME agreement requires that a State employed vehicle emission inspector shall be given at least fifteen calendar days notice before any permanent change of an inspector from one duty station to another.

O. Data Analysis and Reporting

The SIP needs to describe the types of data to be collected. The Oregon I/M SIP provides reporting summary data based upon program activities taking place in the previous year. The report will provide statistics for the testing program, the quality control program, the quality assurance program, and the enforcement program. At a minimum, Oregon commits to address all of the data elements listed in § 51.366 of the Federal I/M rule.

P. Inspector Training and Licensing or Certification

The SIP needs to include a description of the training program, the written and hands-on tests, and the licensing or certification process.

The Oregon I/M SIP provides for the implementation of training, certification, and refresher programs for emission inspectors. Training will include all elements required by 51.367(a) of the EPA I/M rule. All inspectors will be required to be certified to inspect vehicles in the Oregon I/M program.

Q. Improving Repair Effectiveness

The SIP needs to include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements of this section for enhanced I/M programs, and a description of the repair technician training resources available in the community.

The Oregon SIP commits the program's engineering and supervisory staff to continue to work with both motor vehicle owners and the automotive service industry regarding their vehicles failing to meet the exhaust emission levels. These direct contacts are normally either by telephone or person-to-person. Customers with vehicles that present unusual testing problems or situations are referred by the inspector staff to the program's field supervisors. If the problems cannot be resolved over the telephone, an appointment can be made to have a vehicle brought into the program's Technical Center for further testing.

IV. This Action

The EPA is approving the Oregon I/M SIP (Section 3.1, OAR 340–24–300 through 340–24–355; and section 5.4) as meeting the requirements of the CAAA and the Federal I/M rule. All required SIP items have been adequately addressed as discussed in this **Federal Register** action.

V. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.SE.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 8, 1994, by October 11, 1994, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 8, 1994.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 8, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of **Federal Register** on July 1, 1982.

Dated: July 15, 1994.

Gerald A. Emison,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follws:

Authority: 42 U.S.C. 7401–7671q.

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c) (109) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(109) On October 27, 1993, the Director of ODEQ submitted OAR 340–24–307, Motor Vehicle Inspection Program Fee Schedule, as an amendment to the Oregon SIP. On November 15, 1993, the Director of ODEQ submitted Section 3.1, OAR 340–24–309 through 340–24–350 and section 5.4, Motor Vehicle Inspection and Maintenance Plan, as amendments to the Oregon SIP. On June 14, 1994 EPA's Regional Administrator, Chuck Clarke, received Section 3.1, OAR 340–24–309 through 340–24–355 and section 5.4, Motor Vehicle Inspection and Maintenance Plan, from the Director of ODEQ as amendments to the Oregon SIP.

(i) Incorporation by reference.

(A) October 27, 1993 letter from the Director of ODEQ to the Regional Administration of EPA submitting a revision to the Oregon SIP, Motor Vehicle Inspection Program Fee Schedule.

(B) November 15, 1993 letter from the Director of ODEQ to the Regional Administrator of EPA submitting revisions to the Oregon SIP, Vehicle Inspection and Maintenance Program.

(C) June 13, 1994 letter from the Director of ODEQ to the Regional Administrator of EPA submitting revisions to the Oregon SIP, Vehicle Inspection and Maintenance Program.

(D) Oregon's Motor Vehicle Inspection Program Fee Schedule, OAR 340–24–307, adopted by the Environmental Quality Commission on January 29, 1993.

(E) Oregon's Vehicle Inspection and Maintenance Program, OAR 340–24–309, 310, 315, 320, 330, 335, 340, 350, and Volume 2 Section 5.4, Motor Vehicle Inspection and Maintenance Plan, adopted by the Environmental Quality Commission on October 29, 1993.

(F) Oregon's Vehicle Inspection and Maintenance Program, Section 3.1, OAR 340–24–300 through 340–24–355, and Section 5.4, adopted by the Environmental Quality Commission on June 3, 1994.

[FR Doc. 94–22242 Filed 9–8–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[IL–18–4–6096; FRL–5028–7]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On September 11, 1991, and March 15, 1993 the Illinois Environmental Protection Agency (IEPA) submitted to the United States Environmental Protection Agency (USEPA) volatile organic compound (VOC) rules, for the Chicago and East St. Louis ozone nonattainment areas, as requested revisions to Illinois' State Implementation Plan (SIP) for ozone. These rules had been submitted to USEPA to correct deficiencies in its VOC SIP and to expand the geographic applicability of Illinois' VOC rules to all the State's nonattainment areas. IEPA submitted the rules for parallel processing because the rules submitted on March 15, 1993, had not been finally adopted by the State. On September 22, 1993, USEPA proposed to approve these rules. On October 21, 1993, IEPA submitted the finally adopted rules which contained some significant changes. In this rule the USEPA is approving those rules which have not been changed since their initial submission. However, USEPA will be addressing those rules which have been changed in a separate rulemaking action.

EFFECTIVE DATE: This final rule is effective October 11, 1994.

ADDRESSES: Copies of Illinois' SIP revision request and any public comments are located for public inspection and copying at the following address. A reasonable fee may be charged for copying.

U.S. Environmental Protection Agency, Region 5, Regulation Development Branch, Eighteenth Floor, Southeast, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6036.

A copy of this SIP revision is available for inspection at the following address.

Office of Air and Radiation Docket and Information Center (Air Docket 6102), room M1500, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Regulation Development Branch, U.S. Environmental Protection Agency, Region 5, (312) 886–6052, at the Chicago address indicated.

SUPPLEMENTARY INFORMATION:

Background

Under section 107 of the Clean Air Act (Act), as amended in 1977, USEPA designated certain areas in each State as not attaining the National Ambient Air Quality Standards (NAAQS) for ozone. For these areas, section 172(a) of the Act required that the State revise its SIP to provide for attaining the primary NAAQS as expeditiously as practicable, but not later than December 31, 1982.[1] Part D allowed USEPA, though, to grant extensions to as late as December 31, 1987, to those States that could not demonstrate attainment of the ozone standard by December 31, 1982, if certain conditions were met by the State in revising its SIP. Illinois requested, and received, an extension to December 31, 1987, for attaining the ozone NAAQS for the Chicago and East St. Louis ozone nonattainment areas. Section 172 (b) and (c) of the Act, as amended in 1977, require that for stationary sources, an approvable SIP must include legally enforceable requirements reflecting the application of reasonably available control technology (RACT).[2]

[1] The requirements for an approvable SIP are described in a "General Preamble" for part D rulemaking published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979). On January 22, 1981, (46 FR 7182), USEPA published guidance for the development of 1982 ozone SIPS in "State Implementation Plans: Approval of 1982 Ozone and Carbon Monoxide Plan Revisions for Areas Needing an Attainment Date Extension."

[2] A definition of RACT is contained in a December 9, 1976, memorandum from Roger Strelow, former Assistant Administrator of Air and Waste Management and is cited in a General Preamble-Supplement on Control Technique Guidelines (CTGs), published at 44 FR 53761, 53762 (September 17, 1979). RACT is defined as the lowest emission limitation that a particular source

On February 21, 1980 (45 FR 11472), USEPA approved Illinois' RACT I (or Group I) rules. These rules (which applied statewide), all contained in Pollution Control Board Rule 205 (Organic Material Emission Standards and Limitations), consisted of the following subsections: (a) Storage, (b) Loading, (c) Organic Material-Water Separation, (d) Pumps, (e) Architectural Coatings, (f) Use of Organic Material, (g) Waste Gas Disposal, (h) Emissions During Clean-up Operations and Organic Material Disposal, (i) Testing Method for Determination of Emissions of Organic Material, (j) Compliance Dates, (k) Solvent cleaning, (l) Petroleum Refineries, (m) Compliance Schedules, (n) Surface Coating, (o) Bulk Gasoline Plants, Bulk Gasoline Terminals, and Petroleum Liquid Storage Tanks, (p) Gasoline Dispensing Facility, (q) Cutback Asphalt, and (r) Operation of Oil Fired and Natural Gas Afterburners.

On November 21, 1987 (52 FR 45333), USEPA approved a portion of Illinois' RACT II (or Group II) rules that were submitted to USEPA on January 28, 1983. The approved rules (which applied statewide), also all contained in Pollution Control Board Rule 205, consisted of the following: (l) Petroleum Refinery Leak rules, which were added to subsection (l), (t) Manufacture of Pneumatic Rubber Tires, and (u) Dry Cleaning.

On October 14, 1983, after submission of its RACT II rules, Illinois recodified its VOC rules from Pollution Control Board Rule 205 into Part 215 of Title 35 of the Illinois Administrative Code. Certain minor modifications were also made in the process of recodification.

On May 26, 1988, Valdas V. Adamkus, Regional Administrator, USEPA, Region 5, notified former Governor James R. Thompson, pursuant to section 110(a)(2)(H) of the preamended Act, that the Illinois SIP was substantially inadequate to achieve the NAAQS for ozone in parts of Illinois. This letter to the Governor further stated that Illinois was required under the Act, as amended in 1977, to correct the deficiencies and inconsistencies in its existing VOC regulations. A June 17, 1988, SIP call follow-up letter to IEPA identified the deficiencies and inconsistencies in Illinois' existing VOC stationary source RACT regulations that had been previously approved by USEPA. This letter also referred to required VOC regulations that had been submitted by Illinois to USEPA and that were undergoing USEPA review. USEPA published an information notice on September 7, 1988, (53 FR 34500) on the call for a SIP revision and on guidance documents, including the May 25, 1988, document, "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations" (Bluebook).

On April 1, 1987, the State of Wisconsin filed a complaint in the United States District Court for the Eastern District of Wisconsin against USEPA and sought a judgment that USEPA, among other requested actions, be required to promulgate revisions to the Illinois ozone SIP for northeastern Illinois. *Wisconsin* v. *Reilly*, No. 87–C–0395, E.D. Wis. The State of Illinois intervened in this action. On January 18, 1989, the District Court ordered that USEPA promulgate an ozone implementation plan for northeastern Illinois within 14 months of the date of that order. On September 22, 1989, USEPA and the States of Illinois and Wisconsin signed a settlement agreement in an attempt to substitute a more acceptable schedule for promulgation of a plan for the control of ozone in the Chicago area. On November 6, 1989, the District Court vacated its prior order and ordered all further proceedings stayed, pending the performance of the settlement agreement.

The settlement agreement calls for the use of a more sophisticated air quality model, allows more time for USEPA to promulgate a Federal Implementation Plan (FIP) using the model, and requires interim emission reductions while the modeling study is being performed. The interim emission reductions were to be achieved by the Federal promulgation of required VOC RACT rules, as discussed below.

On June 29, 1990, (55 FR 26814) USEPA took final rulemaking action to address the part D requirement for RACT for the Chicago portion of the Illinois SIP and to satisfy requirements in the settlement agreement. This rulemaking: (a) Adopted Federal RACT rules for inclusion in the Illinois plan, (b) approved certain pending State RACT rules for inclusion in the Illinois plan and (c) disapproved certain State rules. This notice established a comprehensive set of RACT rules applicable to the VOC sources in Cook, DuPage, Kane, Lake, McHenry, and Will Counties in Illinois. The resultant plan for Illinois consists of some federally approved (State) rules and some federally promulgated (Federal) rules. At the time, this mixed Federal-State rule approach provided the best model for the State to eventually secure a total federally approved State plan by indicating the corrections Illinois must make in its rules, and was consistent with the District Court's orders.

Requirements of Amended Act

The Clean Air Act Amendments of 1990 (amended Act) were enacted on November 15, 1990. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A), Congress statutorily adopted the requirement that ozone nonattainment areas "fix-up" their deficient RACT rules for ozone. Areas designated nonattainment before enactment of the Amendments and which retained that designation and were classified as marginal or above as of enactment were required to meet the RACT fix-up requirement. Under section 182(a)(2)(A), those areas were required by May 15, 1991, to correct RACT as it was required under pre-amended section 172(b) as that requirement was interpreted in pre-amendment guidance.[3] The SIP call letters interpreted that guidance and indicated corrections necessary for specific nonattainment areas. The Chicago nonattainment area is classified as severe and the East St. Louis area is classified as moderate.[4] Therefore, these nonattainment areas were subject to the RACT fix-up requirement and the May 15, 1991, deadline.

In amended section 182(b)(2), the RACT "catch-ups", Congress statutorily adopted the requirements that VOC sources in newly designated ozone nonattainment areas be subject to RACT, VOC sources covered by a CTG be subject to RACT, and all other major VOC sources be subject to RACT. Amended section 182 revises the yearly quantity of VOC emissions necessary for

is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.

The USEPA published CTGs in order to assist the States in determining RACT. The CTGs provide information on available air pollution control techniques and provide recommendations on what the USEPA considers the "presumptive norm" for RACT. The Group I CTGs were issued in 1977, the Group II CTGs were issued in 1978, and the Group III CTGs were issued between 1982 and 1984.

All other sources which are not covered by a CTG are referred to as "non-CTG" sources. Prior to the Clean Air Act Amendments of 1990 "Non-CTG major sources" had the potential to emit more than 100 tons of VOC per year.

[3] Among other things, the pre-amendment guidance consists of the VOC RACT portions of the Post-87 policy, 52 FR 45044 (Nov. 24, 1987); the Bluebook, "Issues Relating to VOC Regulation Cutpoints, Deficiences and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (of which notice of availability was published in the **Federal Register** on May 25, 1988); and the existing CTGs.

[4] These areas retained their designation of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon enactment of the Amendments. 56 FR 56694 (Nov. 6, 1991).

a source to be considered major for serious, severe, and extreme ozone nonattainment areas from 100 tons VOC per year to 50, 25, and 10 tons VOC per year, respectively.

Submitted Regulations

On September 11, 1991, and March 15, 1993, IEPA submitted VOC RACT rules for the Chicago and East St. Louis ozone nonattainment areas. USEPA identified, in a May 8, 1992, letter to IEPA, the deficiencies in the VOC RACT corrections that were submitted by IEPA on September 11, 1991. In order to correct the VOC rules submitted on September 11, 1991, IEPA submitted, on March 15, 1993, proposed amendments to 35 IAC Parts 218 and 219 and amendments to Parts 203 and 211 that are related to the amendments to Parts 218 and 219. Part 218 is a comprehensive set of VOC regulations for the Chicago area and Part 219 is an almost identical set of VOC RACT regulations for the East St. Louis area. The amendments submitted to USEPA on March 15, 1993, were also filed with the IPCB on March 15, 1993. IEPA requested that USEPA proceed with parallel processing for this SIP submittal because it had not been adopted by the IPCB.

Those sections contained in the March 15, 1993, submittal supersede the same sections in the September 11, 1991, submittal. These rules were fashioned after the Federal RACT rules and State-submitted rules that were approved by USEPA on June 29, 1990, as well as other State rules previously approved by USEPA. These rules also expand the geographic coverage of Illinois VOC RACT rules to the nonattainment areas of Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County. These areas were not designated nonattainment under the pre-amended Act and, therefore, were not subject to the RACT fix-up requirement. However, these areas are subject to RACT requirements under the RACT "catch-up" provisions. To the extent USEPA is approving the State's submittal as meeting RACT, USEPA has determined that the State has met part of the RACT catch-up obligation for Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County.

Listing of Nonattainment VOC Rules

In the rules, the definition of "volatile organic material" was deleted from Part 203 and moved to Part 211. The abbreviations and units from Parts 218 and 219 were moved to Part 211. In addition, the definitions in Parts 218 and 219 have been moved to and integrated with the definitions in Part 211. The rules contained in Part 218 are listed below (a listing for Part 219 would be the same except that each section would start with "219" instead of "218"):

PART 218—ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS FOR THE CHICAGO AREA

Subpart A: General Provisions

Sec.
218.100 Introduction
218.101 Savings Clause
218.102 Abbreviations and Conversion Factors
218.103 Applicability
218.104 Definitions
218.105 Test Methods and Procedures
218.106 Compliance Dates
218.107 Operation of Afterburners
218.108 Exemptions, Variations, and Alternative Means of Control or Compliance Determinations
218.109 Vapor Pressure of Volatile Organic Liquids
218.110 Vapor Pressure of Organic Material or Solvents
218.111 Vapor Pressure of Volatile Organic Material
218.112 Incorporation by Reference

Subpart B: Organic Emissions From Storage and Loading Operations

218.121 Storage Containers
218.122 Loading Operations
218.123 Petroleum Liquid Storage Tanks
218.124 External Floating Roofs

Subpart C: Organic Emission From Miscellaneous Equipment

218.141 Separation Operations
218.142 Pumps and Compressors
218.143 Vapor Blowdown
218.144 Safety Relief Valves

Subpart E: Solvent Cleaning

218.181 Solvent Cleaning in General
218.182 Cold Cleaning
218.183 Open Top Vapor Degreasing
218.184 Conveyorized Degreasing
218.186 Test Methods

Subpart F: Coating Operations

218.204 Emission Limitations
218.205 Daily-Weighted Average Limitations
218.206 Solids Basis Calculation
218.207 Alternative Emission Limitations
218.208 Exemptions from Emission Limitations
218.209 Exemption from General Rule on Use of Organic Material
218.210 Compliance Schedule
218.211 Recordkeeping and Reporting

Subpart G: Use of Organic Material

218.301 Use of Organic Material
218.302 Alternative Standard
218.303 Fuel Combustion Emission Units
218.304 Operations with Compliance Program

Subpart H: Printing and Publishing

218.401 Flexographic and Rotogravure Printing
218.402 Applicability
218.403 Compliance Schedule
218.404 Recordkeeping and Reporting
218.405 Heatset-Web-Offset Lithographic Printing

Subpart Q: Leaks From Synthetic Organic Chemical and Polymer Manufacturing Plant

218.421 General Requirements
218.422 Inspection Program Plan of Leaks
218.423 Inspection Program for Leaks
218.424 Repairing Leaks
218.425 Recordkeeping for Leaks
218.426 Report for Leaks
218.427 Alternative Program for Leaks
218.428 Open-Ended Valves
218.429 Standards for Control Devices

Subpart R: Petroleum Refining and Related Industries; Asphalt Materials

218.441 Petroleum Refinery Waste Gas Disposal
218.442 Vacuum Producing Systems
218.443 Wastewater (Oil/Water) Separator
218.444 Process Unit Turnarounds
218.445 Leaks: General Requirements
218.446 Monitoring Program Plan for Leaks
218.447 Monitoring Program for Leaks
218.448 Recordkeeping for Leaks
218.449 Reporting for Leaks
218.450 Alternative Program for Leaks
218.451 Sealing Device Requirements
218.452 Compliance Schedule for Leaks

Subpart S: Rubber and Miscellaneous Plastic Products

218.461 Manufacture of Pneumatic Rubber Tires
218.462 Green Tire Spraying Operations
218.463 Alternative Emission Reduction Systems
218.464 Emission Testing

Subpart T: Pharmaceutical Manufacturing

218.480 Applicability
218.481 Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers
218.482 Control of Air Dryers, Production Equipment Exhaust Systems and Filters
218.483 Material Storage and Transfer
218.484 In-Process Tanks
218.485 Leaks
218.486 Other Emission Units
218.487 Testing
218.488 Monitoring for Air Pollution Control Equipment
218.489 Recordkeeping for Air Pollution Control Equipment

Subpart V: Air Oxidation Processes

218.525 Emission Limitations for Air Oxidation Processes
218.526 Testing and Monitoring

Subpart W: Agriculture

218.541 Pesticide Exception

Subpart X: Construction

218.561 Architectural Coatings
218.562 Paving Operations
218.563 Cutback Asphalt

Subpart Y: Gasoline Distribution

218.581 Bulk Gasoline Plants
218.582 Bulk Gasoline Terminals
218.583 Gasoline Dispensing Operations
218.584 Gasoline Delivery Vessels
218.585 Gasoline Volatility Standards
218.586 Gasoline Dispensing Operations—Motor Vehicle Fueling Operations

Subpart Z: Dry Cleaners

218.601 Perchloreoethylene Dry Cleaners
218.602 Exemptions
218.603 Leaks
218.607 Standards for Petroleum Solvent Dry Cleaners
218.608 Operating Practices for Petroleum Solvent Dry Cleaners
218.609 Program for Inspection and Repair of Leaks
218.610 Testing and Monitoring
218.611 Exemption for Petroleum Solvent Dry Cleaners

Subpart AA: Paint and Ink Manufacturing

218.620 Applicability
218.621 Exemption for Waterbase Material and Heatset-Offset Ink
218.623 Permit Conditions
218.624 Open-Top Mills, Tanks, Vats or Vessels
218.625 Grinding Mills
218.626 Storage Tanks
218.628 Leaks
218.630 Clean Up
218.636 Compliance Schedule
218.637 Recordkeeping and Reporting

Subpart BB: Polystyrene Plants

218.640 Applicability
218.642 Emissions Limitations at Polystyrene Plants
218.644 Emissions Testing

Subpart PP: Miscellaneous Fabricated Product Manufacturing Processes

218.920 Applicability
218.923 Permit Conditions
218.926 Control Requirements
218.927 Compliance Schedule
218.928 Testing

Subpart QQ: Miscellaneous Formulation Manufacturing Processes

218.940 Applicability
218.943 Permit Conditions
218.946 Control Requirements
218.947 Compliance Schedule
218.928 Testing

Subpart RR: Miscellaneous Organic Chemical Manufacturing Processes

218.960 Applicability
218.963 Permit Conditions
218.966 Control Requirements
218.967 Compliance Schedule
218.968 Testing

Subpart TT: Other Emission Units

218.980 Applicability
218.983 Permit Conditions
218.986 Control Requirements
218.987 Compliance Schedule
218.988 Testing

Subpart UU: Recordkeeping and Reporting

218.990 Exempt Emission Units
218.991 Subject Emission Units

Proposed Rulemaking Action

On September 22, 1993, USEPA proposed to approve Illinois' VOC RACT corrections contained in Part 218 (for the Chicago ozone nonattainment area) and Part 219 (for the East St. Louis ozone nonattainment area) and the related definitions in Part 211, as submitted on September 11, 1991 and March 15, 1993, (58 FR 49258). These rules were parallel processed, at IEPA's request, because the rules submitted on March 15, 1993, had not as yet been finally adopted by Illinois. USEPA proposed to approve these rules, based upon the interpretations contained in the notice of proposed rulemaking (NPR), because they were primarily based upon the Chicago FIP and/or other USEPA RACT guidance (especially the Bluebook). USEPA stated in the NPR that it "will take final action on these rules after the proposed revisions have been adopted and submitted by Illinois and they have been evaluated in accordance with the Act and applicable USEPA RACT guidance. These rules will be finally approved if they are adopted in final in their current form and include the previously identified clarifications. If Illinois does not adopt and submit these rules to USEPA, USEPA will repropose action based upon the September 11, 1991, submittal." 58 FR 49262.

Analysis of Finally Adopted Rules

The rules submitted for parallel processing on March 15, 1993, were adopted in final by the Illinois Pollution Control Board (IPCB) on September 9, 1993, and submitted to USEPA on October 21, 1993. This part of the notice lists those clarifications that were stated in the NPR to be required, the additional changes which USEPA recommended, and USEPA's interpretation of certain Illinois regulations. In addition, certain other aspects of these regulations are discussed, as appropriate.

This notice of final rulemaking (NFR) approves Illinois' rule corrections submitted on September 11, 1991, and October 21, 1993, except for the major non-CTG rules in subpart PP, subpart QQ, subpart RR, Subpart TT and Subpart UU. These major non-CTG rules were changed between the March 15, 1993, proposal and the finally adopted rule (submitted on October 21, 1993) and will therefore be the subject of a separate rulemaking action.

Part 211: Definitions

In general, the definitions in Part 211 are the same as previously approved definitions and/or are consistent with USEPA guidance. However, USEPA recommended in the NPR that the following definitions be revised as indicated to ensure that the regulations they apply to are enforceable and consistent with RACT. Although Illinois did not make these changes, USEPA has determined that these definitions are sufficient for the purposes of RACT. Although these definitions could be worded more clearly, it is not likely that they will be applied in a manner inconsistent with USEPA's recommendations in the NPR, which are repeated below. Therefore, Illinois' failure to make the recommended changes should not have an impact on air quality.

- Section 211.2950 "Heavy off-highway vehicle products coating line"—The last sentence of this definition lacks parallel structure. The intended concept (that a high temperature aluminum coating is not a heavy off-highway vehicle products coating) could be better conveyed by deleting the second sentence and adding "other than high temperature aluminum," between "functional" and "coating" in the first sentence.
- Section 211.3750 "Metal Furniture Coating Line"—The last sentence of this definition lacks parallel structure. The concept (that adhesive is not a metal furniture coating) could be better conveyed by deleting the second sentence and adding "non-adhesive" between "functional" and "coating" in the first sentence.
- Section 211.4470 "Paper Coating" and Section 211.4490 "Paper Coating Line"—USEPA recommended that Illinois clarify that printing is not paper coating and printing presses are not paper coating lines.
- Section 211.5510 "Reid Vapor Pressure"—This definition could be clarified by revising the phrase "(if not referenced in the section where the term is used)" to "(if a specific method is not referenced in the section where the term is used)."
- Section 211.7090 "Vinyl Coating Line"—This definition would be more accurate and internally consistent if the phrase "means a coating line" is changed to "means a coating or printing line."

Part 218

USEPA is approving the following sections, which were previously adopted by the IPCB and submitted to USEPA on September 11, 1991: Sections 108, 142, 442, 444, 448, 451, 484, 488, 526, 561, 563, 607, 625, 626 and 630. These sections were not revised in the October 21, 1993, submittal.

Section 218.101 Savings Clause—Subsection 218.101(a) ensures that prior

applicability dates and control requirements in Part 215, which no longer applies to the Chicago and East St. Louis ozone nonattainment areas, remain in effect. However, this subsection refers to "emission units" formerly subject to Part 215 and dates and schedules applicable to the "emission unit" in accordance with Part 215. It is USEPA's understanding that this change in terminology regarding the regulated entity (the term "emission unit" is not used in Part 215) in no way changes the intended requirements of this subsection, namely that entities formerly subject to Part 215 shall have complied with Part 215. Also, Illinois clarified the last sentence of this subsection by changing it to: "All compliance dates or schedules found in 35 Ill. Adm. Code 215 are not superseded by this part and remain in full force and effect." This revision satisfies the concern, regarding the clarity of the sentence that was replaced, raised by USEPA in the NPR.

Subsection 218.101(b) states, "Nothing in this Part shall affect the responsibility of any owner or operator that is now or has been subject to the FIP to comply with its requirements thereunder by the dates specified in the FIP." This means that sources subject to FIP requirements are not relieved of these requirements upon approval of Part 218 by USEPA. For example, 40 CFR 52.741(y)(2) (in the FIP) requires that sources subject to the major non-CTG rules in paragraphs (u), (v), (w), and (x) comply with the following:

> (A) By July 1, 1991, or upon initial start-up of a new emission source, the owner or operator of the subject VOM emission source shall perform all tests and submit to the Administrator the results of all tests and calculations necessary to demonstrate that the subject emission source will be in compliance on and after July 1, 1991, or on and after the initial start-up date.

This requirement will remain in effect even after USEPA approves (in a separate rulemaking) the sections in Part 218 containing Illinois' major non-CTG rules.

Section 218.103 Applicability—The first paragraph of this section expands the applicability of Part 218 to Aux Sable Township and Goose Lake Township in Grundy County and Oswego Township in Kendall County. Cook, DuPage, Kane, Lake, McHenry, and Will Counties have previously been covered by Part 218. These areas are all nonattainment for ozone. However, in order to satisfy USEPA's concerns raised in the NPR, the use of "or" in this paragraph was replaced by "and" because the Chicago area is made up of all of these areas in total.

Subsection 218.103(a) discusses the applicability of Part 218 to certain parties who have challenged USEPA's June 29, 1990, rulemaking in *Illinois Environmental Regulatory Group et al.* v. *EPA*, No. 90–2778 (and consolidated cases) (7th Cir. 1990). Under this rule, the rules adopted by Illinois in Part 218 do not apply to certain FIP appellants for which USEPA agreed to stay the FIP and reconsider RACT. Rather, these sources/appellants are covered by either stays pending reconsideration or newer Federal rules promulgated as the result of USEPA's reconsiderations. As also stated in this subsection, the FIP remains the applicable implementation plan for any source whose stay has been terminated and for which a **Federal Register** notice either revising or affirming the provisions of the FIP specifically applicable to such source has not been published.

Subsection 218.103(b) includes a Board Note which states that this subsection (which exempts certain sources from Part 218) shall be effective at the Federal level only upon approval by USEPA. Therefore, subsection 218.103(b) only allows a source to be exempted from Part 218 if and when such an exemption is approved by USEPA.

Section 218.105 Test Methods and Procedures—Subsection 218.105(b) includes new language which allows use of the topcoat protocol for primer surfacer operations at automobile or light duty truck assembly plants, as provided in 218.204(a).

Subsection 218.105(c)(1)(B) allows a longer averaging period than is contained in the Chicago FIP when using the "liquid/liquid" mass balance measurement method. The "liquid/liquid" method can be used by solvent recovery devices as an alternative to capture efficiency testing. The Chicago FIP requires that the "liquid/liquid" method be performed every day. USEPA agrees that use of the "liquid/liquid" method with a 7-day rolling period is acceptable for all solvent recovery systems. A source that believes that a 7-day rolling period is not appropriate may use an alternative multi-day rolling period, with the approval of IEPA and the USEPA.

Subsection 218.105(i)—In the NPR, USEPA recommended that the word "specific" in this subsection, which deals with IEPA requests for testing, be changed to "specified" in order to convey the intended meaning. Although Illinois did not make this change, the meaning of this subsection is sufficiently clear to be implemented correctly.

Section 218.204(a) Automobile or Light-Duty Truck Coating—Language has been added to this subsection to allow for the use of the topcoat protocol by primer surfacer operations to demonstrate compliance with this limit. This would allow the Ford Motor Company, the only source affected by this change, to get credit for improved transfer efficiency (above 30 percent).

Subsections 218.402(a)(2) and 218.405(a)(1)(B) allow sources to avoid the applicability of specified printing rules, provided a source has a federally enforceable permit that limits emissions to below the applicable cutoff through capacity or production limitations. This subsection is approvable because USEPA can deem a permit to be "not federally enforceable" in a letter to IEPA. Upon issuance of such a letter, the source is no longer protected by the permit referenced in the subject subsections. The source would then be subject to the SIP requirements if its "maximum theoretical emissions" exceed the applicable cutoff. This is consistent with USEPA's December 17, 1992, approval of Illinois' operating permit program which states: "In approving the State operating program USEPA is determining that Illinois' program allows USEPA to deem an operating permit not 'federally enforceable' for purposes of limiting potential to emit and to offset creditability." (57 FR 59928, 59930). IEPA has agreed to this approach and specified the applicable procedures in a March 26, 1993, letter to USEPA. In summary, this subsection is approvable because USEPA can invalidate the protection provided by an operating permit by deeming such operating permit to be "not federally enforceable" in a letter to IEPA.

Section 218.405 Heatset-Web-Offset-Lithographic Printing—USEPA stated in the NPR that Subsection 218.405(a), which deals with applicability, must be modified to clarify that emissions from cleanup solvents are to be included in determining the maximum theoretical emissions. Illinois made this correction.

Subsection 218.405(c)(A)(ii) (Recordkeeping and Reporting for Heatset-Web-Offset Lithographic Printing)—In the NPR, USEPA stated that this subsection should be revised so that "G" rather than "B" is defined as: "The greatest volume of cleanup material or solvent used in any 8-hour period and * * *." This revision is required to make the defined symbol consistent with the subject applicability equation. Illinois made this change.

Part 219

The discussion of Part 218, except with regard to section 218.103 (applicability), applies to Part 219. The previously adopted version of section 219.103 remains in effect.

Public Comment

In its October 20, 1993, comments R.R. Donnelley & Sons Company (RRD) and the Printing Industries of Illinois and Indiana (PII) expressed concern about Section 218.105(c)(1)(B) of Illinois' rules. That provision requires sources utilizing the liquid-liquid (material balance) method for determining overall efficiency to compute the recovery ratio within 72 hours after each measuring period. RRD/PII claim that "USEPA represented that the preamble to the promulgation/approval of that revised rule would contain language substantially in the form appended hereto acknowledging the opportunity for affected printers to obtain additional time for completion of the calculation of the recovery ratio and the showing that would be needed to obtain such an exception. We do not find that language in the September 22 preamble and urge its inclusion in the agency's final action on the rules."

USEPA did agree with RRD/PII that if USEPA promulgated Federal revisions to its "liquid-liquid" rules (in the Chicago FIP), then USEPA would include the language referenced by RRD/PII in its proposal. USEPA's agreement with RRD/PII, and the indicated language, were submitted to IEPA on March 4, 1993. However, USEPA did not promulgate such revisions because it found IEPA's rules to be approvable. Furthermore, Illinois has apparently elected to not incorporate this language in its adopted rules and accompanying regulatory narrative. Therefore, it would be inappropriate for USEPA to include such language in the preamble to its action on the State rules.

Final Rulemaking Action

For the reasons discussed above, Illinois' VOC RACT corrections contained in Part 218 (for the Chicago ozone nonattainment area), Part 219 (for the East St. Louis ozone nonattainment area) and the related definitions in Part 211, as submitted on September 11, 1991, and October 21, 1993, are being approved with the exception of the major non-CTG rules in subparts PP, QQ, RR, TT, and UU (for both Part 218 and 219). These major non-CTG rules will be the subject of a separate future rulemaking action because they were changed (between the proposed and final rules).

This rule largely completes approval of those Illinois' VOC regulations intended to replace the Chicago FIP, which was promulgated June 29, 1990 (55 FR 26814) and codified at 40 CFR 52.741. These approved State rules replace the Chicago FIP, as the federally enforceable VOC rule, except as indicated below:

(1) Illinois' major non-CTG sources in the Chicago area, subject to paragraph u, v, w, or x because of the applicability criteria in these paragraphs, continue to be subject to paragraphs u, v, w, x, and in addition they remain subject to the recordkeeping requirements in paragraph y and any related parts of section 52.741 necessary to implement these paragraphs, e.g., those paragraphs containing test methods, definitions, etc.

(2) In accordance with Section 218.101(b), all FIP requirements remain in effect (and are enforceable after the effective date of this SIP revision) for the period prior to the effective date of this SIP revision .

(3) Any source that received a stay, as indicated in Section 218.103(a)(2), remains subject to the stay if still in effect, or (if the stay is no longer in effect) the federally promulgated rule applicable to such source.

As of the effective date of this final action, these rules are the sole federally enforceable control strategy for sources of VOC located in the Chicago area.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to any relevant statutory and regulatory requirement.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 8, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. [See Section 307(b)(2).]

List of Subjects in 40 CFR Part 52

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

Dated: August 17, 1994.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraphs (c)(100) and (101) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(100) On October 21, 1993, the State submitted definitions codified as part of

the Illinois Administrative Code for incorporation in the Illinois State Implementation Plan.

(i) Incorporation by reference.

Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 211 Definitions and General Provisions, Subpart A: General Provisions: Sections 211.101 and 211.102, Subpart B: Definitions, Sections 211.121, 211.130, 211.150, 211.170, 211.210, 211.230, 211.250, 211.290, 211.310, 211.330, 211.350, 211.370, 211.390, 211.410, 211.430, 211.450, 211.470, 211.490, 211.510, 211.530, 211.550, 211.570, 211.590, 211.610, 211.630, 211.650, 211.670, 211.690, 211.710, 211.730, 211.750, 211.770, 211.790, 211.810, 211.830, 211.850, 211.870, 211.890, 211.910, 211.930, 211.950, 211.970, 211.990, 211.1010, 211.1050, 211.1090, 211.1110, 211.1130, 211.1150, 211.1170, 211.1190, 211.1210, 211.1230, 211.1250, 211.1270, 211.1290, 211.1310, 211.1330, 211.1350, 211.1370, 211.1390, 211.1410, 211.1430, 211.1470, 211.1490, 211.1510, 211.1530, 211.1550, 211.1570, 211.1590, 211.1610, 211.1630, 211.1650, 211.1670, 211.1690, 211.1710, 211.1730, 211.1750, 211.1770, 211.1790, 211.1810, 211.1830, 211.1850, 211.1870, 211.1890, 211.1910, 211.1930, 211.1950, 211.1970, 211.1990, 211.2010, 211.2050, 211.2070, 211.2090, 211.2110, 211.2130, 211.2150, 211.2170, 211.2190, 211.2210, 211.2230, 211.2250, 211.2270, 211.2310, 211.2330, 211.2350, 211.2370, 211.2390, 211.2410, 211.2430, 211.2450, 211.2470, 211.2490, 211.2510, 211.2530, 211.2550, 211.2570, 211.2590, 211.2650, 211.2670, 211.2690, 211.2710, 211.2730, 211.2750, 211.2770, 211.2790, 211.2810, 211.2830, 211.2850, 211.2870, 211.2890, 211.2910, 211.2930, 211.2950, 211.2970, 211.2990, 211.3010, 211.3030, 211.3050, 211.3070, 211.3090, 211.3110, 211.3130, 211.3150, 211.3170, 211.3190, 211.3210, 211.3230, 211.3250, 211.3270, 211.3290, 211.3310, 211.3330, 211.3350, 211.3370, 211.3390, 211.3410, 211.3430, 211.3450, 211.3470, 211.3490, 211.3510, 211.3530, 211.3550, 211.3570, 211.3590, 211.3610, 211.3630, 211.3650, 211.3670, 211.3690, 211.3710, 211.3730, 211.3750, 211.3770, 211.3790, 211.3810, 211.3830, 211.3850, 211.3870, 211.3890, 211.3910, 211.3930, 211.3970, 211.3990, 211.4010, 211.4030, 211.4050, 211.4070, 211.4090, 211.4110, 211.4130, 211.4150, 211.4170, 211.4190, 211.4210, 211.4230, 211.4250, 211.4270, 211.4290, 211.4310, 211.4330, 211.4350, 211.4370, 211.4390, 211.4410, 211.4430, 211.4450, 211.4470, 211.4490, 211.4510, 211.4530, 211.4550, 211.4590, 211.4610, 211.4630, 211.4650, 211.4670, 211.4690, 211.4710, 211.4730, 211.4750, 211.4770, 211.4790, 211.4810, 211.4870, 211.4890, 211.4910, 211.4930, 211.4950, 211.4990, 211.5030, 211.5050, 211.5070, 211.5090, 211.5110, 211.5130, 211.5150, 211.5170, 211.5185, 211.5190, 211.5210, 211.5230, 211.5250, 211.5270, 211.5310, 211.5330, 211.5350, 211.5370, 211.5410, 211.5430, 211.5450, 211.5470, 211.5490, 211.5510, 211.5550, 211.5570, 211.5590, 211.5610, 211.5630, 211.5650, 211.5670, 211.5690, 211.5710, 211.5730, 211.5750, 211.5770, 211.5790, 211.5810, 211.5830, 211.5850, 211.5870, 211.5890, 211.5910, 211.5930, 211.5950, 211.5970, 211.5990, 211.6010, 211.6030, 211.6050, 211.6070, 211.6090, 211.6130, 211.6150, 211.6190, 211.6210, 211.6230, 211.6270, 211.6290, 211.6310, 211.6330, 211.6350, 211.6370, 211.6390, 211.6410, 211.6430, 211.6450, 211.6470, 211.6490, 211.6510, 211.6530, 211.6550, 211.6570, 211.6590, 211.6610, 211.6670, 211.6690, 211.6730, 211.6750, 211.6770, 211.6790, 211.6810, 211.6850, 211.6870, 211.6890, 211.6910, 211.6930, 211.6950, 211.6970, 211.6990, 211.7010, 211.7030, 211.7070, 211.7090, 211.7110, 211.7130, 211.7150, 211.7170, 211.7190, 211.7210, 211.7230, 211.7250, 211.7270, 211.7290, 211.7310, 211.7330, 211.7350.

These section were added at 17 Ill. Reg. 16504, effective September 27, 1993.

(101) On October 21, 1993, the state submitted volatile organic compound (VOC) control regulations for incorporation in the Illinois State Implementation for ozone.

(i) Incorporation by reference.

(A) Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 218: Organic Material Emission Standards and Limitations for the Chicago Area Subparts A, B, C, E, F, G, H, Q, R, S, T, V, W, X, Y, Z, AA, BB, and Section 218. Appendix A, B, C, and D. These regulations were adopted at R91–7 at 15 Ill. Reg. 12231, effective August 16, 1991; amended in R91–23 at Ill. Reg. 13564, effective August 24, 1992; amended in R91–28 and R91–30 at 16 Ill. Reg. 13864, effective August 24, 1992; amended in R93–9 at 17 Ill. Reg. 16636, effective September 27, 1993. The specific adoption and effective dates of the rules incorporated by reference follow.

(*1*) Adopted at R91–7 at 15 Ill. Reg. 12231, effective August 16, 1991. Subpart A 218.108; Subpart C: 218.142; Subpart R: 218.442, 218.444, 218.448, 218.451; Subpart T: 218.484, 218.488; Subpart V: 218.526; Subpart X: 218.561, 218.563; Subpart Z: 218.607; Subpart AA: 218.625, 218.626 and 218.630.

(*2*) Amended in R93–9 at 17 Ill. Reg. 16636, effective September 27, 1993. Subpart A: 218.100, 218.101, 218.102, 218.103, 218.104, 218.105, 218.106, 218.107, 218.109, 218.110, 218.111, 218.112; Subpart B: 218.121, 218.122, 218.123, 218.124; Subpart C: 218.141, 218.143, 218.144; Subpart E: 218.181, 218.182, 218.183, 218.184, 218.186; Subpart F: 218.204, 218.205, 218.206, 218.207, 218.208, 218.209, 218.210, 218.211; Subpart G: 218.301, 218.302, 218.303, 218.304; Subpart H: 218.401, 218.402, 218.403, 218.404, 218.405; Subpart Q: 218.421, 218.422, 218.423, 218.424, 218.425, 218.426, 218.427, 218.428, 218.429; Subpart R: 218.441, 218.443, 218.445, 218.446, 218.447, 218.449, 218.450, 218.452; Subpart S: 218.461, 218.462, 218.463, 218.464; Subpart T: 218.480, 218.481, 218.482, 218.483, 218.485, 218.486, 218.487, 218.489; Subpart V: 218.525; Subpart W: 218.541; Subpart X: 218.562; Subpart Y: 218.581, 218.582, 218.583, 218.584, 218.585, 218.586; Subpart Z: 218.601, 218.602, 218.603, 218.608, 218.609, 218.610, 218.611; Subpart AA: 218.620, 218.621, 218.623, 218.624, 218.628, 218.636, 218.637; Subpart BB: 218.640, 218.642, 218.644, Section 218: Appendix A, Appendix B, Appendix C, Appendix D.

(B) Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 219: Organic Material Emission Standards and Limitations for Metro East Area Subparts A, B, C, E, F, G, H, Q, R, S, T, V, W, X, Y, Z, AA, BB and Section 219 Appendix A, B, C, and D. These regulations were adopted at R91–8 at Ill. Reg. 12491, effective August 16, 1991; amended in R91–24 at 16 Ill. Reg. 13597, effective August 24, 1992; amended in R91–30 at 16 Ill. Reg. 13833, effective August 24, 1992, emergency amendment in R93–12 at Ill. Reg. 8295, effective May 24, 1993, for a maximum of 150 days, amended in R93–9 at 17 Ill. Reg. 16918, effective September 27, 1993 and October 21, 1993. The specific adoption and effective dates of the rules incorporated by reference follow.

(*1*) Adopted at R91–8 at 15 Ill. Reg. 12491, effective August 16, 1991: Subpart A: 219.103, 219.108; Subpart C: 219.142; Subpart R: 219.442, 219.444, 219.448, 219.451; Subpart T: 219.484, 219.488; Subpart V: 219.526; Subpart X: 219.561, 219.563; Subpart Z: 219.607; Subpart AA: 219.625, 219.626, 219.630.

(*2*) Amended in R93–9 at 17 Ill. Reg. 16918, effective September 27, 1993:

Subpart A: 219.100, 219.101, 219.102, 219.104, 219.105, 219.106, 219.107, 219.109, 219.110, 219.111, 219.112;
Subpart B: 219.121, 219.122, 219.123, 219.124;
Subpart C: 219.141, 219.143, 219.144;
Subpart E: 219.181, 219.182, 219.183, 219.184, 219.186;
Subpart F: 219.204, 219.205, 219.206, 219.207, 219.208, 219.209, 219.210, 219.211;
Subpart G: 219.301, 219.302, 219.303, 219.304;
Subpart H: 219.401, 219.402, 219.403, 219.404, 219.405;
Subpart Q: 219.421, 219.422, 219.423, 219.424, 219.425, 219.426, 219.427, 219.428, 219.429;
Subpart R: 219.441, 219.443, 219.445, 219.446, 219.447, 219.449, 219.450, 219.452;
Subpart S: 219.461, 219.462, 219.463, 219.464;
Subpart T: 219.480, 219.481, 219.482, 219.483, 219.485, 219.486, 219.487, 219.489;
Subpart V: 219.525;
Subpart W: 219.541;
Subpart X: 219.562;
Subpart Y: 219.581, 219.582, 219.583, 219.584, 219.585, 219.586;
Subpart Z: 219.601, 219.602, 219.603, 219.608, 219.609, 219.610, 219.611;
Subpart AA: 219.620, 219.621, 219.623, 219.624, 219.628, 219.636, 219.637;
Subpart BB: 219.640, 219.642, 219.644;
Section 219: Appendix A, Appendix B, Appendix C, Appendix D.

3. Section 52.741 is amended by revising paragraph (a)(2) to read as follows:

§ 52.741 Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry or Will County.

(a) * * *

(2) *Applicability.* Effective October 11, 1994 Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 218: Organic Material Emission Standards and Limitations for the Chicago Area replaces the requirements of 40 CFR 52.741 Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry and Will County as the federally enforceable control measures in these counties except as noted in paragraphs (a)(2)(i) through (iii) of this section.

(i) Illinois' major non-CTG sources in the Chicago area, subject to paragraph u, v, w, or x because of the applicability criteria in these paragraphs, continue to be subject to paragraphs u, v, w, x, and in addition they remain subject to the recordkeeping requirements in paragraph y and any related parts of section 52.741 necessary to implement these paragraphs, e.g., those paragraphs containing test methods, definitions, etc.

(ii) In accordance with Section 218.101(b), all FIP requirements remain in effect (and are enforceable after October 11, 1994 for the period prior to October 11, 1994.

(iii) Any source that received a stay, as indicated in Section 218.103(a)(2), remains subject to the stay if still in effect, or (if the stay is no longer in effect) the federally promulgated rule applicable to such source.

[FR Doc. 94–22241 Filed 9–8–94; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5064–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Bioclinical Laboratories site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region II announces the deletion of the Bioclinical Laboratories (BCL) site from the National Priorities List (NPL). The NPL is appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of New York have determined that no further action is appropriate at the BCL site under CERCLA. Moreover, EPA and the State of New York have determined that activities conducted at the BCL site to date have been protective of public health, welfare, and the environment.

EFFECTIVE DATE: October 11, 1994.

FOR FURTHER INFORMATION CONTACT: Damian J. Duda, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region II, room 29–100, 26 Federal Plaza, New York, New York 10278; telephone 212–264–9589.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is the Bioclinical Laboratories site, Suffolk County, New York. A notice of intent to delete for this site was published in the **Federal Register** (59 FR 23819) on May 9, 1994. The closing date for comments on the notice of intent to delete was June 7, 1994. EPA did not receive any comments on the proposed deletion.

EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment, and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund-financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at the sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous materials, Superfund.

Dated: August 12, 1994.

Jeanne M. Fox,

Regional Administrator.

40 CFR Part 300 is amended as follows:

PART 300—[AMENDED]

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

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

Appendix B—[Amended]

2. In appendix B table 1 is amended by removing the site for Bioclinical Laboratories, Inc, Bohemia, NY.

[FR Doc. 94–22234 Filed 9–8–94; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 92047–2519; I.D. 083094B]

Atlantic Tuna Fisheries; Bluefin Tuna

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

ACTION: Quota transfer; closure; reopening.

SUMMARY: NMFS announces a transfer of 18 metric tons (mt) from the Reserve to the General category of Atlantic bluefin tuna, to ensure a late season fishery for the General category, including an 8–mt set-aside for the New York Bight. This action will assure continued collection of biological assessment and monitoring data, provide additional fishing opportunities, and increase the economic benefits from this fishery. In addition, this action will provide for fishing in an area that has not yet had an ample opportunity to harvest a fair share of the quota. The General category fishery will open on September 15, 1994, and close on September 18, 1994. The General category fishery will reopen on September 20, 1994, in the New York Bight set-aside area, and will remain open until the 8–mt set-aside quota has been harvested.

EFFECTIVE DATE: The General category fishery will open at 0001 hours on September 15, 1994, and close at 0001 hours on September 18, 1994. The General category will reopen on at 0001 hours on September 20, 1994, for vessels fishing in the specified set-aside area.

FOR FURTHER INFORMATION CONTACT: John D. Kelly, 301–713–2347; Kevin B. Foster, 508–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Based on landing reports, the Assistant Administrator for Fisheries, NOAA, (AA) had determined that the adjusted quota of Atlantic bluefin tuna allocated for the General category, minus a 65–mt set-aside amount, would be attained by August 15, 1994, and therefore closed the General category fishery on that date (59 FR 42176, August 17, 1994). The intent of that action was to prevent overharvest of the quota established for this fishery while reserving enough quota to provide a fishing opportunity in areas that had not yet had an ample opportunity to harvest a fair share of the quota. Subsequent to the closure, more complete accounting of dealer reports indicated that the General category had already taken approximately 508 mt of the 531–mt quota. Therefore, without an inseason transfer from the Reserve, the late-season and New York Bight fishery would be severely restricted.

Under the implementing regulations at 50 CFR 285.22(f), the AA has the authority to allocate any portion of the Reserve amount to any fishing category after considering the following factors: (1) The usefulness of information obtained from catches of the particular category of the fishery for biological sampling and monitoring the status of the stock, (2) the catches of the particular gear segment to date and the likelihood of closure of that segment of the fishery if no allocation is made, (3) the projected ability of the particular gear segment to harvest the additional amount of Atlantic bluefin tuna before the anticipated end of the fishing season, and (4) the estimated amounts by which quotas established for other gear segments of the fishery might be exceeded.

The two most useful fishing categories for purposes of biological assessment and monitoring of the stock are the Angling category for fish less than 70 inches (178 cm) total fork length (TFL), and the General category for fish 70 inches (178 cm) and greater TFL. These fisheries provide catch per unit effort data for stock assessment purposes.

Allocating 18 mt from the Reserve to the General category therefore responds to the criteria listed above, as follows: (1) General category landings are a major contributor to the collection of biological data on this fishery; (2) 1994 General category catches have been high relative to recent years at this date in the season, and it would be necessary to close this category of the fishery soon, unless additional quota allocation is made; (3) the New York Bight area normally has a late season fishery (late September through October), and has averaged 10.3 mt over the past 3 years, but took only 5.3 mt last year; and (4) overages are unlikely in the Incidental, Purse Seine, and Angling categories, and any overages and underages that may occur are to be carried over to 1995.

With this transfer, therefore, the General category has a total of 41 mt available for the late-season fishery, including the New York Bight regional set-aside of 8 mt. Under § 285.22(a), the AA may set aside an allocation of the General category quota for an identified area, not to exceed the greater of 20 mt or the maximum reported landings from the identified area in any of the preceding 3 years. This set-aside is made when the AA has determined, based on landings reports, that fishermen in an identified area will be precluded from harvesting their share of the quota due to: (1) Variations in seasonal distribution, abundance, or migration patterns and (2) the catch rate.

The catch in the New York Bight area for fish greater than 70 inches (178 cm) was 11.8 mt, 13.8 mt, and 5.3 mt in 1991, 1992, and 1993, respectively, yielding a 3-year average catch of 10.3 mt. The fishery in this area was never closed during these 3 years, since the landings never reached the quota set aside for this area. Given that there has been only one fish taken in the set-aside area this year, and there were only 5.3 mt taken last year, NMFS has determined that a set-aside of 8 mt should be sufficient for the New York Bight fishery in 1994. The set-aside area is comprised of the waters in the area south and west of a straight line originating at a point on the southern shore of Long Island at 72°50′ W. long. (near the town of Moriches) and running SSE 150° true. The set-aside will be made available beginning at 0001 hours on September 20, 1994.

Recent and historical daily landing rates indicate that the 33 mt available to vessels in the General category will be harvested within 3 days. Therefore, the General category will close at 0001 hours on September 18, 1994. After that date, fishing for, retention of, possession, or landing of large medium or giant Atlantic bluefin tuna by vessels in the General category must cease. Beginning at 0001 hours on September 20, 1994, vessels permitted in the General category may continue to fish, retain and land in the set-aside area specified above, until the remaining 8–mt set-aside quota for that area has been harvested. NMFS will publish the date of the closure in the **Federal Register**.

Classification

This action is required by 50 CFR 285.22(h) and is exempt from E.O. 12866.

Dated: September 2, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–22218 Filed 9–2–94; 4:50 pm]

BILLING CODE 3510–22–F

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50 CFR Part 675

[Docket No. 931100–4043; I.D. 072894A]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Apportionment of reserve.

SUMMARY: NMFS is apportioning reserve to certain target species in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow for ongoing harvest and account

for previous harvest of the total allowable catch (TAC).

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), September 8, 1994, until 12 midnight, A.l.t., December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the U.S. BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The Director, Alaska Region, NMFS, has determined that the initial TACs specified for sablefish in the Bering Sea subarea (BS), for sablefish and the sharpchin/northern rockfish species category in the Aleutian Islands subarea (AI), and for Atka mackerel in the Central and Western Aleutian Districts, need to be supplemented from the non-specific reserve in order to continue operations and account for prior harvest. Therefore, in accordance with § 675.20(b), NMFS is apportioning from the reserve to TACs for the following species: (1) For the BS - 81 metric tons (mt) to sablefish; (2) for the AI - 420 mt to sablefish, and 850 mt to the sharpchin/northern rockfish species category; (3) for the Central Aleutian District - 6,679 mt to Atka mackerel; and (4) for the Western Aleutian District - 1,500 mt to Atka mackerel.

These apportionments are consistent with § 675.20(a)(2)(i) and do not result in overfishing of a target species or the "other species" category because the revised TACs are equal to or less than specifications of acceptable biological catch.

Pursuant to § 675.24(c)(1)(i) the apportionment of the BS sablefish is allocated 41 mt to vessels using hook-and-line or pot gear, and 40 mt to vessels using trawl gear. Pursuant to § 675.24(c)(1)(ii) the apportionment of the AI sablefish is allocated 315 mt to vessels using hook-and-line or pot gear, and 105 mt to vessels using trawl gear.

This apportionment was proposed in the **Federal Register** at 59 FR 39725, August 4, 1994, requesting public comment. The public comment period ended on August 19, 1994. No comments were received.

Classification

This action is taken under 50 CFR 675.20 and is exempt from review under E.O. 12866.

The Assistant Administrator for Fisheries, NOAA, (AA) has determined, under section 553(d)(3) of the Administrative Procedure Act, that good cause exists for waiving the 30-day delayed effectiveness period for this rule. Fisheries are currently taking place that will be benefited by this rule. Delaying the effective date would be disruptive and costly to these ongoing operations. Therefore, the AA is waiving the 30– day delayed effectiveness period for this action so that it may be effective immediately.

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

Dated: September 2, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–22366 Filed 9–8–94; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 59, No. 174
Friday, September 9, 1994

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

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 94-042-1]

True Potato Seed From Chile

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow, under certain conditions, the importation of true potato seed from Chile. The true potato seed proposed for importation from Chile would originate from certified virus-free plantlets from the United States, be produced under the supervision of Chilean plant protection authorities, and be tested for seedborne viruses prior to being offered for entry into the United States. Allowing the importation of true potato seed from Chile would give potato producers in the United States another means of producing disease-free tubers.

DATES: Consideration will be given only to comments received on or before October 11, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 94–042–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Peter M. Grosser or Mr. Frank E. Cooper, Senior Operations Officers, Port Operations, Plant Protection and Quarantine, APHIS, USDA, room 632, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6799.

SUPPLEMENTARY INFORMATION:

Background

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

One of the articles restricted in the regulations is *Solanum* species (spp.) true seed, also known as true potato seed. "*Solanum* spp. true seed" is defined in § 319.37–1 as "seed produced by flowers of *Solanum* capable of germinating and producing new *Solanum* plants, as distinguished from *Solanum* tubers, whole or cut, that are referred to as *Solanum* seeds or seed potatoes."

Currently, § 319.37–2(a) of the regulations prohibits the importation into the United States of *Solanum* spp. true seed from all parts of the world except Canada and New Zealand. The prohibition is in place due to the risk of introducing three seedborne viruses—Andean Potato Latent Virus, Potato Virus T, and the Andean Potato Calico Strain of Tobacco Ringspot Virus—into the United States. (True potato seed may be imported from Canada and New Zealand because the viruses are not reported to occur in those countries.)

The Chilean ministry of agriculture, the Servicio Agricola y Ganadero (SAG), has informed the Animal and Plant Health Inspection Service (APHIS) that, of the viruses of concern mentioned above, only Andean Potato Latent Virus has been reported to occur in Chile, and then only in limited areas of the country. One area of Chile where Andean Potato Latent Virus is not reported to occur is the country's Tenth (X) Region (that area of the country between 39° and 44° South latitude). SAG has designated the entire X Region as a quarantined area for potatoes and restricts the entry of potato seeds, true seed, plants, and tubers into the quarantined area. Given the apparent absence of seedborne viruses of *Solanum* spp. in the X Region, SAG has requested that APHIS allow the importation into the United States of true potato seed from the X Region of Chile.

Based on our review of the information provided by SAG and a review of the scientific literature on the occurrence of seedborne potato diseases, we are proposing to amend the regulations to allow, under certain conditions, the importation of true potato seed from the X Region of Chile.

We are proposing to require that *Solanum* spp. true seed imported into the United States from Chile be produced using certified virus-free *Solanum* spp. plantlets from the United States. Under the protocol submitted by SAG, the Solanum plants that would produce the true potato seed in Chile would be propagated from the virus-free *Solanum* spp. plantlets imported into Chile from the United States. Although the seedborne viruses discussed above are not reported to exist in the United States, SAG's phytosanitary standards require that the *Solanum* spp. plantlets be certified as virus-free before they may enter Chile. We believe that this use of certified virus-free *Solanum* spp. plantlets from the United States will provide a virus-free base for the production of *Solanum* spp. true seed in Chile. Such a virus-free base, when combined with the proposed sampling and testing requirements discussed below, would minimize the likelihood that any seedborne viruses would be introduced into the United States by *Solanum* spp. true seed imported from Chile.

In order to confirm the virus-free status of the growing area and the *Solanum* plants used to produce the true potato seed in Chile, we would require that *Solanum* spp. tubers, plants, and seeds from each field in which the *Solanum* plants that produce the true potato seed are grown be sampled by SAG once per growing season at a rate to allow the detection of 1 percent contamination with a 99 percent confidence level. This works out to a sampling rate of approximately 17 tubers, 17 plants, and 17 true seeds per acre. SAG has indicated that the *Solanum* plants used to produce the true potato seed would be cultivated in 30-acre fields; thus, the sampling rate necessary to achieve the 99 percent confidence level in a 30-acre field

would be 500 tubers, 500 plants, and 500 true seeds per 30-acre field. The samples would have to be tested by SAG using the nitro-cellulose membrane (NCM) enzyme-linked immunosorbent assay (ELISA) test, which is a serologic test capable of detecting the presence of the viruses of concern. We would require that the samples test negative for Andean Potato Latent Virus, Potato Virus T, the Andean Potato Calico Strain of Tobacco Ringspot Virus, and Arracacha Virus B.

Arracacha Virus B is not currently cited in § 319.37–2(a) of the regulations as being a plant pest of concern to *Solanum* spp. true seed, as is the case with the first three viruses mentioned, but that virus has been reported to exist in Bolivia and Peru. Because each of those countries shares a border with Chile, we believe it is necessary to screen the *Solanum* spp. tubers, plants, and true seed to ensure that Arracacha Virus B—as well as Andean Potato Latent Virus, Potato Virus T, and the Andean Potato Calico Strain of Tobacco Ringspot Virus—would not be introduced into the United States. Because Arracacha Virus B has been identified in the scientific literature and in this document as a plant pest of potatoes and true potato seed, we also propose to add Arracacha Virus B to the list of plant pests of concern in both the "*Solanum* spp." entry and the "Solanum spp. true seed" entry in the table of prohibited articles in § 319.37–2(a).

We would require that true potato seed imported into the United States from Chile be accompanied by a permit issued by APHIS. The permit would help APHIS inspectors at the port of first arrival in the United States ensure that the true potato seed originated in Chile. To add this proposed permit requirement to the regulations, we would add a new paragraph to § 319.37–3(a), which lists the categories of restricted articles that may be imported into the United States only after a permit has been issued by APHIS.

In adding that new paragraph, we would also modify a potentially misleading paragraph in the same section. Paragraph (a)(3) of § 319.37–3 currently reads "Bulbs of *Allium sativum* spp. (garlic), *Crocosmia* spp. (montebretia), *Gladiolus* spp. (gladiolus), and *Watsonia* spp. (bugle lily); true seed of *Solanum* spp. (tuber bearing species only—Section Tuberarium) from New Zealand." The "from New Zealand" qualification applies only to *Solanum* spp. true seed, but its placement at the end of the paragraph could lead a reader to mistakenly assume that the "from New Zealand" qualification also applies to the bulbs listed in the same paragraph. Therefore, we would move the text referring to *Solanum* spp. true seed from New Zealand out of § 319.37–3(a)(3) and combine it with the proposed new entry for *Solanum* spp. true seed from Chile that we would add to § 319.37–3(a).

We would also require that true potato seed imported into the United States from Chile be accompanied by a phytosanitary certificate of inspection issued in Chile by SAG. The phytosanitary certificate of inspection would have to confirm that SAG had visually inspected the true seed for plant pests prior to its export, and provide written verification that the conditions in our regulations regarding the growing, sampling, and analysis of the true potato seed, *Solanum* plants, and tubers have been met.

We believe that these multiple safeguards would be sufficient to prevent the introduction of seedborne viruses into the United States on true potato seed from Chile.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The 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.

This proposed rule would allow, under certain conditions, the importation of true potato seed from Chile. The true potato seed proposed for importation from Chile would originate from certified virus-free plantlets from the United States, would be grown under the supervision of Chilean plant protection authorities, and a sample of the plants, tubers, and true potato seeds would be tested for seedborne viruses prior to the true potato seed being offered for entry into the United States. Allowing the importation of true potato seed from Chile would give potato producers in the United States another means of producing disease-free tubers.

The United States produced approximately 2,880 million pounds of seed potatoes in 1992 (U.S. Department of Agriculture [USDA], Economic Research Service). During that same period, the United States imported approximately 128 million pounds of seed potatoes, which represents about 4.4 percent of U.S. production. Because imports represent such a small portion of the domestic seed potato supply, fluctuations in import levels and prices would be expected to have no significant effect on domestic seed potato prices.

For example, U.S. imports of seed potatoes declined by more than a third between 1990 and 1992, dropping from 201 million pounds in 1990 to 128 million pounds in 1992. This decline in imports did not, however, result in an increase in U.S. grower or retail prices for seed potatoes. In fact, the price of imported seed potatoes also fell by more than a third during that time, dropping from $11 per 100 pounds in 1990 to $7 per 100 pounds in 1992 (USDA, "Agricultural Statistics 1992," Table 371, page 239). Based on the decline in both import levels and price during the same 2-year period, it appears that domestic seed potato prices are influenced more by the volume of U.S. production.

The import levels and prices discussed above do not reflect any imports of true potato seed from anywhere in the world, nor is there any record of true potato seed being imported into the United States. Our records indicate that true potato seed is a product that is not currently commercially available in the United States. If true potato seed is allowed to be imported into the United States from Chile, we expect that it would take several years before true potato seed and its products would be in a position to capture any significant market share. Thus, its potential impact on price and competition in the potato seed market remains uncertain.

We have identified domestic seed potato producers and seed potato importers as the entities potentially affected by this proposed rule. According to the Small Business Administration's criteria, an agricultural producer is considered to be a small entity if it has annual sales of less than $500,000; an importer is considered to be a small entity if it employs fewer than 100 people. According to the U.S. Department of Commerce's "1987 Census of Agriculture," there were about 14,732 farms that produced potatoes in the United States, and about 96 percent of those farms reported sales of less than $100,000. The exact percentage of those farms that produced only seed potatoes or a combination of seed potatoes and table potatoes is not known, but it is likely that the number is small, based on the total production of seed potatoes versus table potatoes (2,880 million pounds vs. 42,500 million pounds, respectively).

Information regarding the total number of seed potato importers and the percentage of those importers that would be considered small entities was unavailable. It is unlikely, however, that allowing the importation of true potato seed from Chile would have a

significant impact on seed potato import levels. The true potato seed imported from Chile could be used by potato producers in the United States to produce potatoes of a different variety than those potatoes currently grown in the United States; the economic impact of the imported true potato seed would thus be affected by consumer response to the new variety of potatoes. If consumer response was favorable and true potato seed imported from Chile became competitive with the seed potatoes currently available in the United States, the price of seed potatoes could be driven down. However, because U.S. seed potato prices are influenced more by domestic production and market conditions than by imports, it is likely that any economic impact on domestic seed potato producers would be small. Any slight negative impact would likely be offset by the positive impact on domestic potato producers, who would benefit from lower seed potato prices, and consumers would benefit from any resulting lower prices.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule would allow true seed of *Solanum* spp. to be imported into the United States from Chile. If this proposed rule is adopted, State and local laws and regulations regarding true seed imported under this rule would be preempted while the true seed is in foreign commerce. Seeds are generally imported for immediate distribution and sale to the public, and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 0579–0049.

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 would be amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

§ 319.37–2 [Amended]

2. In § 319.37–2(a), in the table, the listing for *Solanum* spp. would be amended in the third column by adding the words "; Arracacha Virus B" at the end of the entry, immediately before the period.

3. In § 319.37–2(a), in the table, the listing for *Solanum* spp. true seed would be amended in the second column by removing the words "Canada and New Zealand" and adding the words "Canada, New Zealand, and the X Region of Chile (that area of Chile between 39° and 44° South latitude—see § 319.37–5(h))" in their place, and in the third column by adding the words ", Arracacha Virus B" at the end of the entry, immediately before the period.

4. In § 319.37–3, paragraph (a)(3) would be amended by removing the words "true seed of *Solanum* spp. (tuber bearing species only—Section Tuberarium) from New Zealand;", and a new paragraph (a)(17) would be added to read as set forth below:

§ 319.37–3 Permits.

(a) * * *

(17) *Solanum* spp. true seed (tuber bearing species only—Section Tuberarium) from New Zealand and the X Region of Chile (that area of Chile between 39° and 44° South latitude—see § 319.37–5(h)).

* * * * *

5. In § 319.37–5, paragraph (h) would be added to read as follows:

§ 319.37–5 Special foreign inspection and certification requirements.

* * * * *

(h) Any *Solanum* spp. true seed (tuber bearing species only—Section Tuberarium) imported from Chile shall, at the time of arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection issued in Chile by the Servicio Agricola y Ganadero (SAG), containing additional declarations that:

(i) The *Solanum* spp. true seed was produced by *Solanum* plants that were propagated from plantlets from the United States;

(ii) The *Solanum* plants that produced the *Solanum* spp. true seed were grown in the Tenth (X) Region of Chile (that area of the country between 39° and 44° South latitude); and

(iii) *Solanum* spp. tubers, plants, and true seed from each field in which the *Solanum* plants that produced the *Solanum* spp. true seed were grown have been sampled by SAG once per growing season at a rate to detect 1 percent contamination with a 99 percent confidence level (500 tubers/500 plants/500 true seeds for a 30-acre field), and that the samples have been analyzed by SAG using the nitro-cellulose membrane (NCM) enzyme-linked immunosorbent assay (ELISA) test, with negative results, for Andean Potato Latent Virus, Arracacha Virus B, Potato Virus T, and the Andean Potato Calico Strain of Tobacco Ringspot Virus.

* * * * *

Done in Washington, DC, this 1st day of September 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–22158 Filed 9–8–94; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 51, and 54

RIN 3150–AF05

Nuclear Power Plant License Renewal; Proposed Revisions

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to change the requirements that an applicant for renewal of a nuclear power plant operating license must meet, clarify the required information that must be submitted to the NRC for review so that the agency can determine whether those requirements have in fact been met, and change the administrative requirements that a holder of a renewed license must meet. The proposed amendments are intended to provide a more stable and predictable regulatory process for license renewal. This proposed rule would inform nuclear power plant licensees and interested members of the

public of the proposed changes to the regulatory requirements for extending nuclear power plant operating licenses beyond 40 years.

DATES: Submit comments by December 8, 1994. Comments received after this date will be considered if it is practical to do so, but the Commission is able only to ensure consideration for comments received on or before this date.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:45 am and 4:15 pm Federal workdays.

Copies of comments received may be examined at: NRC Public Document Room, 2120 L Street N.W. (lower level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas G. Hiltz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 504–1105.

SUPPLEMENTARY INFORMATION:

I. Background

The license renewal rule (10 CFR Part 54) was adopted by the Commission on December 13, 1991 (56 FR 64943). This rule established the procedures, criteria, and standards governing the renewal of nuclear power plant operating licenses.

Since publishing the license renewal rule, the staff of the NRC has conducted various activities related to implementing this rule, including developing a draft regulatory guide and a draft standard review plan for license renewal, interacting with lead plant licensees, and reviewing generic industry technical reports sponsored by the Nuclear Management and Resources Council (now part of the Nuclear Energy Institute).

In November 1992, the law firm of Shaw, Pittman, Potts, and Trowbridge submitted a paper to the NRC that presented Northern States Power Company's perspectives on the license renewal process. The paper included specific recommendations for making the license renewal process more workable. In addition, industry representatives provided the Commission with views on several key license renewal implementation issues. In late 1992, the NRC staff conducted a senior management review and interacted with the Commission, industry groups, and individual licensees to discuss key license renewal issues. The NRC staff discussed its recommendations regarding several of these key license renewal issues in two recent Commission policy papers (SECY–93–049, "Implementation of 10 CFR Part 54, 'Requirements for Renewal of Operating Licenses for Nuclear Power Plants,'" and SECY–93–113, "Additional Implementation Information for 10 CFR Part 54, 'Requirements for Renewal of Operating Licenses for Nuclear Power Plants'").

In its staff requirements memorandum (SRM) of June 28, 1993, the Commission indicated that a predictable and stable regulatory process that defines the Commission's expectations for license renewal in a clear and unequivocal way is essential. This would permit licensees to make decisions about license renewal without these decisions being influenced by a regulatory process that is perceived to be uncertain, unstable, or not clearly defined. The Commission directed the NRC staff to convene a public workshop to evaluate alternative approaches for license renewal that best take advantage of existing licensee activities and programs as a basis for concluding that aging will be addressed in an acceptable manner during the period of extended operation. In particular, the Commission directed the NRC staff to examine the extent to which greater reliance can be placed on the maintenance rule (10 CFR 50.65, Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants) as a basis for concluding that the effects of aging will be effectively managed during the license renewal term.

On September 30, 1993, the NRC staff conducted a public workshop in Bethesda, Maryland, that was attended by over 180 representatives from nuclear utilities, industry organizations, architect and engineering firms, consultants and contractors, and Federal and State governments. In December 1993, the NRC staff forwarded SECY–93–331, "License Renewal Workshop Results and Staff Proposals for Revision to 10 CFR Part 54, 'Requirements for Renewal of Operating Licenses for Nuclear Power Plants,'" to the Commission. The NRC staff recommended that the Commission direct it to amend 10 CFR Part 54 to establish a more stable and predictable license renewal process.

In its SRM of February 3, 1994, the Commission agreed with the NRC staff's conceptual approach in SECY–93–331 for performing license renewal reviews and directed the staff to proceed with rulemaking to amend 10 CFR Part 54. The Commission believes that the license renewal process should focus on the management of the effects of aging on certain systems, structures, and components during the period of extended operation. An objective for the proposed amendment is to establish a more stable and predictable license renewal process that identifies certain systems, structures, and components [1] that require review to provide the necessary assurance that these systems, structures, and components will continue to perform their intended function for the period of extended operation.

II. Proposed Action

The proposed rule would revise certain requirements contained in 10

[1] Throughout the Statement of Considerations, the phrases *systems, structures, and components and structures and components* are used. As a matter of clarification, the Commission intends that the phrase *systems, structures, and components* applies to the matters involving the discussions of the overall renewal review, the specific license renewal scope (§ 54.4), time-limited aging analyses (§ 54.21(c)), and the license renewal finding (§ 54.29). The phrase *structures and components* applies to matters involving the integrated plant assessment (IPA) required by § 54.21(c) because the aging management review required within the IPA should be a component and structure level review rather than a more general system level review. The phrase *systems, structures, and components* applies to the evaluation of time-limited aging analyses required by § 54.21(c) because such plant-specific analyses may have been carried out, for the initial operating term, for either *systems, structures, or components*. Reevaluation for the renewal term is intended to focus on the same *systems, structures, or components* subject to the initial term time-limited aging analyses. The finding required by § 54.29 considers both the results of the integrated plant assessment and the time-limited aging analyses and, therefore, the phrase *system, structures, and components* is applicable to this section.

CFR Part 54 and establish a regulatory process that is simpler, more stable, and more predictable than the current license renewal rule. The proposed rule would continue to ensure that continued operation beyond the term of the original operating license will not be inimical to the public health and safety. The more significant proposed changes to the license renewal rule are as follows:

(1) The intent of the license renewal review would be clarified to focus on the adverse effects of aging rather than identification of all aging mechanisms. This change would emphasize that the rule is intended to ensure that important systems, structures, and components will continue to perform their intended function in the period of extended operation. Identification of individual aging mechanisms would not be required as part of the renewal review. The definitions of *age-related degradation, age-related degradation unique to license renewal, aging mechanisms, renewal term, and effective program* would be deleted.

(2) The definition of *integrated plant assessment* (IPA) (§ 54.3) and the IPA process (§ 54.21(a)) would be clarified to be consistent with the revised focus in item (1) on the detrimental effects of aging.

(3) A new § 54.4 would be added to replace the current definition of systems, structures, and components "important to license renewal" in § 54.3. Section 54.4 would define those systems, structures, and components within the scope of the license renewal rule and would identify the important functions (intended functions) of the systems, structures, and components that must be maintained. The requirement to include systems, structures, and components that have limiting conditions for operation in facility technical specifications within the scope of license renewal has been deleted.

(4) In § 54.21(a), the IPA process would be simplified. The wording would be changed to resolve any ambiguity associated with the use of the terms systems, structures, and components (SSCs) and structures and components (SCs). A simplified methodology for determining whether a structure or component requires an aging management review for license renewal would be delineated. Only long-lived, passive structures and components would be subject to an aging management review for license renewal. Sections 54.21(b) and (d) of the current rule would be deleted, and a new § 54.21(c) dealing with time-limited analyses and a new § 54.21(d) dealing with final safety analysis report (FSAR) supplement requirements would be added. The requirement to review any relief from codes and standards contained in § 54.21(c) of the current rule would be deleted, and the requirement to review exemptions from regulatory requirements contained in § 54.21(c) of the current rule would be clarified and linked with the time-limited analyses.

(5) In § 54.22, the requirement to include technical specification changes in the FSAR supplement would be clarified consistent with the revised focus on the detrimental effects of aging.

(6) In § 54.29, the standards for issuance of a renewed license would be changed to reflect the revised focus on the detrimental effects of aging concerning structures and components requiring an aging management review for license renewal and any time-limited issues (including exemptions) applicable for the renewal term. A new paragraph (b) would be added to separate those issues identified during the license renewal process that require resolution during the current license term from those issues that require resolution during the license renewal process.

(7) In § 54.33, requirements for continuation of the current licensing basis (CLB) and conditions of renewed licenses would be changed to delete all reference to age-related degradation unique to license renewal (ARDUTLR). Section 54.33(d) of the current rule, which requires a specific change control process, would be deleted.

(8) In § 54.37, additional records and recordkeeping requirements would be changed to be less prescriptive. Section 54.37(c) would be deleted.

A set of questions, which is included in Section V of this statement of considerations (SOC), identifies certain issues considered in the development of the proposed rule for which the Commission is soliciting additional information from members of the public.

III. Principal Issues

a. Continued Validity of Certain Findings in Previous Rulemaking

The purpose of this proposed rule is to simplify and clarify the current license renewal rule. As such, it is a narrowly circumscribed rulemaking. Unless otherwise clarified or reevaluated, either directly or indirectly, in the discussion for this proposed rule, the conclusions in the SOC for the current license renewal rule remain valid (56 FR 64943; December 13, 1991). Therefore, if any conflicts arise between discussions in the SOC for the December 13, 1991, license renewal rule and discussions in the justification for this proposed rule that follow, the intent discussed in the justification for this proposed rule should take precedent.

b. Reaffirmation of the Regulatory Philosophy and Approach and Clarification of the Two Principles of License Renewal

(i) Regulatory Philosophy

In developing the current license renewal rule, the Commission concluded that issues that are material to renewal of a nuclear power plant operating license are to be confined to those issues that the Commission determines are uniquely relevant to protecting the public health and safety and preserving common defense and security during the period of extended operation. Other issues would, by definition, have a relevance to the safety and security of the public during current plant operation. Given the Commission's ongoing obligation to oversee the safety and security of operating reactors, issues that are relevant to current plant operation will be addressed within the present license term rather than deferred until the time of license renewal. Consequently, the Commission formulated the following two principles of license renewal.

The first principle of license renewal was that, with the exception of age-related degradation unique to license renewal and possibly some few other issues related to safety only during extended operation of nuclear power plants, the regulatory process is adequate to ensure that the licensing bases of all currently operating plants provide and maintain an acceptable level of safety so that operation will not be inimical to public health and safety or common defense and security. Moreover, consideration of the range of issues relevant only to extended operation led the Commission to conclude that the detrimental effects of aging is probably the only issue generally applicable to all plants. As a result, continuing this regulatory process in the future will ensure that this principle remains valid during any period of extended operation if the regulatory process is modified to address age-related degradation that is of unique relevance to license renewal. Consequently, the current license renewal rule focuses the Commission's review on this one safety issue. Under the current rule, the Commission may address any other safety issue unique to the period of extended operation.

The second and equally important principle of license renewal holds that the plant-specific licensing basis must be maintained during the renewal term in the same manner and to the same extent as during the original licensing term. This principle would be accomplished, in part, through a program of age-related degradation management for systems, structures, and components that are important to license renewal as defined in the current rule.

The Commission continues its fundamental support for these principles. In particular, the Commission still believes that mitigation of the deleterious effects of aging resulting from operation beyond the initial license term should be the focus for license renewal. After further consideration and experience in implementing the current rule, the Commission has, however, determined that the requirements for carrying out the license renewal review can and should be simplified and clarified. The Commission has concluded that, for certain plant systems, structures, and components, the existing regulatory process will continue to mitigate the effects of aging to provide an acceptable level of safety in the period of extended operation.

The Commission now believes that it can generically exclude from the IPA aging management review for license renewal (1) those structures and components which perform active functions and (2) structures and components subject to replacement based on qualified life or specified time period. However, all systems, structures, and components subject to time-limited aging analyses would be subject to a license renewal evaluation. The objective of a license renewal review is to determine whether the detrimental effects of aging could adversely affect the functionality of systems, structures, and components that the Commission determines require review for the period of extended operation. The license renewal review is intended to identify any additional actions that will be needed to maintain the functionality of these systems, structures, and components in the period of extended operation. Detailed discussions concerning determination of those systems, structures, and components requiring a license renewal review are contained in Section III.c of this SOC; detailed discussions of those structures and components subject to an aging management review are in Section III.f of this SOC; and, detailed discussions on systems, structures, and components requiring a license renewal evaluation are contained in Section III.g of this SOC.

Accordingly, this proposed rule focuses the license renewal review on certain systems, structures, and components that the Commission has determined require evaluation to ensure that the effects of aging will be managed adequately in the period of extended operation. This change is viewed as a modification consistent with the first principle of license renewal established in the current rule. In view of this proposed rule, the first principle can be revised to state that, with the possible exception of the detrimental effects of aging on the functionality of certain plant systems, structures, and components in the period of extended operation and possibly some other issues related to safety only during extended operation, the regulatory process is adequate to ensure that the licensing bases of all currently operating plants provide and maintain an acceptable level of safety so that operation will not be inimical to public health and safety or common defense and security.

(ii) Deletion of the Term "Age-Related Degradation Unique to License Renewal"

The use of the term "age-related degradation unique to license renewal" (ARDUTLR) has caused significant uncertainty. A key problem involves how unique aging issues are to be identified and, in particular, how existing licensee activities and Commission regulatory activities are to be considered in the identification of systems, structures, and components as either subject to or not subject to ARDUTLR. The difficulty in clearly establishing "uniqueness" in connection with the effects of aging is underscored by the fact that aging is a continuing process, the fact that many licensee programs and regulatory activities are already focused on mitigating the effects of aging to ensure safety in the current operating term of the plant, and the fact that no new aging phenomena have been identified as potentially occurring only during the period of extended operation.

The proposed rule would eliminate both the definition of ARDUTLR and use of the term in codified regulatory text. Confusion regarding the detailed definition of ARDUTLR in the rule and questions regarding which structures and components could be subject to ARDUTLR would be eliminated. Specifically, the proposed rule would focus on ensuring that the effects of aging in the period of extended operation are adequately managed.

Under the current rule, time-limited aging analyses applicable to systems, structures, and components important to license renewal that were based either on an explicitly assumed service life or defined by the current license term and were the basis for a safety analysis, are considered subject to ARDUTLR. Because the proposed amendment would delete the definition of "ARDUTLR," the proposed rule would explicitly identify time-limited aging analyses as requiring evaluation as part of the renewal process. Time-limited aging issues are discussed further in Section III.g of this SOC.

c. Systems, Structures, and Components Within the Scope of License Renewal

(i) Scope of the License Renewal Review and Elimination of the Technical Specification Limiting Conditions for Operation Scoping Category

In the proposed rule, the Commission has deleted the definition (in § 54.3) of systems, structures, and components important to license renewal and proposes to replace it with a new section entitled § 54.4 Scope. This new section will continue to define the set of plant systems, structures, and components that would be the initial focus of a license renewal review. From this set of systems, structures, and components, a license renewal applicant will determine those systems, structures, and components that would require review for license renewal. The intent of the definition of systems, structures, and components important to license renewal (i.e., to initially focus the review on important systems, structures, and components) remains intact in the proposed § 54.4.

In the Statements of Consideration for the current license renewal rule, the Commission concluded that applicants for license renewal should focus on the management of aging for those systems, structures, and components that are of principal importance to the safety of the plant. The Commission also believed that the focus of an aging evaluation for license renewal cannot be limited to only those systems, structures, and components that the Commission has traditionally defined as safety-related. Therefore, the Commission determined that, in order to ensure the continued safe operation of the plant during the renewal term, (1) safety-related systems, structures, and components, (2) nonsafety-related systems, structures, and components that directly support the function of a safety-related system, structure, or component or whose failure could prevent the performance of a required function of a safety-related

system, structure, or component, (3) systems, structures, and components relied upon to meet a specific set of Commission regulations, and (4) systems, structures, and components subject to the operability requirements contained in the facility technical specification limiting conditions for operation should be the initial focus of the license renewal review.

Since publishing the final rule, the Commission has gained considerable pre-application rule implementation experience and gained a better understanding of aging management, in part, through the development of a regulatory guide to implement the maintenance rule, 10 CFR 50.65. The Commission now believes that (1) by appropriately crediting existing licensee programs that manage the effects of aging and (2) by appropriately crediting the continuing regulatory process, it can more narrowly define those systems, structures, and components within the scope of license renewal and more narrowly focus the license renewal review.

The Commission continues to believe that the initial scoping for the license renewal review should not be limited to only those systems, structures, or components that the Commission has traditionally defined as safety-related. However, the Commission proposes that the requirement to consider additional systems, structures, and components subject to the operability requirements contained in the facility technical specification limiting conditions for operation be deleted and not included in this new scope section; the other three categories would not be changed.

The first two categories of systems, structures, and components discussed in the proposed new scoping section (54.4(a)(1) and (a)(2)) are the same categories defined in the current definition of systems, structures, and components important to license renewal. These scoping categories concern (1) all safety-related systems, structures, and components and (2) all non-safety related systems, structures, and components that support the function of a safety-related system, structure, or component or whose failure could prevent a safety-related system, structure, or component from satisfactorily fulfilling its intended function(s). These two categories are meant to capture, as a minimum, automatic reactor shutdown systems, engineered safety feature systems, systems required for safe shutdown (achieve and maintain the reactor in a safe shutdown condition), and non-safety systems such as auxiliary systems necessary for the function of safety systems.

The third category of systems, structures, and components discussed in the proposed new scoping section (54.4(a)(3)) are those systems, structures, and components whose functionality may be relied on in safety analyses or plant evaluations to perform a function that demonstrates compliance with the Commission's regulations for 10 CFR 50.48 (Fire Protection), 10 CFR 50.49 (Environmental Qualification), 10 CFR 50.61 (Pressurized Thermal Shock), 10 CFR 50.62 (Anticipated Transients Without Scram), and 10 CFR 50.63 (Station Blackout). This category is also specified in the current definition of systems, structures, and components important to license renewal and includes those systems, structures, and components relied upon to meet certain regulations and was developed to ensure that important systems, structures, and components which may be considered outside the traditional definition of safety-related, and outside of the first two categories in § 54.4, would be included within the initial focus of license renewal. Through evaluation of industry operating experience and through continuing regulatory analysis, the Commission has reaffirmed that systems, structures, and components required to comply with these regulations are important to safe plant operation because they provide substantial additional protection to the public health and safety or are an important element in providing adequate protection to the public health and safety; therefore, the Commission concludes that these systems, structures, and components should be included as part of the initial scope of the license renewal review.

In the current license renewal rule, the Commission established a fourth category of systems, structures, and components to be the focus of the initial license renewal review. In this category, the Commission included all systems, structures, and components that have operability requirements in the plant technical specifications limiting conditions for operation. As defined in Standard Technical Specifications, "a system, subsystem, train, component, or device shall be operable when it is capable of performing its specified safety function(s) and when all necessary attendant instrumentation, controls, normal or emergency electrical power, cooling and seal water, lubrication, and other auxiliary equipment that are required for the system, subsystem, train, component, or device to perform its specified safety function(s) are also capable of performing their related support function(s)." This was intended to include (1) all systems, structures, and components specifically identified in the technical specification limiting conditions for operation, (2) any system, structure or component for which a functional requirement is specifically identified in the technical specification limiting conditions for operation, and (3) any necessary supporting system, structure or component that must be operable or have operability in order for a required system, structure, or component to be operable.

The Commission previously considered the technical specification limiting conditions for operation scoping category to be consistent with the Commission's intent to not re-examine the entire plant for license renewal but to ensure that all systems, structures, and components of principal importance to safe plant operation were identified and evaluated. However, existing technical specifications for many plants have functional requirements on certain systems, structures, and components with low or indirect safety significance. For example, limiting conditions for operation are frequently included in technical specifications for plant meteorological monitoring instrumentation, solid and liquid radioactive waste treatment systems, and traversing incore probes. These requirements, while important for certain aspects of power plant operation, have little or no direct bearing on protection of public health and safety. Applying the first three categories (54.4(a)(1), (2), and (3)) results in the majority of systems, structures, and components that would be captured into the license renewal scope when applying the technical specification category. The technical specification category only adds non-safety systems, structures, and components that do not support safety related systems, structures, and components and consequently should not be the subject of license renewal. Pre-application rule implementation experience has indicated that this category of systems, structures, and components as defined in the current rule could lead to an unwarranted re-examination of plant systems, structures, and components that are not of principal importance.

In its "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors" (58 FR 39132), the Commission identified four criteria for defining the scope of improved technical specifications. The four criteria are as follows:

Criterion 1: Installed instrumentation that is used to detect, and indicate in the control room, a significant abnormal degradation of the reactor coolant pressure boundary.

Criterion 2: A process variable, design feature, or operating restriction that is an initial condition of a Design Basis Accident or Transient analysis that either assumes the failure of or presents a challenge to the integrity of a fission product barrier.

Criterion 3: A structure, system, or component that is part of the primary success path and which functions or actuates to mitigate a Design Basis Accident or Transient that either assumes the failure of or presents a challenge to the integrity of a fission product barrier.

Criterion 4: A structure, system, or component which operating experience or probabilistic safety assessment has shown to be significant to public health and safety.

Nuclear power plant licensees that voluntarily choose to "improve" their technical specifications based on this Commission policy may submit changes to the Commission for review and approval that will remove systems, structures, and components from their technical specifications prior to conducting license renewal. (Experience shows that approximately 40 percent of limiting conditions for operation and surveillance requirements could be deleted).

While it is not the Commission's intent to require applicants for license renewal to "improve" their technical specifications, it remains the intent of the Commission to focus the license renewal review on those systems, structures, and components that are of principal importance to safety. Therefore, a license renewal scoping category that requires wholesale consideration of systems, structures, and components within the scope of technical specifications (that may not be improved) may not appropriately focus licensee and NRC resources on those systems, structures, and components that are of principal importance to safety.

After considering the substantial overlap between the four criteria for defining the scope of technical specifications and the first three scoping categories for license renewal, the Commission has generically concluded that the number of additional systems, structures, and components that would be considered as a result of applying the technical specification scoping category to improved technical specifications is small. These additional systems, structures, and components most likely would result from differences in each plant's current licensing basis and from the application of these criteria and categories on a plant-specific bases.

The Commission cannot make generic conclusions in this rulemaking about these additional systems, structures, and components regarding the appropriateness of whether they should be included in an individual plant's technical specifications. However, the Commission can conclude that these additional systems, structures, and components are of a relatively lower safety significance because they are, by exclusion, nonsafety-related systems, structures, and components whose failure cannot prevent the performance or reduce the availability of a safety-related system, structure, or component. Additionally, the Commission believes that the current regulatory process for these additional nonsafety-related systems, structures, and components is adequate to ensure that age degradation will not result in a loss of functionality in accordance with the CLB. Moreover, these additional nonsafety-related systems, structures, and components should be within the scope of the maintenance rule (§ 50.65).

The Commission believes that there is sufficient experience with its policy on technical specifications to apply it generically in revising the license renewal rule consistent with the Commission's desire to credit existing regulatory programs. Therefore, the Commission has concluded that the technical specification limiting conditions for operation scoping category is unwarranted and proposes to delete the requirement that identifies systems, structures, and components with operability requirements in technical specifications as being within the scope of the license renewal review.

(ii) Intended Function

The current license renewal rule requires an applicant for license renewal to identify from the systems, structures, and components important to license renewal those structures and components that contribute to the performance of a "required function" or could, if they fail, prevent systems, structures, and components from performing a "required function." This requirement initially posed some difficulty in conducting pre-application reviews of proposed scoping methodologies because it was not clear what was meant by "required function." Most systems, structures, and components have more than one function and each could be regarded as "required." Although the Commission could have required a licensee to ensure all functions of a system, structure, or component as part of the aging management review, the Commission concluded that this requirement would be unreasonable and inconsistent with the Commission's original intent to focus only on those systems, structures, and components of primary importance to safety. Consideration of ancillary functions would expand the scope of the license renewal review beyond the Commission's intent. Therefore, the Commission determined that "required function" in the current license renewal rule refers to those functions that are responsible for causing the systems, structures, and components to be considered important to license renewal.

To avoid any confusion with the current rule, the Commission has changed the term "required function" to "intended function" and explicitly stated in § 54.4 that the intended functions for systems, structures, and components are the same functions that define the systems, structures, and components as being within the scope of the proposed rule.

(iii) Bounding the Scope of Review

Pre-application rule implementation has indicated that the description of systems, structures, and components subject to review for license renewal could be broadly interpreted and result in an unnecessary expansion of the review. To limit the potential for an unnecessary expansion of the review associated with the scoping category relating to nonsafety-related systems, structures, and components, the Commission intends this proposed nonsafety-related category (§ 54.4(a)(2)) to apply to systems, structures, and components whose failure would prevent the accomplishment of an intended function of a safety-related system, structure, and component. An applicant for license renewal should rely on the plant's current licensing bases, actual plant-specific experience, industry-wide operating experience, and existing engineering evaluations to determine those nonsafety-related systems, structures, and components that are the initial focus of the license renewal review. Consideration of hypothetical failures that could result from system interdependencies that are not part of the current licensing bases and that have not been previously experienced is not required.

Likewise, in order to limit the potential for unnecessary expansion of the review for the scoping category concerning those systems, structures, and components whose function is relied upon in certain plant safety

analyses to demonstrate compliance with the Commission's regulations (i.e., environmental qualification, station blackout, anticipated transient without scram, pressurized thermal shock, and fire protection), the Commission intends that this scoping category include all systems, structures, and components whose function is relied upon to demonstrate compliance with the Commission's regulations. An applicant for license renewal should rely on the plant's current licensing bases, actual plant-specific experience, industry-wide operating experience, and existing engineering evaluations to determine those systems, structures, and components that are the initial focus of the license renewal review. Consideration of hypothetical failures that could result from system interdependencies, that are not part of the current licensing bases and that have not been previously experienced is not required.

d. The Regulatory Process and Aging Management

(i) Aging Mechanisms and Effects of Aging

The current license renewal review approach discussed in the SOC accompanying the December 13, 1991, rule emphasized the identification and evaluation of aging mechanisms for systems, structures, and components within the scope of the rule. Primarily through pre-application implementation experience associated with the current license renewal rule and the evaluation of comments resulting from the September 1993 license renewal workshop, the Commission determined that an approach to license renewal that focuses only on the identification and evaluation of aging mechanisms could constitute an open-ended research project. Ultimately, this type of approach may not provide reasonable assurance that certain systems, structures, and components will continue to perform their intended functions. The Commission believes that regardless of the specific aging mechanism, only aging degradation that leads to degraded performance or condition (i.e., detrimental effects) is of principal concern for license renewal reviews. Because the detrimental effects of aging are manifested in degraded performance or condition, an appropriate license renewal review would ensure that licensee programs adequately monitor performance or condition in a manner that allows for the timely identification and correction of degraded conditions. The Commission concludes that a shift in focus to managing the detrimental effects of aging for license renewal reviews is appropriate and will provide reasonable assurance that systems, structures, and components are capable of performing their intended function during the period of extended operation.

This shift in focus of the license renewal review has resulted in several proposed changes to the license renewal rule. These changes include deleting the definitions of aging mechanism and age-related degradation, and replacing the references to managing ARDUTLR in the IPA with a requirement to demonstrate that the effects of aging will be adequately managed for the period of extended operation.

(ii) Regulatory Requirements and Reliance on the Regulatory Process for Managing the Effects of Aging

The Commission amended its regulations on July 10, 1991 (56 FR 31306), to require commercial nuclear power plant licensees to monitor the effectiveness of maintenance activities for safety-significant plant equipment to minimize the likelihood of failures and events caused by the lack of effective maintenance. The maintenance rule and its implementation guidance (1) provides for continued emphasis on the defense-in-depth principle by including selected balance-of-plant (BOP) systems, structures, and components, (2) integrates risk consideration into the maintenance process, (3) provides an enhanced regulatory basis for inspection and enforcement of BOP maintenance-related issues, and (4) provides a strengthened regulatory basis for ensuring that the progress achieved to date is sustained in the future. The requirements of the maintenance rule must be implemented by each licensee by July 10, 1996.

Commercial nuclear power plants have been performing a variety of maintenance activities that function effectively as aging management programs since plants were initially constructed. The Commission also recognizes that both the industry and the NRC have acquired extensive experience and knowledge in the area of nuclear power plant maintenance. Regarding the need for a maintenance rule, the results of the Commission's Maintenance Team Inspections (MTIs) indicated that licensees have adequate maintenance programs in place and have exhibited an improving trend in implementing them (56 FR 31307; July 10, 1991). However, the Commission determined that a maintenance rule was needed, in part because the MTIs identified some common maintenance-related weaknesses, such as inadequate root-cause analysis leading to repetitive failures, lack of equipment performance trending, and lack of appropriate consideration of plant risk in the prioritization, planning, and scheduling of maintenance.

Since publishing the license renewal rule on December 13, 1991, the regulatory process (e.g., regulatory requirements, aging research, inspection requirements, and inspection philosophy) for managing the detrimental effects of aging for important systems, structures, and components has continued to evolve. The changes in the regulatory process and initial experience with the license renewal rule have had a direct bearing on the Commission's conclusions regarding the appropriate focus of aging management review for systems, structures, and components that are within the scope of the license renewal rule, and how these systems, structures, and components are treated in the IPA process.

In June 1993, the NRC issued Regulatory Guide 1.160, "Monitoring the Effectiveness of Maintenance at Nuclear Power Plants." The regulatory guide provides an acceptable method for complying with the requirements of the maintenance rule and states that a licensee can use alternative methods if the licensee can demonstrate that these alternative methods satisfy the requirements of the rule. Because aging is a continuing process, the Commission has concluded that existing programs and regulatory requirements that continue to be applicable in the period of extended operation and provide adequate aging management for systems, structures, and components should be credited for license renewal. Accordingly, the proposed amendment to the license renewal rule would focus the renewal review on plant systems, structures, and components for which current activities and requirements may not be sufficient to manage the effects of aging in the period of extended operation.

(iii) Maintenance Rule Requirements and Implementation

As discussed in the regulatory analysis for the maintenance rule and in Regulatory Guide 1.160, the Commission's determination that a maintenance rule was needed arose from the conclusion that proper maintenance was essential to plant safety. A clear link exists between effective maintenance and safety as it relates to factors such as the number of transients and challenges to safety systems and the associated need for operability, availability, and reliability

of safety-related systems, structures, and components. In addition, good maintenance is important to providing assurance that failures of other than safety-related systems, structures, and components that could initiate or adversely affect a transient or accident are minimized. Minimizing challenges to safety systems is consistent with the Commission's defense-in-depth philosophy. Therefore, nuclear power plant maintenance is clearly important to protecting the public health and safety.

The maintenance rule requires that power reactor licensees monitor the performance or condition of systems, structures, and components against licensee-established goals in a manner sufficient to provide reasonable assurance that these systems, structures, and components are capable of fulfilling their intended functions. Where it can be demonstrated that the performance or condition of systems, structures, and components is being effectively controlled through the performance of appropriate preventive maintenance, performance and condition monitoring against licensee-established goals is not required. Performance and condition-monitoring activities and associated goals and preventive maintenance activities must be evaluated once every refueling cycle, provided the interval between evaluations does not exceed 24 months.

As discussed in Regulatory Guide 1.160, the extent of monitoring may vary from system to system, depending on the system's importance to risk. Some monitoring at the component level may be necessary. However, most of the monitoring could be done at the plant, system, or system train level. For systems, structures, and components that fall within the requirements of § 50.65(a)(1), licensees must establish goals and monitor performance against these goals. These goals should be derived from information in the CLB and should be established commensurate with safety significance of the systems, structures, or components. These goals may be performance-oriented (reliability, unavailability) or condition-oriented (pump flow, pressure, vibration, valve stroke time, current, electrical resistance). An effective preventive maintenance program is required under § 50.65(a)(2) if monitoring under § 50.65(a)(1) is not performed.

The SOC for the maintenance rule (56 FR 31308; July 10, 1991) states that the scope of § 50.65(a)(2) includes those systems, structures, and components that have "inherently high reliability" without maintenance. It is expected that many long-lived, passive structures and components could be considered inherently reliable by licensees and not be monitored under 10 CFR 50.65(a)(1). There may be few, if any, actual maintenance activities (e.g., inspection or condition monitoring) that a licensee conducts for such structures and components. Further, experience gained under the current license renewal rule, staff review of industry reports, NRC aging research, and operating experience indicate that such structures and components should be reviewed for license renewal if they are passive and long-lived. Therefore, the Commission believes that such structures and components that are technically within the scope of the maintenance rule should not be excluded from review for license renewal on the basis of their inherent reliability.

Although the maintenance rule does not become effective and enforceable until July 10, 1996, the Commission believes that reliance on the rule is an acceptable basis for managing the effects of aging for active functions of systems, structures, and components. As discussed in Regulatory Guide 1.160, implementation of the maintenance rule relies extensively on existing maintenance programs and activities. The industry has developed guidance for complying with the maintenance rule. The NRC staff has reviewed this guidance and found it acceptable. Many utilities may follow the industry guidance in implementing the maintenance rule. Furthermore, the failure of any licensee to comply with the maintenance rule is enforceable by the Commission after July 10, 1996.

Therefore, the Commission believes that with the additional experience it has gained with age-related degradation reviews and with the implementation of the maintenance rule, there is a sufficient basis for concluding that current licensee programs and activities, along with the regulatory process, will be adequate to manage the effects of aging on the active functions of all systems, structures, and components within the scope of license renewal during the period of extended operation such that the CLB will be maintained. The bases for this conclusion are discussed further in the following sections.

(iv) Integration of the Regulatory Process and the Maintenance Rule With the License Renewal Rule

Because of the resultant insight and understanding that the NRC gained in developing the implementation guidance for the maintenance rule, the Commission is now in a position to more fully integrate the maintenance rule and the license renewal rule. Because the intent of the license renewal rule and the maintenance rule is similar (ensuring that the detrimental effects of aging on the functionality of important systems, structures, and components are effectively managed), the Commission has determined that the license renewal rule should credit existing maintenance activities and maintenance rule requirements for most structures and components. Fundamental to establishing credit for the existing programs and the requirements of the maintenance rule is the recognition that licensee activities associated with the implementation of the maintenance rule will continue throughout the renewal period and are consistent with the first principle of license renewal. As a result, the requirements in this proposed rule reflect a greater reliance on existing licensee programs that manage the detrimental effects of aging on functionality, including those activities implemented to meet the requirements of the maintenance rule.

In addition to the maintenance rule, the Commission has many individual requirements relative to maintenance throughout its regulations. These include 10 CFR 50.34(a)(3)(i); 50.34(a)(7); 50.34(b)(6)(i), (ii), (iii), and (iv); 50.34(b)(9); 50.34(f)(1)(i), (ii), (iii); 50.34(g); 50.34a(c); 50.36(a); 50.36(c)(2), (3), (5), and (7); 50.36a(a)(1); 50.49(b); 50.55a(g); Part 50, Appendix A, Criteria 1, 13, 18, 21, 32, 36, 37, 40, 43, 45, 46, 52, 53; and Part 50, Appendix B.

(v) Excluding Structures and Components With Active Functions

Performance and condition monitoring for systems, structures, and components typically involves the collection and analysis of key parametric data. This data provides information on the practical effects of age-related degradation on the functionality of systems, structures, and components. The nature of this parametric data associated with active functions (e.g., pump flows, pressure, vibrations, valve stroke time, current, electrical resistance) makes the data generally easier to monitor and analyze than parametric data related to passive functions (e.g., pipe wall thinning, fracture toughness, ductility, and mechanical strength). Although, as previously discussed, the requirements of the maintenance rule apply to systems, structures, and components that perform both active and passive functions, the Commission has determined that performance and condition-monitoring programs for

structures and components that perform passive functions present limitations that should be considered in determining which structures and components can be generically excluded from an aging management review for license renewal.

Based on consideration of the effectiveness of existing programs which monitor the performance and condition of systems, structures, and components that perform active functions, the Commission concludes that structures and components associated only with active functions can be excluded from a license renewal aging management review. Functional degradation resulting from the effects of aging of those systems, structures, and components that perform active functions is more readily determinable, and existing programs and requirements applicable to this equipment are expected to continue to ensure the functionality of such equipment. Considerable experience has demonstrated the effectiveness of these programs and the performance-based requirements of the maintenance rule delineated in § 50.65 are expected to further enhance existing maintenance programs. For example, many licensee programs that ensure compliance with technical specifications are based on surveillance activities that monitor performance of systems, structures, and components that perform active functions. As a result of the continued applicability of existing programs and regulatory requirements, the Commission believes that active functions of systems, structures, and components will be reasonably assured in any period of extended operation. Further discussion and justification for exclusion of active functions of structures and components within the scope of the license renewal rule but outside the scope of the maintenance rule are presented in Section (vi).

(vi) Excluding Active Fire Protection Components

The scope of the maintenance rule does not, in general, include installed fire protection systems, structures, and components because performance and condition monitoring is required by § 50.48. Therefore, for the purposes of license renewal, installed structures and components with active functions can be excluded from an aging management review because they are either within the scope of § 50.65 or § 50.48. Compliance with § 50.48 is verified through the NRC inspection program.

The fire protection rule (§ 50.48) requires each nuclear power plant licensee to have in place a fire protection plan (FPP) that satisfies 10 CFR Part 50, Appendix A, Criterion 3. Licensees are required by § 50.48 to retain the FPP and each change to the plan until the Commission terminates the reactor license. The NRC reviews each licensee's total FPP as described in the licensee's safety analysis report (SAR), using basic review guidance described in § 50.48, as applicable to each plant.

The FPP establishes the fire protection policy for the protection of systems, structures, and components important to safety at each plant and the procedures, equipment, and personnel requirements necessary to implement the program at the plant site. The FPP is the integrated effort that involves systems, structures, and components, procedures, and personnel to carry out all activities of fire protection. The FPP includes system and facility design, fire prevention, fire detection, annunciation, confinement, suppression, administrative controls, fire brigade organization, inspection and maintenance, training, quality assurance, and testing.

The FPP is part of the CLB and contains maintenance and testing criteria that provide reasonable assurance that fire protection systems, structures, and components are capable of performing their intended function. The Commission concludes that it is appropriate to allow license renewal applicants to take credit for the FPP as an existing program that manages the detrimental effects of aging. The Commission concludes that active functions of installed fire protection components are excluded from aging management review based on a generic finding that performance or condition-monitoring programs afforded by the FPP are capable of detecting and subsequently mitigating the detrimental effects of aging.

(vii) Future Exclusion of Structures and Components Based on NRC Requirements

As part of the ongoing regulatory process, the NRC evaluates emerging technical issues and, when warranted, establishes new or revised regulatory requirements as part of the resolution of a new technical issue, subject to the provisions of the backfit rule (§ 50.109). Increasing experience with aging nuclear power plants has led to the imposition or consideration of additional requirements. For example, at this time the Commission is considering rulemaking activities associated with steam generator performance and containment inspections. For steam generators, the Commission is considering the need for a performance-based rule to address steam generator tube integrity. To address concerns regarding containments and liners, the Commission is considering amending § 50.55(a) to incorporate the most recent version of Subsections IWE and IWL in the American Society of Mechanical Engineers (ASME) Code, Section XI.

Such new requirements, if implemented, would be relevant to both aging management and the structures and components subject to an aging management review for license renewal (i.e., long-lived, passive structures and components). As a result, as part of relevant future rulemakings, the Commission intends to evaluate whether these new requirements can be considered effective in continuing to manage the effects of aging through any renewal term. A positive conclusion could establish the bases for further limiting the scope of review for license renewal.

e. Current Licensing Basis and Maintaining the Function of Systems, Structures, and Components

In the SOC for the current license renewal rule, the Commission concluded that, with the exception of ARDUTLR, the current regulatory processes are sufficiently broad and rigorous and that these processes generally provide reasonable assurance that extended operation of existing plants would not endanger the public health and safety and would not be inimical to the common defense and security. By stating that the CLB must be maintained for the period of extended operation, the Commission indicated its intent to ensure the continuation of an acceptable level of safety for the plant.

Note: The expression in the second principle "Maintaining the CLB," recognizes that a plant's CLB is not fixed. Rather, the CLB is dynamic and can be modified at any time during the initial operating term, during the license renewal process, and during the period of extended operation.

As discussed in the SOC for the current license renewal rule, the Commission stated that continued safe operation of a nuclear power plant requires that systems, structures, and components that perform or support safety functions continue to perform in accordance with the applicable requirements in the licensing basis. In addition, the Commission stated that the effects of ARDUTLR must be mitigated to ensure that the aged systems, structures, and components will adequately perform their designed safety or intended function.

In developing this proposed rule, a key issue that the Commission considered was whether or not a focus on ensuring a system's, structure's or component's function through performance or condition monitoring is a sufficient basis for concluding that the CLB will be maintained throughout the period of extended operation. The Commission considered whether the regulatory process and a focus on functionality during the license renewal review for the period of extended operation are sufficient to provide reasonable assurance that an acceptable level of safety (i.e., the CLB) will be maintained.

Continued safe operation of a commercial nuclear power plant requires that systems, structures, and components that perform or support safety functions continue to function in accordance with the applicable requirements in the licensing basis of the plant and that other plant systems, structures, and components do not substantially increase the frequency of challenges to plant safety systems, structures, and components. As a plant ages, a variety of aging mechanisms are operative, including erosion, corrosion, wear, thermal and radiation embrittlement, microbiologically induced aging effects, creep, shrinkage, and possibly others yet to be identified or fully understood. However, the detrimental effects of aging mechanisms can be observed by detrimental changes in the performance characteristics or condition of systems, structures, and components if they are properly monitored.

Aging can affect all systems, structures, and components to some degree. Generally, the changes resulting from detrimental aging effects are gradual. Licensees have ample opportunity to detect these degradations through performance and condition-monitoring programs, technical specification surveillances required by § 50.36, and other licensee maintenance activities. Except for some well-understood aging mechanisms such as neutron embrittlement and intergranular stress corrosion cracking, the straightforward approach to detecting and mitigating the effects of aging begins with a process that verifies that the intended design functions of systems, structures, and components have not been compromised or degraded. Licensees are required by current regulations to develop and implement programs that ensure that conditions adverse to quality, including degraded system, structure, or component function, are promptly identified and corrected. The licensees' programs include self-inspection, maintenance, and technical specification surveillance programs that monitor and test the physical condition of plant systems, structures, and components.

For example, technical specifications include limiting conditions for operation (LCOs), which are the lowest functional capability or performance levels of equipment required for safe operation of the facility. Technical specifications also require surveillance requirements relating to test, calibration, or inspection to ensure that the necessary quality of systems and components is maintained, that facility operation will be within the safety limits, and that the LCOs will be met. Furthermore, § 50.55a requires, in part, that structures, systems, and components be tested and inspected against quality standards commensurate with the importance of the safety function to be performed, such as inservice testing (IST) and inservice inspections (ISIs) of pumps and valves.

Elements for timely mitigation of age-related degradation effects include activities that provide reasonable assurance that systems, structures, and components will perform their intended functions when called upon to do so. Through these programs, licensees identify the degradation of components resulting from a number of different environmental stressors as well as degradation from faulty maintenance or other errors caused by personnel. Once a detrimental performance or condition caused by aging or other factors is revealed, mitigating actions are taken to fully restore the conditions within the design basis. As a result of these programs, degradation due to aging mechanisms (detrimental aging effects) is currently being adequately managed, either directly or indirectly, for many systems, structures, and components.

Consequently, there is considerable logic in ensuring that the design basis (as defined in § 50.2) of systems, structures, and components is maintained through activities that ensure continued functionality. This process is relied on in the current term to ensure continued operability of systems, structures, and components and includes surveillance of systems, structures, and components to ensure that, to the greatest extent practicable, the system, structure, or component properly performs the intended design functions. The focus on maintaining operability results in the continuing capability of systems, structures, and components, including supporting systems, structures, and components, to perform their intended functions as designed.

A key element of the 10 CFR Part 54 definition of the CLB is the plant-specific design-basis information defined in 10 CFR 50.2. According to this definition, "[d]esign bases means that information which identifies the specific functions to be performed by a structure, system, or component of a facility, and the specific values or ranges of values chosen for controlling parameters as reference bounds for design." In addition, design bases identify specific functions to be performed by a system, structure, and component, and design-basis values may be derived for achieving functional goals. For plant systems, structures, and components that are not subject to performance or condition-monitoring programs or for plant systems, structures, and components on which the detrimental effects of aging may not be as readily apparent, verification of specific design values (e.g., piping wall thickness) or demonstration by analysis can be a basis for concluding that the function of the system, structure, or component will be maintained in the period of extended operation.

When the design bases of systems, structures, and components can be confirmed either directly by inspection or by verification of functionality through test or analysis, a reasonable conclusion can be drawn that the CLB is or will be maintained. This conclusion recognizes that the portion of the CLB that can be impacted by the detrimental effects of aging is limited to the design bases aspects of the CLB.

Although the definition of CLB in Part 54 is broad and encompasses various aspects of the NRC regulatory process (e.g., operability and design requirements), the Commission concludes that a specific focus on functionality is appropriate for performing the license renewal review. Reasonable assurance that the function of important systems, structures, and components will be maintained throughout the renewal period, combined with the rule's stipulation that all aspects of a plant's CLB (e.g., technical specifications) and the NRC's regulatory process carry forward into the renewal period, are viewed as sufficient to conclude that the CLB (which represents an acceptable level of safety) will be maintained. Functional capability is the principal emphasis for much of the CLB and is the focus of the maintenance rule and other regulatory requirements to ensure that aging issues are appropriately managed in the current license term.

An example of performance verification activities that must be performed by licensees is the integrated loss of coolant accident (LOCA)/loss of offsite power (LOOP) integrated test. This technical specification surveillance is typically required to be performed at least once every 18 months. This test simulates a coincident LOCA/LOOP (design-basis accident) for each train or division of emergency alternating current (ac) power source (e.g., emergency diesel generators), the associated emergency core cooling systems (e.g., safety injection subsystems), and other electrically driven safety components (e.g., containment isolation valves, emergency ventilation/filtration components, and auxiliary steam generator feed components). All engineered safety features required to actuate for an actual LOCA/LOOP are required to actuate for the test and either duplicate the LOCA/LOOP function completely (e.g., electric loads are sequenced onto emergency busses, containment isolation valves actually shut from full open positions) or approximate the actual function to the greatest extent practicable (e.g., safety injection pumps start and run in recirculation mode instead of actually injecting water into the reactor coolant system). Design-basis values that can only be measured during this testing, such as load sequence times and emergency bus voltage response to the sequenced loads, are verified. Between integrated tests, monthly and quarterly surveillances verify specific component performance criteria such as valve stroke times or pump flow values. The acceptance criteria stated in the surveillance requirements are derived from design-basis values with appropriate conservatisms built in to account for any uncertainties or measurement tolerances. Satisfactory accomplishment and periodic repetition of these types of surveillance provide reasonable assurance that system, structure, and component functions will be performed as designed.

f. Integrated Plant Assessment

The current license renewal rule requires license renewal applicants to perform a systematic screening of plant systems, structures, and components to ultimately determine if aging would be adequately managed in the period of extended operation. This IPA process would begin broadly and consider all plant systems, structures, and components. The IPA would then focus on only those that are important to license renewal and finally on only those structures and components that could be subject to ARDUTLR. For those structures and components subject to ARDUTLR, the IPA process required an evaluation and demonstration that either (1) New programs or licensee actions would be implemented to prevent or mitigate any ARDUTLR during the period of extended operation or (2) justifies that no actions are necessary.

Based on experience gained from implementation of the license renewal rule, the Commission determined that the current license renewal review would require the evaluation of an unnecessarily large number of plant systems, structures, and components to establish appropriate aging management in the period of extended operation. Experience, further consideration of existing activities, and the requirements of the maintenance rule have led the Commission to conclude that many of these systems, structures, and components are already subject to activities that ensure their function through any period of extended operation. Therefore, the Commission proposes to amend the IPA process in the license renewal rule to more efficiently focus the license renewal review on certain structures and components for which the regulatory process and existing licensee programs and activities may not adequately manage the detrimental effects of aging in the period of extended operation.

The approach reflected in this proposed rule maintains the requirement for each renewal applicant to address possible detrimental effects of aging for certain structures and components during the period of extended operation through the IPA process. The proposed rule would simplify the IPA process consistent with (1) The Commission's determination that the aging management review should focus on ensuring that structures and components perform their intended function(s) and (2) the additional experience the Commission has gained related to aging management review since publishing the current license renewal rule. The proposed rule would still require that applicants for license renewal take necessary actions to ensure that the CLB will be maintained and thus maintain an acceptable level of safety during the period of extended operation.

Similarly, the IPA process would continue to require an initial review of all plant systems, structures, and components to identify the scope and would then focus on those structures and components requiring aging management review for license renewal. The principal differences between the IPA process in the current license renewal rule and the IPA process in the proposed rule is—

(1) The determination of the reduced set of structures and components which must undergo an aging management review;

(2) The form of the aging management review (managing the effects of aging on functionality versus managing aging mechanisms); and

(3) The elimination of the term ARDUTLR.

(i) Determination of Structures and Components Requiring Aging Management Review for License Renewal

In the SOC for the current license renewal rule, the Commission stated that as it gains more experience with age-related degradation reviews it may revisit the need for such a disciplined review process and may narrow the scope of the safety review. The Commission now believes that after reviewing its recent implementation experience, a narrower scope of review is warranted. The Commission concludes that a generic exclusion from aging management review is appropriate for those categories of structures and components subject to existing programs and activities that the Commission believes are sufficient to provide reasonable assurance of continued function in the period of extended operation.

As discussed in Section III.d of this SOC, the Commission has determined that the current regulatory process, existing licensee programs and activities, and the maintenance rule provide an acceptable rationale for generically concluding that structures and components that have active functions can be excluded from an aging management review. However, the Commission does not believe that it can generically exclude structures and components that—

(1) Do not have performance and condition characteristics that are as readily monitorable as active components; and

(2) Are not subject to periodic, planned replacement.

Unlike the extensive experience associated with the performance and condition monitoring of the active functions of structures and components, little experience has been gained from the evaluation of long-term effects of aging on the passive functions of structures and components. The Commission considers that the detrimental effects of aging affecting passive functions of structures and components are less apparent than the

detrimental effects of aging affecting the active functions of structures and components. Therefore, the Commission concludes that a generic exclusion for passive structures and components is inappropriate at this time. The Commission also concludes that an aging management review of the passive functions of structures and components is warranted to provide the reasonable assurance that their intended functions are adequately maintained during the period of extended operation. Additional experience with managing the effects of aging on the function of these structures and components may narrow the selection of structures and components requiring an aging management review for license renewal in the future.

(a) "Passive" structures and components. In Section III.d of this SOC, the Commission concluded that structures and components having active functions can be excluded from an aging management review based on performance or condition-monitoring programs. The Commission recognizes that "passive" structures and components, in general, do not have performance and condition characteristics that are as readily monitorable as active structures and components. Therefore, the Commission concludes that an aging management review for certain passive structures and components is required for license renewal.

The Commission has reviewed several industry concepts of "passive" structures and components and has determined that they do not accurately describe the structures and components that should be subject to an aging management review for license renewal. Accordingly, the Commission has developed a description of "passive" characteristics of structures and components that require aging management review. Furthermore, the Commission has directly incorporated these characteristics into the IPA process to avoid the creation of a new term, "passive." This SOC uses the term "passive" for convenience. Furthermore, the description of "passive" structures and components incorporated into § 54.21(a) should be utilized only in connection with the IPA review in the license renewal process.

The maintenance rule implementation guidance contains a provision by which licensees may classify certain systems, structures, and components (e.g., raceways, tanks, and structures) as inherently reliable. Inherently reliable systems, structures, and components by definition generally do not require any continuing maintenance actions and should be considered as "passive."

The Commission considers structures and components for which aging degradation is not readily monitored to be those that perform an intended function without moving parts or without a change in configuration or properties. For example, a pump or valve has moving parts, an electrical relay can change its configuration, and a battery changes its electrolyte properties when discharging. Therefore, the performance or condition of these components is readily monitored and would not be captured by this description. Further, the Commission proposes that "a change in configuration or properties" should be interpreted to include "a change in state," which is a term sometimes found in the literature relating to "passive." For example, a battery can "change its state" and therefore would not be screened in under this description.

Structures or components may have multiple functions, thus some structures or components may meet the "passive" description. For example, although a pump or a valve has some moving parts, a pump casing or valve body performs a pressure-retaining function without moving parts. A pump casing or a valve body meets this description and therefore would be considered for an aging management review. However, the moving parts of the pump, such as the pump impeller, would not be subject to aging management review.

As examples of the implementation of this screening requirement, the Commission would consider structures and components meeting the passive description as including, but not limited to, the reactor vessel, the reactor coolant pressure boundary, steam generators, the pressurizer, piping, pump casings, valve bodies, the core shroud, piping supports, the spent fuel rack, pressure retaining boundaries, heat exchangers, ventilation ducts, the containment, the containment liner, electrical penetrations, mechanical penetrations, equipment hatches, seismic Category I structures, electrical cables and connections, cable trays, and electrical cabinets.

Additionally, the Commission would consider structures and components not meeting the "passive" description as including, but not limited to, the portions of pumps that do not form pressure retaining boundaries, motors, diesel generators, air compressors, snubbers, the control rod drive, ventilation dampers, pressure transmitters, pressure indicator, water level indicators, switchgears, cooling fans, transistors, batteries, breakers, relays, switches, power inverters, circuit boards, battery chargers, and power supplies.

(b) "Long-lived" structures and components. The Commission recognizes that the detrimental effects of aging will increase as service life is extended. One way to effectively mitigate these effects is through replacement. Accordingly, maintenance programs that periodically replace structures and components may provide reasonable assurance that the effects of aging will not impair structure or component performance during the period of extended operation. Conversely, structures and components that are not replaced may be more likely to be impaired by cumulative aging effects.

The Commission considers structures and components to be "long-lived" if they are not subject to periodic replacement based on a qualified life or a specified time period. Therefore, in addition to the "passive" screening criterion, the Commission concludes that structures and components that are not replaced based on a qualified life or specified time period must be considered for an aging management review.

It is important to note, however, that the Commission has decided not to generically exclude structures and components that are replaced based on performance or condition from an aging management review. The Commission does not intend to preclude a license renewal applicant from providing site-specific justification in a license renewal application that a replacement program based on performance or condition for a passive structure or component provides reasonable assurance that functionality will be maintained in the period of extended operation.

(ii) The IPA Process

The Commission proposes to revise and simplify the IPA requirements (§ 54.21(a)) as follows:

First, instead of listing those systems, structures, and components that are important to license renewal, the Commission proposes to require only a list (from those systems, structures, and components within the scope of license renewal) of structures and components that a licensee determines to be subject to an aging management review for the period of extended operation. A licensee has the flexibility to determine the set of structures and components for which an aging management review is performed, provided that this set encompasses the structures and components for which the Commission

has determined an aging management review is required for the period of extended operation. Therefore, a licensee's aging management review must include structures and components—

(1) That were not subject to replacement based on a qualified life or a specified time period; and

(2) That perform an intended function (§ 54.4) without moving parts or without a change in configuration or properties.

In establishing this flexibility, the Commission recognizes that licensees may find it preferable to not take maximum advantage of the Commission's generic conclusion regarding structures and components which do not require agency management review, and may undertake a broader scope of review than is minimally required. For example, a licensee may desire to review all "passive" structures and components. This set of structures and components would be acceptable because it includes "long-lived" as well as periodically replaced structures and components and, therefore, encompasses all structures and components which would be identified through criteria (1) and (2).

Second, the IPA must contain a description of the methodology used to determine those systems, structures, and components within the scope of license renewal and those structures and components subject to an aging management review, such that the minimum required structures and components are included in the applicant's aging management review.

Third, the IPA must contain a demonstration for each structure and component subject to an aging management review so that the effects of aging will be managed in such a way that the intended function(s) will be maintained for the period of extended operation. This demonstration should include a description of activities, as well as any changes to the CLB and plant modifications that are relied upon to demonstrate that the intended function(s) is adequately maintained despite the effects of aging in the period of extended operation.

g. Time-Limited Aging Analyses and Exemptions

(i) Time-Limited Aging Analyses

The definition of ARDUTLR in the current license renewal rule requires a licensee evaluation and NRC approval of previous time-limited aging analyses for systems, structures, and components within the scope of license renewal that either were based on an assumed service life or a period of operation defined by the original license term. For example, certain plant-specific safety analyses may have been based on an explicitly assumed 40-year plant life (e.g., aspects of the reactor vessel design). As a result, an evaluation for license renewal would be required. Time-limited aging analyses based on an assumed period of plant operation short of the current operating term should be addressed within the original license and are of no concern for license renewal.

Because the Commission proposes to delete the definition of ARDUTLR, the amended license renewal rule would have to identify these explicit time-limited analyses as issues that must be clearly addressed within the license renewal process. The proposed rule would explicitly require that—

(1) Applicants perform an evaluation of time-limited aging issues relevant to systems, structures, and components within the scope of license renewal in the license renewal application; and

(2) The adequate resolution of time-limited aging analysis issues as part of the standards for issuance of a renewed license.

The time-limited provisions or analyses of concern are those that—

(1) Involve the effects of aging;

(2) Involve time-limited assumptions defined by the current operating term, for example, 40 years;

(3) Involve systems, structures, and components within the scope of license renewal;

(4) Involve conclusions or provide the basis for conclusions related to the capability of the system, structure, and component to perform its intended functions;

(5) Were determined to be relevant by the licensee in making a safety determination; and

(6) Are contained or incorporated by reference in the CLB.

The applicant for license renewal will be required in the renewal application to—

(1) Justify that these analyses are valid for the period of extended operation;

(2) Extend the period of evaluation of the analyses such that they are valid for the period of extended operation, for example, 60 years; or

(3) Justify that the effects of aging will be adequately managed for the period of extended operation if an applicant cannot or chooses not to justify or extend an existing time-limited aging analysis.

The Commission considers analyses to be "relevant" if the analyses provided the basis for the licensee's safety determination and, in the absence of the analyses, the licensee may have reached a different safety conclusion. Time-limited aging analyses that need to be addressed in a license renewal evaluation are not necessarily those analyses that have been previously reviewed or approved by the Commission. The following examples illustrate time-limited aging analyses that may need to be addressed and were not previously reviewed and approved by the Commission.

(1) The FSAR states that the design complies with a certain ASME code requirement. A review of the ASME code requirement reveals that a time-limited aging analysis is required. The actual calculation was performed by the licensee to meet code requirements, the specific calculation was not referenced in the FSAR, and the NRC had not reviewed the calculation.

(2) In response to a generic letter, a licensee submitted a letter to the NRC committing to perform a time-limited aging analysis that would address the concern in the generic letter. The NRC had not documented a review of the licensee's response and had not reviewed the actual analysis.

The Commission expects that the number of time-limited aging analyses that would have to be addressed in a license renewal evaluation is relatively small. Although the number and type will vary depending on the plant-specific CLB, these analyses could include reactor vessel neutron embrittlement (pressurized thermal shock, upper-shelf energy, surveillance program), concrete containment tendon prestress, metal fatigue, EQ of electrical equipment, metal corrosion allowance, inservice flaw growth analyses that demonstrate structural stability for 40 years, inservice local metal containment corrosion analyses, and high-energy line-break postulation based on fatigue cumulative usage factor.

(ii) Exemptions

The current license renewal rule requires that an applicant for license renewal provide a list of all plant-specific exemptions granted under 10 CFR 50.12. For exemptions that were either granted on the basis of an assumed service life or a period of operation bounded by the original license term of the facility or otherwise related to systems, structures, or components subject to ARDUTLR, an evaluation that justifies the continuation of the exemptions for the renewal term must be provided.

With the deletion of the definition of ARDUTLR and the corresponding addition of a separate time-limited aging analysis section, the Commission proposes to include this exemption

review with the separate time-limited aging analyses Section (§ 54.21(c)). These changes are consistent with the Commission's intent to review exemptions based on time-limited aging analyses under the current rule.

h. Standards for Issuance of a Renewed License and the Scope of Hearings

Section 54.29 of the current license renewal rule provides that the Commission may issue a renewed license if—

(1) Actions have been identified and have been or will be taken with respect to age-related degradation unique to license renewal so that there is reasonable assurance that operation in the period of extended operation would be conducted in accordance with the plant's CLB. This necessarily includes compliance with the Atomic Energy Act of 1954 and the Commission's regulation as defined in § 54.3);

(2) The applicable requirements of the Commission's environmental requirements in 10 CFR Part 51 have been satisfied; and

(3) Any matters raised under 10 CFR 2.758 have been addressed as required by that section.

Issues that are material to the findings in § 54.29 of the current rule, as well as matters approved by the Commission for hearing under § 2.758, were within the scope of a hearing on a renewed license. The December 13, 1991, license renewal rule also modified § 2.758 to clarify that challenges to the license renewal rule in an adjudicatory hearing on a renewal application would be considered by the Commission only in the following limited circumstances:

(1) That there are special circumstances with respect to age-related degradation unique to license renewal or environmental protection so that application of either 10 CFR Part 54 or 10 CFR Part 51 would not serve the purpose for which these rules were intended; or

(2) Because of circumstances unique to the period of extended operation, there would be noncompliance with the plant's CLB or operation that is inimical to the public health and safety during the period of extended operation.

The intent of these provisions was to clarify that safety and environmental matters not unique to the period of extended operation should not be the subject of the renewal application or the subject of a hearing in a renewal proceeding absent specific Commission direction. Rather, issues that represent a current problem for operation should be addressed in accordance with the Commission's regulatory process and procedures. Thus, a member of the public who believes that a current problem exists with a license or a matter exists that is not adequately addressed by current NRC regulations should either petition the NRC to take appropriate action under § 2.206 or petition the NRC to institute rulemaking to address the issue under § 2.802.

The Commission continues to believe that issues concerning operation during the currently authorized term of operation should be addressed as part of the current license rather than deferred until a renewal review (which would not occur if the licensee chooses not to renew its operating license). The Commission also proposes narrowing the scope of structures and components which will require an aging management review for the period of extended operation and identification of time-limited aging analyses by the applicant as requiring an evaluation. Accordingly, conforming changes in § 54.29 are being proposed to reflect the refocused renewal review. Specifically, § 54.29 would be revised to delete the term "age-related degradation unique to license renewal," and substitute the findings (required for consistency with the revised § 54.21(a)(3) and (c)) with respect to aging management review and time-limited aging analyses evaluation for the period of extended operation. Furthermore, § 54.29 would be modified to make clear that aging issues discovered during the renewal review for the structures and components that are reviewed in § 54.21(a)(3) and that raise questions about the capability of these structures and components to perform their intended function during the current term of operation must be addressed under the current license, rather than as part of the renewal review. Finally, § 2.758 has similarly been revised to delete the terms "age-related degradation unique to license renewal" and "unique to the requested term."

i. Regulatory and Administrative Controls

Certain regulatory and administrative controls in the current license renewal rule were imposed to specify the circumstances and requirements necessary to make changes relating to the determination and management of ARDUTLR and the recordkeeping and reporting requirements relating to the renewal application. In view of the greater reliance on existing programs in the license renewal process, as discussed in Section III.d of this SOC, the Commission has determined that many of these requirements are no longer necessary. Therefore, the Commission proposes to decrease the recordkeeping and reporting burden on the applicant for license renewal in the level of detail in the application, requirements for supplementing the FSAR, and in recordkeeping requirements.

The Commission seeks to ensure that, in general, only the information needed to make its safety determination is submitted to the NRC for license renewal review and that regulatory controls imposed by the license renewal rule are consistent with current regulatory controls on similar information that may be developed by a licensee during the current operating term.

(i) Controls on Technical Information in an Application

In § 54.21, the current license renewal rule requires that an application include a supplement to the FSAR that presents the information required by this section. This information includes the IPA lists of systems, structures, and components; justification for assessment methods; and descriptions of programs to manage ARDUTLR.

The simplification of the IPA process (Section III.f of this SOC) and the clarification of the concept of ARDUTLR (Section III.b of this SOC) have resulted in a potential inconsistency regarding the treatment of information associated with the IPA. The Commission has determined that there is no need to include the entire IPA in an FSAR supplement because only the information associated with the IPA regarding the basis for determining that aging effects are managed in the period of extended operation requires the additional regulatory oversight afforded by placing the information in the FSAR. Therefore, only a summary description of the programs and activities for managing the effects of aging during the period of extended operation for those structures and components requiring an aging management review need to be included in the FSAR supplement. The IPA methodology and the list of structures and components need not appear in an FSAR supplement. However, this information will still be required in the application for license renewal.

The Commission also proposes to eliminate § 54.21(b) and § 54.21(d). These sections concern CLB changes associated with ARDUTLR and plant modifications necessary to ensure that ARDUTLR is adequately managed during the period of extended operation. The Commission fully expects that relevant information concerning CLB changes and plant modifications required to demonstrate that aging

effects for systems, structures, and components requiring an aging management review for license renewal will be described in the application for license renewal (proposed §§ 54.21(a)(3) and (c)). If a license renewal applicant or the Commission determines that CLB changes or plant modifications form the basis for an IPA conclusion regarding structures and components requiring an aging management review, then an appropriate description of the CLB change or plant modification must be included in the FSAR supplement and later changes can be controlled by § 50.59.

Section 54.21(c) of the current license renewal rule requires that an applicant for license renewal submit (1) A list of all plant-specific exemptions granted pursuant to 10 CFR 50.12 and each relief granted pursuant to 10 CFR 50.55a and (2) an evaluation if the exemption or relief is related to a system, structure, or component that was subject to ARDUTLR or a time-limited function. These lists and evaluations would be included in the supplement to the FSAR. At that time, the Commission determined that these requirements were necessary to make an independent assessment that all exemptions and reliefs had been evaluated as part of the license renewal process. The Commission determined that these requirements were important because they provided a summary of the instances in the licensing basis for the period of extended operation in which the staff determined that strict compliance with existing regulatory requirements is not needed to ensure that the public health and safety is adequately protected.

The Commission continues to believe that the rationale and basis for requiring the information to be submitted are still valid for exemptions. The Commission proposes to relocate the requirement to list and evaluate certain exemptions to proposed § 54.21(c) so that exemptions can be considered a subset of time-limited aging issues and the conclusions about exemptions can be explicitly considered in the finding for license renewal.

However, consistent with the Commission's rationale for including only a summary description of programs and activities in the FSAR supplement, the Commission concludes that only a summary description of the evaluation of time-limited aging analyses, including a summary of the bases for exemptions that are based on time-limited aging analyses, need to be included in the FSAR supplement. The Commission concludes that no need exists to establish additional requirements that place the list of exemptions or specific exemption evaluations into the FSAR supplement. This information must still be contained in the application for license renewal.

A relief from codes need not be evaluated as part of the license renewal process. A relief granted pursuant to 10 CFR 50.55a is specifically envisioned by the regulatory process. A relief expires after a specified time interval (not to exceed 10 years) and a licensee is required to rejustify the basis for the relief. At that time, the NRC performs another review and may or may not grant the relief. Because a relief is, in fact, an NRC-approved deviation from the codes and subject to a periodic review, the Commission concludes that reliefs are adequately managed by the current regulatory process and should not require an aging management review and potential rejustification for license renewal. Therefore, the Commission proposes to delete the requirement to list and evaluate reliefs from § 54.21(c).

(ii) Conditions of Renewed License

Section 54.33 requires that, upon renewal, a licensee maintain the programs and procedures which are reviewed and approved by the NRC staff who manage ARDUTLR. In addition, § 54.33 establishes requirements for making changes to previously approved programs and procedures to manage ARDUTLR.

Considering the proposed amendments associated with the clarification of the concept of ARDUTLR, the Commission will review programs and procedures to manage the effects of aging for certain systems, structures, and components. However, the Commission will not approve specific programs and procedures as envisioned by the current license renewal rule (e.g., effective programs). The Commission will review programs and procedures described in the license renewal application and determine whether these programs and procedures provide reasonable assurance that the functionality of systems, structures, and components requiring review will be maintained in the period of extended operation. The license renewal review that would be conducted under this proposed rule may consider all programs and activities to manage the effects of aging that ensure functionality for these systems, structures, and components. A summary description of the programs and activities for managing the effects of aging for the period of extended operation or evaluation of time-limited aging analyses, as appropriate, for these systems, structures, and components will be placed into the FSAR supplement. License conditions and limitations determined to be necessary as part of the license renewal review will continue to be required by the Commission in accordance with § 54.33(b).

The regulatory process will continue to ensure that proposed changes to programs and activities that may affect descriptions in the FSAR will receive adequate review by the licensee and, if appropriate, by the NRC. Therefore, the Commission proposes to delete the § 54.33(d) requirements for making changes to previously approved programs and procedures to manage ARDUTLR.

(iii) Additional Records and Recordkeeping Requirements

Section 54.37 currently requires that the periodic update required by § 50.71(e) do the following:

(1) Include any systems, structures, and components newly identified as important to license renewal after the renewed license is issued;

(2) Identify and provide justification for any systems, structures, and components deleted from the list of systems, structures, and components important to license renewal; and

(3) Describe how ARDUTLR will be managed for those newly identified systems, structures, and components.

The Commission has determined that regulatory controls over programs or activities credited during the IPA process should not have additional regulatory oversight unless a program or activity is determined to be necessary to address the effects of aging for the period of extended operation. Therefore, the Commission proposes to modify § 54.37(b) to limit the information required in the FSAR update. For newly identified systems, structures, and components that would have required review for license renewal, the proposed requirement for the periodic FSAR update will require that the licensee describe how the effects of aging will be managed to ensure that the systems, structures, and components perform their intended function during the period of extended operation.

Section 54.37(c) currently requires that a licensee do the following:

(1) Submit to the NRC at least annually a list of all changes made to programs for management of ARDUTLR that do not decrease the effectiveness of "effective" programs, with a summary of the justification and

(2) Maintain documentation for any changes to "effective" programs that are determined not to reduce the effectiveness of the program.

Under the proposed rule, the Commission would review aspects of programs and procedures described in the license renewal application and determine whether these programs and procedures will provide reasonable assurance that the functionality of systems, structures, and components requiring review will be maintained in the period of extended operation. The license renewal review that would be conducted under this proposed rule may consider all programs and activities that manage the effects of aging and ensure functionality for these certain systems, structures, and components. The current regulatory process, existing licensee oversight activities, and the additional regulatory controls associated with placing a description of activities to manage the effects of aging into the FSAR are sufficient to ensure that changes to programs that could decrease the overall effectiveness of the programs to manage the effects of aging for the systems, structures, and components requiring license renewal review will receive appropriate review by the licensee. Therefore, the Commission proposes to delete § 54.37(c).

IV. Availability of Documents

Copies of all documents cited in the Supplementary Information section are available for inspection and/or for reproduction for a fee in the NRC Public Document Room, 2120 L Street N.W. (lower level), Washington, DC 20555.

In addition, copies of NUREGs cited in this document may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. The NUREGs can also be accessed through the NRC electronic bulletin board system. Details of how to use this system were published in the **Federal Register** on November 25, 1992 (57 FR 55602).

V. Questions

Although the Commission invites public comments on all issues in this proposed rule and statement of considerations, responses to the following questions are particularly solicited:

Discussion. An aging management review is required for a small subset of structures and components within the scope of license renewal. As described in Section III.f, the Commission believes, based upon current regulatory requirements and operating experience, that the aging management review can be limited to "passive," "long-lived" structures and components.

1. Should additional structures and components within the scope of license renewal be explicitly required to receive an aging management review?

2. If so, what would be the bases for requiring such additional structures and components to be subject to an aging management review?

Discussion. The IPA in the proposed amendment to the license renewal rule contains a process to narrow the focus of the aging management review to encompass those structures and components that are "long-lived" and "passive" (see § 54.21(a)(1) (i) and (ii)).

In SECY–94–140, the Commission considered the possibility that redundant, long-lived, passive structures and components could be generically excluded from an aging management review for license renewal. The basis for this consideration was that redundancy is one aspect of a defense-in-depth design philosophy that could provide reasonable assurance that certain single failures would not render systems, structures, or components incapable of performing their intended function(s). The staff reasoned that although simultaneous failures of redundant structures and components are hypothetically possible, the physical variables and the differences in operational and maintenance histories that will influence the incidence and rates of aging degradation between otherwise identical structures and components make simultaneous failures of redundant equipment unlikely. In addition, existing programs and requirements (i.e., maintenance rule and 10 CFR Part 50, Appendix B) would result in activities to determine the root causes for failures and mitigate future occurrences of them.

On further consideration, however, the Commission has recognized that since it cannot generically determine that all licensees have processes, programs, or procedures in place for the timely detection of degraded conditions due to aging during the extended period of operation for passive, long-lived structures and components, the potential exists for reduced reliability and failure of redundant, long-lived, passive structures and components. If the condition of these structures and components were degraded below their CLB (i.e., design bases, including seismic design), without detection and corrective action, a failure of redundant, passive structures and components is possible given, for example, the occurrence of a design basis seismic event, such that the system may not be able to perform its intended functions. Therefore, without readily monitorable performance and/or condition characteristics to reveal degradation that exceeds CLB levels (as in the case of passive, long-lived structures and components) the Commission believes it inappropriate to permit generic exclusion of redundant, long-lived, passive structures and components. If, however, an applicant, in the site-specific renewal application, can demonstrate that their facility has specific programs or processes in place to detect ongoing degradation such that failure of redundant, long-lived, passive structures and components is avoided, the Commission may be able to credit such programs and allow redundant, long-lived, passive structures and components to be excluded from further aging management review.

3. Is there additional information for the Commission to consider that would satisfy the Commission's concern relative to the detection of degradation in redundant, long-lived, passive structures and components such that failures that might result in loss of system function are unlikely, and to warrant a generic exclusion?

Discussion. The Commission concluded in the SOC for the current license renewal rule (56 FR 64963; December 13, 1991) that 20 years of operational and regulatory experience provides a licensee with substantial amounts of information and would disclose any plant-specific concerns with regard to age-related degradation. In addition, a license renewal decision with approximately 20 years remaining on the operating license would be reasonable considering the estimated time necessary for utilities to plan for replacement of retired nuclear power plants. One utility has recently indicated that decisions regarding license renewal made earlier in the current license term may create substantial current-day economic advantages while still providing sufficient plant-specific history. This utility suggested that the earliest date for filing a license renewal application be changed so that a license renewal application can be submitted earlier than 20 years before expiration of the existing operating license. The term of the renewed license would still be limited to 40 years.

4. Is there a sufficient plant-specific history before 20 years of operation as specified in the current rule that provides reasonable assurance that aging concerns would be identified? If not, can reliance on industry-wide experience be used as a basis for considering an application for license renewal before 20 years of operation?

What should be the earliest time an applicant can apply for a renewed license?

5. What additional safety, environmental, or economic benefits or concerns, if any, would result from a decision about license renewal made before the 20th year of current plant operation?

VI. Finding of No Significant Environmental Impact: Availability

A draft environmental assessment (EA) for this proposed rule has been prepared pursuant to the National Environmental Policy Act (NEPA), the regulations issued by the Council on Environmental Quality (40 CFR 1500–1508), and the NRC's regulations (10 CFR Part 51). Under NEPA and the NRC's regulations, the Commission must consider, as an integral part of its decisionmaking process on the proposed action, the expected environmental impacts of promulgating the proposed rule and the reasonable alternatives to the action. The NRC concludes that promulgation of the proposed rule would not significantly affect the environment and therefore a full environmental impact statement is not required and a finding of no significant impact (FONSI), can be made. The basis for these conclusions and the finding are summarized below. The EA and FONSI are issued as drafts, and public comments are being solicited. The draft EA and FONSI are available in the NRC Public Document Room, 2120 L Street N.W. (lower level), Washington, DC.

The NRC staff previously assessed the environmental impacts from promulgation of the current license renewal rule in NUREG–1398, "Environmental Assessment for the Final Rule on Nuclear Power Plant License Renewal." In this assessment, the NRC staff concluded that the promulgation of 10 CFR Part 54 will have no significant impact on the environment. With this assessment as a baseline, the NRC staff's approach for assessing the environmental impact of the proposed amendment centered on analyzing any differences in the expected rule-related actions of the current rule compared to those under the proposed amendment.

The requirements for a renewed license under both the current rule and the proposed amendment are similar. Both approaches could result in the operation of plants up to 20 years beyond the expiration of the initial license. An emphasis would be placed on certain systems, structures, and components undergoing a specific aging management review to provide assurance that the effects of aging are adequately managed, ensuring functionality during the period of extended operation. Under both approaches, license renewal applicants must screen plant systems, structures, and components through an IPA to determine which systems, structures, and components will be subject to a license renewal review and then determine whether additional programs are required to manage the effects of aging so that the intended function(s) is maintained. The principal differences between the proposed action and the current rule is in (1) the screening of systems, structures, and components to identify those that must undergo a specific aging management review and (2) the form of this aging management review.

Under the screening of systems, structures, and components that must be further reviewed, the proposed amendment effectively narrows the scope of systems, structures, and components subject to an aging management review. In general, the current rule contains a definition of ARDUTLR that would cause many systems, structures, and components to require further aging management review but would allow existing licensee programs and activities (including the maintenance rule) to serve as a basis for concluding that ARDUTLR will be adequately managed in the period of extended operation. The proposed amendment would retain the screening of systems, structures, and components but would reduce the scope of systems, structures, and components requiring review to a narrowly defined group based on an NRC determination in this rulemaking of the effectiveness of current licensee programs and NRC requirements that will continue into the period of extended operation. Because the proposed amendment has essentially the same results with respect to management of aging effects in the period of extended operation as the current rule, but provides a more efficient process to achieve these results, the environmental impacts of the proposed amendment would be similar to those under the current rule.

With respect to the form of the aging management review, the proposed rule would establish a clear focus on managing the functionality of systems, structures, and components in the face of detrimental aging effects as opposed to identification and mitigation of aging mechanisms. The Commission has concluded that the focus on identification of aging mechanisms is not necessary because regardless of the aging mechanism, only those that lead to degraded component performance or condition (i.e., potential loss of functionality) are of concern. Therefore, the Commission has concluded that an aging management review that seeks to ensure a component's functionality is a more efficient and appropriate review. This change only improves the efficiency of the licensee's aging management review. Therefore, the environmental impacts would be similar to those under the current rule.

The ultimate licensee actions to manage aging in the renewal term under the proposed rule are expected to be similar to those under the current rule. However, the required aging management activities will be arrived at more efficiently under the proposed rule. Therefore, the environmental impact of relicensing under the proposed rule would be similar to that for relicensing under the current rule. It should be noted, however, that under the proposed rule an applicant need not include a projection of future aging effects and any corresponding mitigation activities (major refurbishment or other plant changes) for the renewal period. Instead, the focus is on assuring that programs are in place to identify and mitigate aging effects as they occur. As a result, this environmental assessment was limited to licensee activities required to put in place any relevant aging management programs rather than a review of any future mitigation activities that may be required under these programs.

VII. Paperwork Reduction Act Statement

This proposed rule amends information collection requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements.

The public reporting burden for this collection of information is estimated to average 94,000 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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (T6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019, (3150–

0155), Office of Management and Budget, Washington, DC 20503.

VIII. Regulatory Analysis

The NRC has prepared a regulatory analysis of the values and impacts of the proposed rule and of a set of significant alternatives. The regulatory analysis has been placed in the Commission's public document room for review by interested members of the public. A summary of the findings and conclusion of the regulatory analysis are discussed below.

The specific objective of the proposed rule is to clarify the Commission's requirements for license renewal by providing greater reliance on the maintenance rule and other existing licensee activities and programs for purposes of license renewal.

The NRC staff has defined and evaluated a set of specific alternatives that cover a range of activities that would meet the objective. The alternatives were evaluated and compared in the regulatory analysis. The results of the regulatory analysis are summarized as follows:

Alternative 1: Implement existing rule using SECY–93–049 and SECY–93–113 as guidance.

Alternative 1 (the existing rule) requires an integrated plant assessment (IPA), which consists of screening plant systems, structures, and components that are important to license renewal (ITLR), identifying those structures and components that could be subject to age-related degradation unique to license renewal (ARDUTLR), and demonstrating that ARDUTLR would be managed during the period of extended operation. Systems, structures, and components with an aging assessment based on time-limited analyses corresponding to the current operating term (40 years) would be treated as having ARDUTLR. The IPA would be included in a FSAR supplement.

The existing rule requires the greatest expenditures for license renewal because it is not explicit regarding reliance on the maintenance rule and other existing licensee activities and programs for purposes of license renewal. The regulatory analysis of the existing rule was published in NUREG–1362 (December 1991).

Alternative 2: Amend the existing rule to focus on long-lived, passive structures and components and systems, structures, and components with time-limited analyses according to SECY–93–331 and the Commission's staff requirements memorandum (SRM) dated February 2, 1994.

Alternative 2 would contain an IPA framework similar to the existing rule but would be simplified, including the elimination of the terms ARDUTLR and ITLR. Most systems, structures, and components subject to the maintenance rule or other existing programs would require no further evaluation for license renewal. The focus of Alterative 2 is on long-lived, passive structures and components and those systems, structures, and components with time-limited aging analyses. Although the IPA would be a part of the application, Alternative 2 would only require that the results and conclusions of the IPA be included in an FSAR supplement.

This alternative would require fewer expenditures for license renewal and achieve a similar reduction in risk to the public health, as does the existing rule. The Commission has identified the focus of license renewal, that is, long-lived, passive structures and components and systems, structures, and components with time-limited aging analyses. The Commission has decided that other systems, structures, and components would continue to be managed by the current regulatory process, including the maintenance rule and existing programs and require no further evaluation for license renewal.

Alternative 3: Amend the existing rule to focus on systems, structures, and components with time-limited analyses according to the NRC staff's "Option 4" discussed at the license renewal workshop (58 FR 42987; August 12, 1992).

Alternative 3 would rely on the current regulatory process, including the maintenance rule and other existing programs, to address aging. Alternative 3 would only require a reevaluation of aging based on time-limited analyses corresponding to 40 years. An extension of these analyses to the end of the period of extended operation, for example, 60 years, would be required. An IPA is not required and the existing FSAR updating requirements apply when a time-limited analysis described in the FSAR is revised.

This alternative would require the lowest renewal expenditures. Aging management of systems, structures, and components, except for those addressed by time-limited analyses, would be addressed by the current regulatory process. Alternative 3 has a potential increase in accident risk when compared with the existing rule. The risk increase results from the NRC staff's conservative assumption that aging management activities in response to future regulatory actions regarding long-lived, passive portions of systems, structures, and components are not included in the averted risk estimate for the period of extended operation. Although the NRC staff believes that the current regulatory process could address aging effects of systems, structures, and components during the period of extended operation, the extent of these future activities has not been determined.

Alternative 2 was chosen as the preferred alternative by the Commission. The reliance on the maintenance rule and other existing licensee activities and programs for purposes of license renewal, which is absent from Alternative 1, directly focuses on systems, structures, and components subject to license renewal review. The systematic aging assessment, which is absent from Alternative 3, is warranted for the period of extended operation because of the importance of long-lived, passive structures and components. Alternative 2 shows a significant positive net value while maintaining a similar level of public health and safety to the existing rule. An approach similar to Alternative 2, but retaining the term ARDUTLR, was endorsed by industry organizations that are actively involved in license renewal activities.

As future regulatory actions are implemented, the associated aging management activities could be considered for managing the effects of aging during the period of extended operation. If the Commission decides that the specific regulatory actions are adequate in maintaining the function of systems, structures, or components during the period of extended operation, the Commission may amend 10 CFR Part 54 to exclude that particular system, structure, or component from evaluation in a renewal application.

IX. Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act of 1980, (5 U.S.C. 605 (b)), the Commission certifies that this proposed rule, if adopted, would not have a significant economic impact upon a substantial number of small entities. The proposed rule sets forth the application procedures and the technical requirements for renewed operating licenses for nuclear power plants. Nuclear power plant licensees do not fall within the definition of small businesses as defined in Section 3 of the Small Business Act, 15 U.S.C., 632, the Small Business Size Standards of the Small Business Administration (13 CFR Part 121), or the Commission's Size Standards (56 FR 56671; November 6, 1991). Therefore, this proposed rule does not fall within the purview of the Act.

X. Non-Applicability of the Backfit Rule

This proposed rule, like the original license renewal rule, addresses the procedural and technical requirements for obtaining a renewed operating license for nuclear power plants. Although the proposed amendment constitutes a change to an existing regulation, the NRC has determined that the backfit rule, 10 CFR 50.109, does not apply because the proposed amendment only affects prospective applicants for license renewal. The primary impetus for the backfit rule was "regulatory stability." Once the Commission decides to issue a license, the terms and conditions for operating under that license would not be changed arbitrarily post hoc. As the Commission expressed in the preamble for 10 CFR Part 52, which prospectively changed the requirements for receiving design certifications, the backfit rule—

> [W]as not intended to apply to every regulatory action which changes settled expectations. Clearly, the backfit rule would not apply to a rule which imposed more stringent requirements on all future applicants for construction permits, even though such a rule might arguably have an adverse impact on a person who was considering applying for a permit but had not done so yet. In this latter case, the backfit rule protects the construction permit holder, but not the perspective applicant, or even the present applicant. (54 FR 15385–86; April 18, 1989).

Regulatory stability is not a relevant issue with respect to this proposed rule. There are no licensees currently holding renewed nuclear power plant operating licenses who would be affected by this rule. No applications for license renewal have been docketed. It is also unlikely that any license renewal application will be submitted before the proposed rule becomes effective because of implementation difficulties with the existing 10 CFR Part 54 rule. Consequently, there are no valid licensee or applicant expectations that may be changed regarding the terms and conditions for obtaining a renewed operating license. Accordingly, this proposed rule does not constitute a "backfit" as defined in 10 CFR 50.109(a)(1).

Furthermore, one reason the Commission is proposing to amend 10 CFR Part 54 is because of the concerns of nuclear power plant licensees who are dissatisfied with the current requirements in 10 CFR Part 54 and have urged the Commission to modify the rule to address their concerns. Under this circumstance, the policy objective of the backfit rule would not be served by undertaking a backfit analysis. Regulatory and technical alternatives for addressing the concerns with the current 10 CFR Part 54 are being analyzed and considered in the regulatory analysis that has been prepared for this proposed rule. Preparation of a separate backfit statement would not provide any substantial additional benefit.

Therefore, the Commission has determined that a backfit analysis pursuant to 10 CFR 50.109 need not be prepared for this proposed rule.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 54

Administrative practice and procedure, Aging, Effects of aging, Time-limited aging analyses, Backfitting, Classified information, Criminal penalties, Environmental protection, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the Commission is proposing to adopt the following amendments to 10 CFR Parts 2, 51, and 54.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 is revised to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201(b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780, also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C are also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. In § 2.758, paragraphs (b) and (e) are revised to read as follows:

§ 2.758 Consideration of Commission rules and regulations in adjudicatory proceedings.

* * * * *

(b) A party to an adjudicatory proceeding involving initial or renewal licensing subject to this subpart may petition that the application of a specified Commission rule or regulation or any provision thereof, of the type described in paragraph (a) of this section, be waived or an exception made for the particular proceeding. The sole ground for petition for waiver or exception shall be that special circumstances with respect to the subject matter of the particular proceeding are such that the application of the rule or regulation (or provision thereof) would not serve the purposes for which the rule or regulation was adopted. The petition shall be accompanied by an affidavit that identifies the specific aspect or aspects of the subject matter of the proceeding as to which the application of the rule or regulation (or provision thereof) would not serve the purposes for which the rule or regulation was adopted, and shall set forth with particularity the special circumstances alleged to justify the waiver or exception requested. Any other party may file a response thereto, by counteraffidavit or otherwise.

* * * * *

(e) Whether or not the procedure in paragraph (b) of this section is available,

a party to an initial or renewal licensing proceeding may file a petition for rulemaking pursuant to § 2.802.

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

3. The authority citation for Part 51 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842). Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853–854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95–604, Title II, 92 Stat. 3033–3041; and sec. 193, Pub. L. 101–575, 104 Stat. 2835 42 U.S.C. 2243). Sections 51.20, 51.30, 51.60, 51.61, 51.80, and 51.97 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100–203, 101 Stat. 1330–223 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036–3038 (42 U.S.C. 2021) and under Nuclear Waste Policy Act of 1982, sec. 121, 96 Stat. 2228 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also under Nuclear Waste Policy Act of 1982, sec. 114(f), 96 Stat. 2216, as amended (42 U.S.C. 10134(f)).

4. In § 51.22, paragraph (c)(3) is revised to read as follows:

§ 51.22 Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review.

* * * * *

(c) * * *

(3) Amendments to Parts 20, 30, 31, 32, 33, 34, 35, 39, 40, 50, 51, 54, 60, 61, 70, 71, 72, 73, 74, 81 and 100 of this chapter which relate to—

(i) Procedures for filing and reviewing applications for licenses or construction permits or other forms of permission or for amendments to or renewals of licenses or construction permits or other forms of permission;

(ii) Recordkeeping requirements; or

(iii) Reporting requirements; and

(iv) Actions on petitions for rulemaking relating to these amendments.

* * * * *

5. Part 54 is revised to read as follows:

PART 54—REQUIREMENTS FOR RENEWAL OF OPERATING LICENSES FOR NUCLEAR POWER PLANTS

General Provisions

Sec.

Authority: Secs. 102, 103, 104, 161, 181, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, as amended (42 U.S.C. 5841, 5842).

§ 54.1 Purpose.

This part governs the issuance of renewed operating licenses for nuclear power plants licensed pursuant to Sections 103 or 104b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), and Title II of the Energy Reorganization Act of 1974 (88 Stat. 1242).

§ 54.3 Definitions.

(a) As used in this part,

Current licensing basis (CLB) is the set of NRC requirements applicable to a specific plant and a licensee's written commitments for ensuring compliance with and operation within applicable NRC requirements and the plant-specific design basis (including all modifications and additions to such commitments over the life of the license) that are docketed and in effect. The CLB includes the NRC regulations contained in 10 CFR parts 2, 19, 20, 21, 26, 30, 40, 50, 51, 54, 55, 70, 72, 73, 100 and appendices thereto; orders; license conditions; exemptions; and technical specifications. It also includes the plant-specific design-basis information defined in 10 CFR 50.2 as documented in the most recent final safety analysis report (FSAR) as required by 10 CFR 50.71 and the licensee's commitments remaining in effect that were made in docketed licensing correspondence such as licensee responses to NRC bulletins, generic letters, and enforcement actions, as well as licensee commitments documented in NRC safety evaluations or licensee event reports.

Integrated plant assessment (IPA) is a licensee assessment that demonstrates that a nuclear power plant facility's structures and components requiring aging management review in accordance with § 54.21(a) for license renewal have been identified and that the effects of aging on the functionality of such structures and components will be managed to maintain the CLB such that there is an acceptable level of safety during the period of extended operation.

Nuclear power plant means a nuclear power facility of a type described in 10 CFR 50.21(b) or 50.22.

Time-limited aging analyses, for the purposes of this part, are those licensee calculations and analyses that form the basis for a licensee conclusion regarding the capability of systems, structures, and components within the scope of this part to perform their intended function(s) that—

(1) Consider the effects of aging; and

(2) Are based on explicit assumptions defined by the current operating term of the plant.

(b) All other terms in this part have the same meanings as set out in 10 CFR 50.2 or Section 11 of the Atomic Energy Act, as applicable.

§ 54.4 Scope.

(a) Plant systems, structures, and components within the scope of this part are:

(1) Safety-related systems, structures, and components which are those relied upon to remain functional during and following design-basis events (as defined in 10 CFR 50.49 (b)(1)) to ensure the following functions—

(i) The integrity of the reactor coolant pressure boundary;

(ii) The capability to shut down the reactor and maintain it in a safe shutdown condition; or

(iii) The capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposure comparable to the 10 CFR Part 100 guidelines.

(2) All nonsafety-related systems, structures, and components whose failure could prevent satisfactory accomplishment of any of the functions identified in paragraphs (a)(1) (i), (ii), or (iii) of this section.

(3) All systems, structures, and components relied on in safety analyses or plant evaluations to perform a function that demonstrates compliance with the Commission's regulations for fire protection (10 CFR 50.48),

environmental qualification (10 CFR 50.49), pressurized thermal shock (10 CFR 50.61), anticipated transients without scram (10 CFR 50.62), and station blackout (10 CFR 50.63).

(b) The intended functions that these systems, structures, and components must be shown to fulfill in § 54.21 are those functions that are the bases for including them within the scope of license renewal as specified in paragraphs (a) (1) through (3) of this section.

§ 54.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 54.7 Written communications.

All applications, correspondence, reports, and other written communications shall be filed in accordance with applicable portions of 10 CFR 50.4.

§ 54.9 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). OMB has approved the information collection requirements contained in this part under control number *XXXX–XXXX*.

(b) The approved information collection requirements contained in this part appear in §§ 54.13, 54.17, 54.19, 54.21, 54.22, 54.23, and 54.37.

§ 54.11 Public inspection of applications.

Applications and documents submitted to the Commission in connection with renewal applications may be made available for public inspection in accordance with the provisions of the regulations contained in 10 CFR Part 2.

§ 54.13 Completeness and accuracy of information.

(a) Information provided to the Commission by an applicant for a renewed license or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant must be complete and accurate in all material respects.

(b) Each applicant shall notify the Commission of information identified by the applicant as having for the regulated activity a significant implication for public health and safety or common defense and security. An applicant violates this paragraph only if the applicant fails to notify the Commission of information that the applicant has identified as having a significant implication for public health and safety or common defense and security. Notification must be provided to the Administrator of the appropriate regional office within 2 working days of identifying the information. This requirement is not applicable to information that is already required to be provided to the Commission by other reporting or updating requirements.

§ 54.15 Specific exemptions.

Exemptions from the requirements of this part may be granted by the Commission in accordance with 10 CFR 50.12.

§ 54.17 Filing of application.

(a) The filing of an application for a renewed license must be in accordance with Subpart A of 10 CFR Part 2 and 10 CFR 50.4 and 50.30.

(b) Any person who is a citizen, national, or agent of a foreign country, or any corporation, or other entity which the Commission knows or has reason to know is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government, is ineligible to apply for and obtain a renewed license.

(c) An application for a renewed license may not be submitted to the Commission earlier than 20 years before the expiration of the operating license currently in effect.

(d) An applicant may combine an application for a renewed license with applications for other kinds of licenses.

(e) An application may incorporate by reference information contained in previous applications for licenses or license amendments, statements, correspondence, or reports filed with the Commission, provided that the references are clear and specific.

(f) If the application contains Restricted Data or other defense information, it must be prepared in such a manner that all Restricted Data and other defense information are separated from unclassified information in accordance with 10 CFR 50.33(j).

(g) As part of its application and in any event prior to the receipt of Restricted Data or the issuance of a renewed license, the applicant shall agree in writing that it will not permit any individual to have access to Restricted Data until an investigation is made and reported to the Commission on the character, association, and loyalty of the individual and the Commission shall have determined that permitting such persons to have access to Restricted Data will not endanger the common defense and security. The agreement of the applicant in this regard is part of the renewed license, whether so stated or not.

§ 54.19 Contents of application—general information.

(a) Each application must provide the information specified in 10 CFR 50.33(a) through (e), (h), and (i). Alternatively, the application may incorporate by reference other documents that provide the information required by this section.

(b) Each application must include conforming changes to the standard indemnity agreement, 10 CFR 140.92, Appendix B, to account for the expiration term of the proposed renewed license.

§ 54.21 Contents of application—technical information.

Each application must contain the following information:

(a) An integrated plant assessment (IPA). The IPA must:

(1) For those systems, structures, and components within the scope of this part, as delineated in § 54.4, identify and list those structures and components subject to an aging management review. Structures and components subject to an aging management review shall encompass those structures and components—

(i) That perform an intended function, as described in § 54.4, without moving parts or without a change in configuration or properties. These structures and components include, but are not limited to, pressure retaining boundaries, component supports, reactor coolant pressure boundaries, the reactor vessel, core support structures, containment, seismic Category I structures, electrical cables and connections, and electrical penetrations, excluding, but not limited to, pumps (except casing), valves (except body), motors, batteries, relays, breakers, and transistors; and

(ii) That are not subject to replacement based on a qualified life or specified time period.

(2) Describe and justify the methods used in paragraph (a)(1) of this section.

(3) For each structure and component identified in paragraph (a)(1) of this section, demonstrate that the effects of aging will be managed so that the intended function(s) will be maintained for the period of extended operation.

(b) CLB changes during NRC review of application. Each year following

submittal of the license renewal application and at least 3 months before scheduled completion of the NRC review, an amendment to the renewal application must be submitted that identifies any change to the CLB of the facility that materially affects the contents of the license renewal application, including the FSAR supplement.

(c) An evaluation of time-limited aging analyses.

(1) A list of time-limited aging analyses, as defined in § 54.3, must be provided. The applicant shall demonstrate that—

(i) The analyses remain valid for the period of extended operation;

(ii) The analyses have been projected to the end of the period of extended operation; or

(iii) The effects of aging on the intended function(s) will be adequately managed for the period of extended operation.

(2) A list must be provided of all plant-specific exemptions granted pursuant to 10 CFR 50.12. For exemptions that are based on time-limited aging analyses as defined in § 54.3, the applicant shall provide an evaluation that justifies the continuation of these exemptions for the period of extended operation.

(d) An FSAR supplement. The FSAR supplement for the facility must contain a summary description of the programs and activities for managing the effects of aging and the evaluation of time-limited aging analyses for the period of extended operation determined by paragraphs (a) and (c) of this section, respectively.

§ 54.22 Contents of application—technical specifications.

Each application must include any technical specification changes or additions necessary to manage the effects of aging during the period of extended operation as part of the renewal application. The technical justification for these changes or additions must be contained in the FSAR supplement submitted to support license renewal.

§ 54.23 Contents of application—environmental information.

Each application must include an environmental report that complies with the requirements of Subpart A of 10 CFR Part 51.

§ 54.25 Report of the Advisory Committee on Reactor Safeguards.

Each renewal application will be referred to the Advisory Committee on Reactor Safeguards for a review and report. Any report will be made part of the record of the application and made available to the public, except to the extent that security classification prevents disclosure.

§ 54.27 Hearings.

A notice of an opportunity for a hearing will be published in the **Federal Register** in accordance with 10 CFR 2.105. In the absence of a request for a hearing filed within 30 days by a person whose interest may be affected, the Commission may issue a renewed operating license without a hearing upon 30-day notice and publication once in the **Federal Register** of its intent to do so.

§ 54.29 Standards for issuance of a renewed license.

(a) A renewed license may be issued by the Commission up to the full term authorized by § 54.31 based on the following findings:

(1)(i) Actions have been identified and have been or will be taken with respect to—

(A) Managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified to require review in accordance with § 54.21(a)(1); and

(B) Evaluating time-limited aging analyses that have been identified to require review in accordance with § 54.21(c);

(ii) Such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the CLB and that any changes made to the plant's CLB in order to comply with this paragraph are otherwise in accord with the Act and the Commission's regulations.

(2) Any applicable requirements of Subpart A of 10 CFR Part 51 have been satisfied.

(3) Any matters raised under § 2.758 have been addressed.

(b) The licensee shall comply with the requirements specified in paragraph (c) of this section if the reviews required by § 54.21 show that either:

(1) Aging will cause a loss of function of those structures or components that are reviewed in § 54.21(a)(3) so that there is not reasonable assurance during the current license term that licensed activities will be conducted in accordance with the CLB; or

(2) The time-limited aging analyses reviewed in § 54.21(c) are not sufficient to provide reasonable assurance during the current license term that licensed activities will be conducted in accordance with the CLB.

(c) As determined by paragraph (b) of this section, the licensee shall take measures under its current license to ensure that the intended function of those systems, structures, or components will be maintained in accordance with the CLB throughout the term of the current license. The adequacy of the measures for the term of the current license shall not be subject to challenge as a part of the renewal review or hearing under Part 54, but may be raised in a petition filed under 10 CFR 2.206.

§ 54.31 Issuance of a renewed license.

(a) A renewed license will be of the class for which the operating license currently in effect was issued.

(b) A renewed license will be issued for a fixed period of time, which is the sum of the additional amount of time beyond the expiration of the operating license (not to exceed 20 years) that is requested in a renewal application plus the remaining number of years on the operating license currently in effect. The term of any renewed license may not exceed 40 years.

(c) A renewed license will become effective immediately upon its issuance, thereby superseding the operating license previously in effect. If a renewed license is subsequently set aside upon further administrative or judicial appeal, the operating license previously in effect will be reinstated unless its term has expired and the renewal application was not filed in a timely manner.

(d) A renewed license may be subsequently renewed in accordance with all applicable requirements.

§ 54.33 Continuation of CLB and conditions of renewed license.

(a) Whether stated therein or not, each renewed license will contain and otherwise be subject to the conditions set forth in 10 CFR 50.54.

(b) Each renewed license will be issued in such form and contain such conditions and limitations, including technical specifications, as the Commission deems appropriate and necessary to help ensure that systems, structures, and components subject to review in accordance with § 54.21 will continue to perform their intended functions for the period of extended operation. In addition, the renewed license will be issued in such form and contain such conditions and limitations as the Commission deems appropriate and necessary to help ensure that systems, structures, and components associated with any time-limited aging analyses will continue to perform their intended functions for the period of extended operation.

(c) Each renewed license will include those conditions to protect the environment that were imposed pursuant to 10 CFR 50.36(b) and that are part of the CLB for the facility at the time of issuance of the renewed license. These conditions may be supplemented or amended as necessary to protect the environment during the term of the renewed license and will be derived from information contained in the supplement to the environmental report submitted pursuant to 10 CFR Part 51, as analyzed and evaluated in the NRC record of decision. The conditions will identify the obligations of the licensee in the environmental area, including, as appropriate, requirements for reporting and recordkeeping of environmental data and any conditions and monitoring requirements for the protection of the nonaquatic environment.

(d) The licensing basis for the renewed license includes the CLB, as defined in § 54.3(a); the inclusion in the licensing basis of matters such as licensee commitments does not change the legal status of those matters unless specifically so ordered pursuant to paragraph (b) or (c) of this section.

§ 54.35 Requirements during term of renewed license.

During the term of a renewed license, licensees shall be subject to and shall continue to comply with all Commission regulations contained in 10 CFR Parts 2, 19, 20, 21, 26, 30, 40, 50, 51, 54, 55, 70, 72, 73, and 100, and the appendices to these parts that are applicable to holders of operating licenses.

§ 54.37 Additional records and recordkeeping requirements.

(a) The licensee shall retain in an auditable and retrievable form for the term of the renewed operating license all information and documentation required by, or otherwise necessary to document compliance with, the provisions of this part.

(b) After the renewed license is issued, the FSAR update required by 10 CFR 50.71(e) must include any systems, structures, and components newly identified that would have been subject to an aging management review or evaluation of time-limited aging analyses in accordance with § 54.21. This FSAR update must describe how the effects of aging will be managed such that the intended function(s) in § 54.4(b) will be effectively maintained during the period of extended operation

§ 54.41 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of the following Acts:

(1) The Atomic Energy Act of 1954, as amended.

(2) Title II of the Energy Reorganization Act of 1974, as amended or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of the following—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under Section 186 of the Atomic Energy Act of 1954, as amended.

§ 54.43 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violations of, attempted violation of, or conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in Part 54 are issued under one or more of sections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in Part 54 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 54.1, 54.3, 54.4, 54.5, 54.7, 54.9, 54.11, 54.15, 54.17, 54.19, 54.21, 54.22, 54.23, 54.25, 54.27, 54.29, 54.31, 54.41, and 54.43.

Dated at Rockville, Maryland, this 1st day of September, 1994.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 94–22086 Filed 9–8–94; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–108–AD]

Airworthiness Directives; British Aerospace Model Viscount 744, 745D, and 810 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace Model Viscount 744, 745D, and 810 series airplanes. This proposal would require inspections to detect cracks in the chassis side bracing structure and in the chassis top strut support intercostals inside the wings, and replacement of discrepant parts with new parts. This proposal would also require inspection of the intercostals to determine the specification of the material, if necessary, and replacement of discrepant parts with new parts. This proposal is prompted by a report of cracking in the chassis top strut support intercostal in the side bracing structure inside the wing due to the effects of metal fatigue. The actions specified by the proposed AD are intended to prevent such fatigue-related cracking, which could lead to the failure of the chassis side bracing structure inside the wings and consequent reduced structural integrity of the chassis support structure.

DATES: Comments must be received by November 4, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–108–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.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft Ltd., Engineering Support Manager, Military Business Unit, Chadderton Works, Greengate, Middleton, Manchester M24 1SA, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer,

ANM–113, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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 94–NM–108–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–103, Attention: Rules Docket No. 94–NM–108–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace Model Viscount 744, 745D, and 810 series airplanes. The CAA advises that it has received a report of cracking in the chassis top strut support intercostals of the side bracing structure inside the wings between stations 81 and 96. Investigation revealed that such cracking was caused by metal fatigue. The effects of such fatigue-related cracking could lead to failure of the chassis top strut support intercostals of the side bracing structure inside the wings. This condition, if not detected and corrected in a timely manner, could result in reduced structural integrity of the chassis support structure.

British Aerospace has issued Viscount Preliminary Technical Leaflet (PTL) 332, Issue 1, Disc 11 Doc. 4, dated December 2, 1991 (for Model Viscount 744 and 745D series airplanes), and Viscount PTL 203, Issue 1, Disc 11 Doc. 2, dated December 2, 1991 (for Model Viscount 810 series airplanes), which describe procedures for repetitive detailed visual inspections to detect cracks in the chassis side bracing structure inside the wings and in the chassis top strut support intercostals inside the wings, and replacement of discrepant parts with new parts. These PTL's also describe procedures for an eddy current inspection to determine the specification of the material of the intercostals, if necessary; and discarding and replacing discrepant parts with new parts. The CAA classified these PTL's as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive detailed visual inspections to detect cracks in the chassis side bracing structure and in the chassis top strut support intercostals of the inner wings, and replacement of discrepant parts with new parts. This proposed AD would also require an eddy current inspection to determine the specification of the material of the intercostals, if necessary; and replacement of discrepant parts with new parts. The actions would be required to be accomplished in accordance with the PTL's described previously.

The FAA estimates that 25 Model Viscount 744 and 745D series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 15 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $20,625, or $825 per airplane, per inspection cycle.

The FAA estimates that 4 Model Viscount 810 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 15 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,300, or $825 per airplane, per inspection cycle.

Based on the above figures, the total cost impact of the actions proposed by this AD on U.S. operators is estimated to be $23,925, or $825 per airplane, per inspection cycle.

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

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

British Aerospace Regional Aircraft Limited (Formerly British Aerospace Commercial Aircraft Limited, Vickers-Armstrongs Aircraft Limited): Docket 94–NM–108–AD.

Applicability: All Model Viscount 744, 745D, and 810 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the chassis, accomplish the following:

(a) Within 6 months after the effective date of this AD, perform a detailed visual inspection to detect cracks in the chassis side bracing structure and in the chassis top strut support intercostals inside the wings between stations 81 and 96, in accordance with British Aerospace Viscount Preliminary Technical Leaflet (PTL) 332, Issue 1, Disc 11 Doc.4, dated December 2, 1991 (for Model Viscount 744 and 745D series airplanes); or British Aerospace Viscount PTL 203, Issue 1, Disc 11 Doc.2, dated December 2, 1991 (for Model Viscount 810 series airplanes); as applicable.

(1) If no cracking is detected in the chassis side bracing structure, repeat the inspection thereafter at intervals not to exceed 1,500 flight hours or 14 months, whichever occurs first.

(2) If any cracking is detected in the chassis side bracing structure, prior to further flight, replace the cracked side of the bracing structure with a new structure, in accordance with the applicable PTL.

(3) If no cracking is detected in the chassis top strut support intercostal, prior to further flight, perform an eddy current inspection to determine the specification of the material (either L72 or L73) of the intercostals, in accordance with the applicable PTL.

(i) If the material is manufactured from L72, prior to further flight, replace the chassis top strut support intercostal with and a new chassis top strut support intercostal, in accordance with the applicable PTL.

(ii) If the material is manufactured from L73, no further action is required by paragraph (a)(3) of this AD.

(4) If cracking is detected in the chassis top strut support intercostal, prior to further flight, replace it with a new chassis top strut support intercostal, in accordance with the applicable PTL.

(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, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(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 September 2, 1994.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–22230 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 15a

[Docket No. 940706–4206]

RIN: 0690–AA22

Testimony by Employees and the Production of Documents in Legal Proceedings

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Proposed rule.

SUMMARY: The Department of Commerce is proposing to amend 15 CFR Part 15a which prescribes policies and procedures to be followed with respect to the testimony of Department employees regarding official matters, and the production of Department documents in legal proceedings. These regulations would serve as a statement of policy and the amendments expand the scope of the existing regulations and provide for more comprehensive standards and guidelines for Department components, employees, former employees, other federal agencies, and the public in general regarding the appropriate procedures concerning testimony and the production of documents.

DATES: November 8, 1994.

ADDRESSES: Written comments should be submitted to: M. Timothy Conner/ Donald J. Reed, U.S. Department of Commerce, Office of the General Counsel, General Litigation Division, Room 5890, 14th & Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: M. Timothy Conner or Donald J. Reed, (202) 482–1067.

SUPPLEMENTARY INFORMATION: Section 301 of Title 5, United States Code, provides that the head of an Executive department may prescribe regulations for the custody, use and preservation of its records. The Supreme Court has upheld the ability of Federal agencies to establish procedures in section 301 regulations governing the production of records and testimony in legal proceedings in which the United States is not a party. *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951).

These proposed rules would establish Department of Commerce (DOC) policies and procedures applicable to the production of DOC documents and/or testimony by DOC employees in legal proceedings. Basically, the legal proceedings addressed in the rules are any administrative or judicial activities traditionally conducted within the executive or judicial branches of Federal, state, local or foreign governmental entities in which the United States:

(i) Is not a party;

(ii) Is not represented;

(iii) Does not have a direct and substantial interest; and

(iv) Is not providing representation to an individual or entity that is a party.

Similarly, the proposed rules would not cover activities that are not legal proceedings such as Congressional request for records or testimony, or requests for records under the Freedom of Information Act, 5 U.S.C. 552. In addition, the proposed rules would not infringe upon or displace responsibilities committed to the Department of Justice in conducting litigation on behalf of the United States.

Finally, the proposed rules would not remove the need to comply with any applicable confidentiality provisions such as the Privacy Act, The Freedom of Information Act or the Trade Secrets Act. In fact, if the requirements of confidentiality statutes or regulations are not met, records or testimony cannot be provided even where the requirements of these regulations are satisfied.

This proposed rule has been determined to be "not significant" for purposes of Executive Order 12866.

The General Counsel certified to the Chief Counsel for Advocacy of the Small Business Administration that this

proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This is because the proposed rule is established to facilitate the Department's safeguarding, control and preservation of its records, information, papers and property. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 15 CFR Part 15a

Administrative practice and procedure, Courts, and Government employees.

For the reasons set out in the preamble, it is proposed that Part 15a be revised to read as follows:

PART 15a—TESTIMONY BY EMPLOYEES AND THE PRODUCTION OF DOCUMENTS IN LEGAL PROCEEDINGS

Sec.

Authority: 5 U.S.C. 301; 15 U.S.C. 1501, 1512, 1513, 1515 and 1518; Reorganization Plan No. 5 of 1950, 3 CFR, 1949–1953 Comp., p. 1004; 44 U.S.C. 3101.

§ 15a.1 Scope.

(a) This part sets forth the policies and procedures of the Department of Commerce regarding the testimony of employees, and former employees, as witnesses in legal proceedings and the production or disclosure of information contained in Department of Commerce documents for use in legal proceedings pursuant to a request, order, or subpoena (collectively referred to in this part as a "demand").

(b) This part does not apply to any legal proceeding in which an employee is to testify while on leave status, regarding facts or events that are unrelated to the official business of the Department.

(c) This part in no way affects the rights and procedures governing public access to records pursuant to the Freedom of Information Act, the Privacy Act or the Trade Secrets Act.

(d) This part is not intended to be relied upon to, and does not, create any right or benefit, substantive or procedural, enforceable at law by any party against the United States.

§ 15a.2. Definitions.

For the purpose of this part:

(a) *Agency counsel* means the chief legal officer (or his/her designee) of an agency within the Department of Commerce.

(b) *Component* means Office of the Secretary or an operating unit of the Department as defined in Department Organization Order 1–1.

(c) *Demand* means a request, order, or subpoena for testimony or documents for use in a legal proceeding.

(d) *Department* means the United States Department of Commerce and its constituent agencies.

(e) *Document* means any record, paper and other property held by the Department, including without limitation, official letters, telegrams, memoranda, reports, studies, calendar and diary entries, maps, graphs, pamphlets, notes, charts, tabulations, analyses, statistical or informational accumulations, any kind of summaries of meetings and conversations, film impressions, magnetic tapes and sound or mechanical reproductions.

(f) *Employee* means all current or former employees or officers of the Department, including commissioned officers of the National Oceanic and Atmospheric Administration and any other individual who has been appointed by, or subject to the supervision, jurisdiction or control of the Secretary of the Department of Commerce.

(g) *General Counsel* means the General Counsel of the Department or other Department employee to whom the General Counsel has delegated authority to act under this part.

(h) *Legal proceeding* means all pretrial, trial and post trial stages of all existing or reasonably anticipated judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards or other tribunals, foreign or domestic. This phrase includes all phases of discovery as well as responses to formal or informal requests by attorneys or others involved in legal proceedings.

(i) *Official business* means the authorized business of the Department.

(j) *Secretary* means the Secretary of the Department of Commerce.

(k) *Solicitor* means the Solicitor of the Patent and Trademark Office.

(l) *Testimony* means a statement in any form, including personal appearances before a court or other legal tribunal, interviews, depositions, telephonic, televised, or videotaped statements or any responses given during discovery or similar proceedings, which response would involve more than the production of documents.

(m) *United States* means the Federal Government, its departments and agencies, and individuals acting on behalf of the Federal Government.

§ 15a.3 Demand for testimony or production of documents: Department policy.

No employee shall in response to a demand, produce any documents, or provide testimony regarding any information relating to, or based upon Department of Commerce documents, or disclose any information or produce materials acquired as part of the performance of that employee's official duties, or because of that employee's official status without the prior authorization of the General Counsel, or the Solicitor, or the appropriate agency counsel. The reasons for this policy are as follows:

(a) To conserve the time of Department employees for conducting official business;

(b) To minimize the possibility of involving the Department in controversial issues that are not related to the Department's mission;

(c) To prevent the possibility that the public will misconstrue variances between personal opinions of Department employees and Department policy;

(d) To avoid spending the time and money of the United States for private purposes;

(e) To preserve the integrity of the administrative process; and

(f) To protect confidential, sensitive information and the deliberative process of the Department.

§ 15a.4 Demand for testimony or production of documents: Department procedures.

(a) Whenever a demand for testimony or for the production of documents is made upon an employee, the employee shall immediately notify the General Counsel (Room 5890, U.S. Department of Commerce, Washington, D.C. 20230, (202) 482–1067) or appropriate agency counsel. When a demand for testimony or for the production of documents is made upon an employee of the Patent and Trademark Office, the employee should immediately notify the Solicitor, by phone, (703) 305–9035; by mail addressed Solicitor, Box 8, Patent and Trademark Office, Washington, D.C. 20231; or in person to 2121 Crystal Drive, Crystal Park 2, Suite 918, Arlington, Virginia 22215.

(b) A Department employee may not give testimony, produce documents, or answer inquiries from a person not employed by the Department regarding testimony or documents subject to a demand or a potential demand under the provisions of this part without the approval of the General Counsel, or the Solicitor, or the appropriate agency counsel. A Department employee shall immediately refer all inquiries and Demands to the General Counsel, or the Solicitor, or appropriate agency counsel. Where appropriate, the General Counsel, or the Solicitor, or appropriate agency counsel, may instruct the Department employee, orally or in writing, not to give testimony or produce documents.

(c) (1) *Demand for testimony or documents.* A demand for the testimony of a Department employee shall be addressed to the General Counsel, Room 5890, Department of Commerce, Washington, D.C. 20230 or appropriate agency counsel. A demand for testimony of an employee of the Patent and Trademark Office shall be mail addressed to the Solicitor, Box 8, Patent and Trademark Office, Washington, D.C. 20231; or in person to 2121 Crystal Drive, Crystal Park 2, Suite 918, Arlington, Virginia 22215.

(2) *Subpoenas.* A subpoena for testimony by a Department employee or a document shall be served in accordance with the Federal Rules of Civil or Criminal Procedure or applicable state procedure and a copy of the subpoena shall be sent to the General Counsel, or the Solicitor, or appropriate agency counsel.

(3) *Affidavit.* Except when the United States is a party, every demand shall be accompanied by an affidavit or declaration under 28 U.S.C. 1746 or, if an affidavit is not feasible, a statement setting forth the title of the legal proceeding, the forum, the requesting party's interest in the legal proceeding, the reason for the demand, a showing that the desired testimony or document is not reasonably available from any other source, and if testimony is requested, the intended use of the testimony, a general summary of the desired testimony, and a showing that no document could be provided and used in lieu of testimony. The purpose of this requirement is to assist the General Counsel, or the Solicitor, or appropriate agency counsel in making an informed decision regarding whether testimony or the production of a document(s) should be authorized.

(d) A certified copy of a document for use in a legal proceeding may be provided upon written request and payment of applicable fees. Written requests for certification shall be addressed to the agency counsel for the component having possession, custody, or control of the document. Unless governed by another applicable provision of law or component regulation, the applicable fee includes charges for certification and reproduction as set out in 15 CFR 4.9. Other reproduction costs and postage fees, as appropriate, must also be borne by the requester.

(e) The Secretary retains the authority to authorize and direct testimony in those cases where a statute or Presidential order mandates a personal decision by the Secretary.

(f) The General Counsel, or the Solicitor, or appropriate agency counsel may consult or negotiate with an attorney for a party or the party if not represented by an attorney, to refine or limit a demand so that compliance is less burdensome or obtain information necessary to make the determination required by paragraph (b) of this section. Failure of the attorney to cooperate in good faith to enable the General Counsel, or the Solicitor, or the Secretary, or the appropriate agency counsel to make an informed determination under this part may serve, where appropriate, as a basis for a determination not to comply with the demand.

(g) A determination under this Part to comply or not to comply with a demand is not an assertion or waiver of privilege, lack of relevance, technical deficiency or any other ground for noncompliance.

(h) The General Counsel, or the Solicitor, or appropriate agency counsel may waive any requirements set forth under this section when circumstances warrant.

§ 15a.5 Procedures when a Department employee receives a subpoena.

(a) A Department employee who receives a subpoena shall immediately forward the subpoena to the General Counsel, or the appropriate agency counsel. In the case of an employee of the Patent and Trademark Office, the subpoena shall immediately be forwarded to the Solicitor. The General Counsel, or the Solicitor, or appropriate agency counsel will determine the extent to which a Department employee will comply with the subpoena.

(b) If an employee is served with a subpoena that the General Counsel, or the Solicitor, or appropriate agency counsel determines should not be complied with, the General Counsel, Solicitor or appropriate agency counsel will attempt to have the subpoena withdrawn or modified. If this cannot be done, the General Counsel, Solicitor or appropriate agency counsel will attempt to obtain Department of Justice representation for the employee and move to have the subpoena modified or quashed. If, because of time constraints, this is not possible prior to the compliance date specified in the subpoena, the employee should appear at the time and place set forth in the subpoena. If legal counsel cannot appear on behalf of the employee, the employee should produce a copy of the Department's regulations and inform the legal tribunal that he/she has been advised by counsel not to provide the requested testimony and/or produce documents. If the legal tribunal rules that the demand in the subpoena must be complied with, the employee shall respectfully decline to comply with the demand. *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951).

(c) Where the Department employee is an employee of the Office of the Inspector General, the Inspector General in consultation with the General Counsel, will make a determination under paragraphs (a) and (b) of this section.

§ 15a.6 Legal Proceedings between private litigants: Expert or opinion testimony.

In addition to the policies and procedures as outlined in §§ 15a.1 through 15a.6, the following applies to legal proceedings between private litigants:

(a) If a Department employee is authorized to give testimony in a legal proceeding not involving the United States, the testimony, if otherwise proper, shall be limited to facts within the personal knowledge of the Department employee. Employees, with or without compensation, shall not provide expert testimony in any legal proceedings regarding Department information, subjects or activities except on behalf of the United States or a party represented by the United States Department of Justice. However, upon a showing by the requester that there are exceptional circumstances and that the anticipated testimony will not be adverse to the interest of the Department or the United States, the General Counsel, or the Solicitor, or appropriate agency counsel may, in writing grant special authorization for the employee to appear and give the expert or opinion testimony.

(b) (1) If, while testifying in any legal proceeding, an employee is asked for expert or opinion testimony regarding official DOC information, subjects or activities, which testimony has not been approved in advance in accordance with these regulations, the witness shall:

(i) Respectfully decline to answer on the grounds that such expert or opinion testimony is forbidden by these regulations;

(ii) Request an opportunity to consult with the General Counsel, or the Solicitor, or appropriate agency counsel before giving such testimony; and

(iii) Explain that upon such consultation, approval for such testimony may be provided.

(2) If the witness is then ordered by the body conducting the proceeding to provide expert or opinion testimony regarding official DOC information, subjects or activities without the opportunity to consult with either the General Counsel, or the Solicitor, or appropriate agency counsel, the witness shall respectfully refuse to provide such testimony. See *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951).

(c) If an employee is unaware of these regulations and provides expert or opinion testimony regarding official DOC information, subjects or activities in a legal proceeding without the aforementioned consultation, the witness shall, as soon after testifying as possible, inform the General Counsel, or the Solicitor, or appropriate agency counsel that such testimony was given and provide a written summary of the expert or opinion testimony provided.

§ 15a.7 Demands or requests in legal proceedings for records protected by confidentiality statutes.

Demands in legal proceedings for the production of records, or for the testimony of Department employees regarding information protected by the Privacy Act, 5 U.S.C. 552a, the Trade Secrets Act, 18 U.S.C. 1905 or other confidentiality statutes, must satisfy the requirements for disclosure set forth in those statutes before the records may be provided or testimony given. The General Counsel, or the Solicitor, or appropriate agency counsel should first determine if there is a legal basis to provide the testimony or records sought under applicable confidentiality statutes before applying §§ 15a.1 through 15a.8. Where an applicable confidentiality statute mandates disclosure, §§ 15a.1 through 15a.8 will not apply.

§ 15a.8 Testimony of Department employees in proceedings involving the United States.

The following section applies in legal proceedings in which the United States is a party:

(a) A Department employee may not testify as an expert or opinion witness for any other party other than the United States.

(b) Whenever, in any legal proceeding involving the United States, a request is made by an attorney representing or acting under the authority of the United States, the General Counsel, or the Solicitor, or appropriate agency counsel will make all necessary arrangements for the Department employee to give testimony on behalf of the United States. Where appropriate, the General Counsel, or the Solicitor, or appropriate agency counsel may require reimbursement to the Department of the expenses associated with a Department employee giving testimony on behalf of the United States.

Alden F. Abbott,

Assistant General Counsel for Finance and Litigation.

[FR Doc. 94–22173 Filed 9–8–94; 8:45 am]

BILLING CODE 3510–BW–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–43–1–6554b; FRL–5064–6]

Approval and Promulgation of Implementation Plans Florida: Approval of Revisions to the Florida State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Florida through the Florida Department of Environmental Protection (FDEP) for the purpose of approving a frost protection device. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by October 11, 1994.

ADDRESSES: Written comments should be addressed to: Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Copies of the material submitted by the State of Florida may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region IV Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Air Resources Management Division, Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555 ext.4215.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: August 22, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 94–22237 Filed 9–8–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[TX–8–1–5221b; FRL–5065–2]

Approval and Promulgation of State Implementation Plans Texas; Prevention of Significant Deterioration, Nitrogen Dioxide Increments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to approve a revision to the Texas Prevention of Significant Deterioration State Implementation Plan which incorporates by reference the Federal nitrogen dioxide increment standards. In the **Rules and Regulations** section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and

anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received during the 30-day comment period set forth below will be addressed in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by October 11, 1994.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Planning Section, at the EPA Region 6 office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-A), First Interstate Bank Building, 1445 Ross Avenue, suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Bill Deese of the EPA Region 6 Air Programs Branch at (214) 665–7253 and at the above address.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is published in the **Rules and Regulations** section of this **Federal Register.**

Authority: 42 U.S.C. 7401–7671q.

Dated: August 23, 1994.

W.B. Hathaway,

Acting Regional Administrator (6A).

[FR Doc. 94–22240 Filed 9–8–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[OR–40–1–6396b, OR–41–1–6397b, OR–44–1–6543b; FRL–5023–6]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Oregon for the purpose of reducing the National Air Quality Standards (NAAQS) for carbon monoxide (CO). The SIP revision was submitted by the State to satisfy certain Federal Clean Air Act requirements for a basic motor vehicle inspection and maintenance (I/M) program in the Portland Metropolitan Service district and the Medford-Ashland Air Quality Maintenance Area. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: Comments on this proposed rule must be received in writing by October 11, 1994..

ADDRESSES: Written comments should be addressed toMontel Livingston, Environmental Protection Specialist (AT–082), Air Programs Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 10, Air Programs Section, 1200 6th Avenue, Seattle, WA 98101.

The State of Oregon Department of Environmental Quality, 811 SW., Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Christie Lee, Air Programs Branch (AT–082), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–1814.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action which is located in the rules section of this **Federal Register.**

Dated: July 15, 1994.

Gerald A. Emision,

Acting Regional Administrator.

[FR Doc. 94–22243 Filed 9–8–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 60

[AD-FRL–5068–2]

RIN 2060–AF08

Standards of Performance for New Stationary Sources Cold Cleaning Machine Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of proposal; notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to withdraw the June 11, 1980, proposal and proposes a new 40 CFR part 60, subpart JJ consisting of §§ 60.360 through 60.363 to cover those volatile organic compounds (VOC) used in cold cleaning machine operations that are not covered under 40 CFR part 63, subpart T.

The proposed standard would limit emissions of VOC from new, modified, and reconstructed cold cleaning machines with solvent-air interface areas greater than or equal to 1.8 square meters (19 square feet). Cold cleaning machines are units specifically designed to clean parts with liquid solvent at a temperature below the solvent boiling point.

The proposed standards implement section 111 of the Act and are based on the Administrator's determination that cold cleaning machines belong to a category of sources that cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare. The intent of the standards is to require new, modified, and reconstructed cold cleaning machines with surface areas larger than or equal to 1.8 square meters (19 square feet) to control emissions to the level achievable by the best demonstrated system of continuous emission reduction, taking into consideration the cost of achieving such emission reduction, and any non-air quality health, and environmental impact and energy requirements.

DATES: *Comments.* Comments must be received on or before November 8, 1994.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by September 30, 1994. If anyone contacts the EPA requesting a public hearing, a public hearing will be held on October 11, 1994 beginning at 9 a.m. Persons interested in attending

the hearing should contact Ms. Marguerite Thweatt of the EPA, at (919) 541–5607 to verify that a hearing will be held.

ADDRESSES: Interested parties may submit written comments (in duplicate, if possible) to Docket No. A–94–08 at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street, SW, Washington, DC 20460. The Agency requests that a separate copy also be sent to the contact person listed below.

The public hearing will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina.

The docket is located at the above address in room M–1500, Waterside Mall (ground floor), and may be inspected from 8 a.m. to 4 p.m., Monday through Friday; telephone number (202) 382–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For information concerning the proposed standard, contact Mr. Paul Almodóvar, Chemicals and Petroleum Branch, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–0283.

SUPPLEMENTARY INFORMATION: The proposed regulatory text is not included in this **Federal Register** notice, but is available in Docket No. A–94–08, or from the EPA contact person designated in this notice. The proposed regulatory language is also available on the Technology Transfer Network (TTN), on the EPA's electronic bulletin boards. This bulletin board provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a telephone call. Dial (919) 541–5742 for up to a 14,400 bps modem. If more information on TTN is needed call the HELP line at (919) 541–5384.

The proposed regulatory text and other materials related to this rulemaking including the Background Information/Basis and Purpose Document, which describes the factual data on which the proposed rule is based, the methodology used in obtaining the data and in analyzing it, and the major legal interpretations and policy considerations in more detail, are available for review in the docket.

I. Introduction

A. Background

On June 11, 1980, the EPA proposed standards of performance for organic solvent cleaners (45 FR 39765). The proposed standards would have limited emissions of volatile organic compounds, and trichloroethylene, perchloroethylene, methylene chloride, 1,1,1-trichloroethane, and trichlorotrifluoroethane from new, modified, and reconstructed organic solvent cleaners. The EPA also proposed that standards be developed under section 111(d) of the Clean Air Act for the control of emissions from existing facilities of the five halogenated organic solvents listed above. The applicability date for that proposal was deferred (46 FR 22768, April 21, 1981) pending notice of a later applicability date in the **Federal Register**. That later notice was never published.

Since the standards of performance of organic solvent cleaners were proposed (45 FR 39765), a national emission standard for hazardous air pollutants for halogenated solvent cleaners has been proposed and is scheduled for promulgation in November 1994 (40 CFR part 63, subpart T). The subpart T standards do not cover nonhalogenated volatile organic compounds often used in cold cleaning machine operations (e.g., mineral spirits, Stoddard solvents, naphthas).

Therefore, today's action proposes to withdraw the June 11, 1980, proposal and proposes a new 40 CFR part 60, subpart JJ consisting of §§ 60.360 through 60.363 to cover those volatile organic compounds (VOC) used in cold cleaning machine operations that are not covered under 40 CFR part 63, subpart T.

B. Legal Authority and Applicability

New source performance standards (NSPS) implement section 111 of the Clean Air Act (Act). The NSPS are issued for categories of sources that the Administrator determines cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare. They apply to new stationary sources of emissions, i.e., sources whose construction, reconstruction, or modification begins after a standard for them is proposed.

An NSPS requires these sources to control emissions to the level achievable by "best demonstrated technology," or "BDT," which is described for equipment and work practice standards as follows:

> * * * The best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. [Section 111(h)(1)].

This notice of proposed rulemaking is applicable to owners or operators of immersion cold cleaning machines that are new, modified, or reconstructed after September 9, 1994. Specifically, this proposed rulemaking applies to owners or operators of immersion cold cleaning machines with a solvent-air interface area larger than or equal to 1.8 square meters (m^2) (19 square feet (ft^2)) that use VOC solvents. The selection of this level is discussed in section I.C.

Under section 111(a)(5) of the Act, an owner or operator is any person who owns, leases, operates, controls, or supervises a stationary source. Under section 111(a)(3) of the Act, a stationary source is any building, structure, facility, or installation that emits or may emit any air pollutant.

There are two basic types of cold cleaning machines used in cold cleaning machine operations: immersion and remote reservoir cold cleaning machines. An immersion cold cleaning machine is a cold cleaning machine that is used to clean parts by submerging them in solvent. Cleaning with sprayed solvent also occurs in some operations. A remote reservoir machine is a cold cleaning machine that cleans parts by pumping solvent through a spray hose to a sink-like work area. The solvent immediately drains back into an enclosed container through a small opening. Cold cleaning machines are typically machines that are installed at a particular location for a period of time that may be several months to several years. Once a machine is manufactured, the machine's configuration does not change from location to location. Although the machine does not emit any air pollutant until it is filled with solvent and actually used for cleaning, it will emit pollutants once it is actually used. Therefore, a cold cleaning machine becomes a stationary source when it is initially positioned at the place where it will first be used, which is the place where it may first emit VOC. The machine remains a stationary source throughout its useful life, even though the machine may eventually be installed at a number of different locations.

Upon proposal of an NSPS, a new source is subject to the promulgated standard. For cold cleaning machines, this means a source is subject to the final NSPS requirements, once they are promulgated, when it is positioned at the location where it will first be used, even if it is subsequently moved to a different location prior to promulgation of the final NSPS. A cold cleaning machine is also subject to NSPS requirements when it is modified or reconstructed after September 9, 1994.

The EPA solicits comments on this approach to regulating sources that may change location during their useful life.

C. Overview of Proposed Rule

The proposed standards limit the emissions of VOC from new, modified, and reconstructed immersion cold cleaning machines. The VOC solvents are used to clean metal, plastic, fiberglass, and other types of material. The proposed standard is a combination of equipment and work practice requirements as authorized under section 111(h).

Under the Act there are two alternatives available for establishing NSPS for stationary sources. Section 111(b) provides for establishing emission limitations or percentage reductions in emissions from these sources. Section 111(h) provides that the EPA may promulgate design equipment, work practice, or operational standards or combination thereof, when emission limitations or percentage reduction in emissions are not feasible. Under section 111(h), the standards prescribed require new, modified, and reconstructed cold cleaning machines to use the best technological system of continuous emission reduction, taking into consideration cost, non-air quality health and environmental impact, and energy requirements that has been adequately demonstrated.

The emissions from immersion cold cleaning machines are fugitive, that is, they are not emitted from a stack or similar opening; therefore, the methods for measuring solvent loss are impractical because of the length of time required to accurately determine solvent losses and the disruption in cleaning operations that would be necessary in order to take measurements. Therefore, the EPA has determined that it is not feasible to enforce emission limitations or percentage reductions in emissions for immersion cold cleaning machines. For these reasons, an equipment and work practice standard under section 111(h) has been selected. The EPA solicits comments on this approach and whether other types of standards would be feasible.

The proposed cold cleaning equipment standards for cold cleaning machines include covers, raised freeboards, solvent pump pressure design limits, and labels specifying work practice requirements. The EPA believes work practices for cold cleaning machines are required to assure the maximum effectiveness of a specific piece of control equipment, and will further reduce solvent emissions. These proposed standards are all pollution prevention techniques because they minimize the solvent vapor loss from the machine and encourage reuse of solvent.

Batch and in-line cold cleaning machines using halogenated HAP solvents are regulated by the halogenated solvent cleaner NESHAP, scheduled for promulgation in November 1994 (40 CFR part 63, subpart T). The proposed NSPS regulations would affect owners and operators of new immersion cold cleaning machines with a solvent-air interface greater than or equal to 1.8 m^2 (19 ft^2) that use VOC solvents or solvent blends that are not covered by the halogenated solvent cleaner NESHAP. Because lessors and lessees are included in the definition of owner or operator, they are also affected by the NSPS.

A summary of the proposed equipment and work practice standards is presented in table 1. An owner or operator of a cold cleaning machine subject to the NSPS would be required to comply with the equipment standard and associated work practices. The EPA solicits comment on these equipment standards and work practices and whether there are any additional measures that should be included.

TABLE 1.—EQUIPMENT AND WORK PRACTICE REQUIREMENTS

Cleaning machine type	Requirements
Immersion cleaning machines with solvent-air surface areas larger than or equal to 1.8 m^2 (19 ft^2)	
Equipment	(1) Cover that can be readily closed. (2) Drain rack. (3) Freeboard ratio of at least 0.5 [or 0.7 if the solvent has a volatility of greater than 4.3 kilopascals (kPa) (0.6 pounds per square inch)]. (4) Visible fill line. (5) Flexible hose or flushing device pump pressure shall be designed to not exceed 69 kPa (10 pounds per square inch). (6) Permanent label on each machine stating required work practices, and if the freeboard ratio is less than 0.7, the label shall include a list of solvents that may be used.
Work Practice	(1) Solvent level shall not exceed the fill line. (2) Solvent spray shall be delivered in continuous stream; flushing is to be performed in the freeboard area. (3) Agitators shall produce a rolling motion without observable splashing. (4) Cover shall be kept closed when machine not in use or when parts are being cleaned by agitation. (5) When the cover is open, the machine shall not be exposed to drafts greater than 40 meters per minute (m/min) (132 feet per minute (ft/min)). (6) Cleaned parts shall be drained for 15 seconds or until dripping has stopped, whichever is longer. (7) Waste solvent and products shall be stored in closed containers. (8) Spills shall be wiped up immediately and the wipe rags stored in covered containers.

The EPA established these standards based on an evaluation of BDT. The EPA determined that BDT for machines with solvent-air interface areas of less than 1.8 m^2 (19 ft^2) was equivalent to the equipment design in existence in the absence of an NSPS. Existing cold cleaning machines smaller than 1.8 m^2 (19 ft^2) were determined to be at BDT; and no work practice or monitoring, reporting, or recordkeeping is warranted because the cost of such requirements would be unreasonable with little or no emission reduction benefit. The EPA determined that BDT for machines with solvent-air interface areas of 1.8 m^2 (19 ft^2) or greater included additional requirements. These requirements

include work practice requirements, as well as reporting requirements. These requirements were considered to be warranted because the cost of such requirements for a cleaning machine at this size would be reasonable given the potential emission reduction ($2,240/Mg [$2,040/ton]). The cost effectiveness of control for cleaning machines with solvent-air interface areas greater than 1.8 m^2 (19 ft^2) is further reduced. The EPA solicits comments on the selection and appropriateness of the 1.8 m^2 (19 ft^2) solvent-air interface area applicability cut off.

Compliance with the proposed standards would be determined through an initial notification report from the owner or operator demonstrating equipment standard compliance. Information supporting compliance equivalence for equipment standard requirements may be provided by the manufacturers. Enforcement of the work practices is through inspections by enforcement personnel. Reporting requirements also include an annual report of equipment standard continued compliance. The EPA solicits comment on the suitability of these compliance provisions.

The EPA is proposing to exempt cold cleaning machines located at nonmajor sources from 40 CFR 70.3 (b)(2) operating permit requirements. This proposed exemption has been included because it was determined that the permitting process could be burdensome for owners or operators of cold cleaning machines that are not themselves major sources and are not located at a major source. In addition, cold cleaning machines may change location often, with permitting thereby increasing the administrative burden on the permitting authority without providing significant additional environmental benefit.

D. Solicitation of Comments

The EPA specifically requests comment on the following issues:

1. As discussed in section I.C., the EPA solicits comments on the selection and appropriateness of the 1.8 m^2 (19 ft^2) solvent-air interface area applicability cut off. Specifically, the EPA requests comments on the reasonableness of setting standards for cleaning machines smaller than 1.8 m^2 (19 ft^2).

2. As discussed in section I.B., the EPA solicits comments on the proposed approach to regulating sources that may change location during their useful life.

3. As discussed in section I.C., the EPA is proposing regulations that consist of a combination of equipment and work practice standards that allow for the best emission control and for enforceability. The EPA solicits comments on this approach and whether other types of standards would be feasible.

4. As discussed in section I.C., the EPA solicits comment on the proposed equipment standards and work practices and whether there are any additional measures that should be included.

5. As discussed in section I.C., the EPA solicits comment on the suitability of the reporting compliance provision requirements.

6. The proposed rule includes a requirement that a facility maintain a windspeed below 40 meters per minute (132 feet per minute), unless the facility can demonstrate that a higher windspeed is necessary to meet the Occupational Safety and Health Administration (OSHA) ventilation requirements contained in 29 CFR 1910.94(d)(3) or any updated version of this section, or any other OSHA standard that sets a minimum ventilation rate. The EPA does not believe that any situation would exist that would require the use of increased drafts to meet the OSHA ventilation requirements.

The OSHA ventilation requirements for open surface tanks contained in 29 CFR part 1910 are only one of a number of occupational worker exposure control measures presented. Other control measures presented include tank covers, foams, beads, chips, or other materials floating on the tank surface that confine gases. Even if an owner or operator chooses to use ventilation, the ventilation requirements presented in table G–15 of 29 CFR 1910.94(d)(4)(iii) for most open tanks are below 40 meters per minute (132 feet per minute).

There are ventilation requirements for certain hazardous class of compounds used in certain tank sizes that exceed 40 meters per minute (132 feet per minute) (i.e., 150 feet per minute [46 meters per minute]). However, this 150 feet per minute (46 meters per minute) is measured at the lip of the exhaust hood and the proposed regulation draft limit is measured between 1 and 2 meters (3.3 and 3.6 feet) upwind of the tank at the same elevation as the tank lip. The EPA does not believe that a 150 feet per minute (46 meters per minute) measured at the face of the exhaust hood is likely to translate into a ventilation rate higher than 40 meters per minute (132 feet per minute) measured upwind at the same elevation as the tank lip. However, the EPA has included the allowance demonstration requirement to avoid any possible conflicting requirements. The EPA solicits comment and data on situations where the EPA windspeed requirement might conflict with a OSHA requirement.

The following comments on the regulatory approach are requested in the Background Information/Basis and Purpose Document (see ADDRESSES).

1. In determining the regulatory baseline emissions for the cold cleaning operations source, it was assumed that the distribution of cleaning machines would be proportionate to population density. The EPA solicits comment with supporting information and data on another method that would yield an alternative estimate.

2. In determining the regulatory baseline emissions for the cold cleaning operations source, it was assumed that the percent of population in attainment and nonattainment areas is equivalent to the percent of cleaners in attainment and nonattainment areas. The EPA solicits comment with supporting information and data on another method that would yield an alternative estimate.

3. The EPA determined, based on existing data, that increasing the drainage time of a part from 5 to 15 seconds can reduce overall solvent emissions from cold cleaning machines by about 10 percent. Although no data is readily available on emission reductions associated with the other work practices listed above, it is estimated that these techniques along with the drainage requirements can reduce overall emissions by about 15 percent. The EPA solicits comment and data on this assumption. The EPA specifically requests available emission reduction data associated with work practices.

II. Public Participation

A. Written Comments

The EPA seeks full public participation in arriving at its final decisions, and strongly encourages comments on all aspects of this proposal from all interested parties. Whenever applicable, full supporting data and detailed analysis should be submitted to allow the EPA to make maximum use of the comments. All comments should be directed to the EPA Air Docket, Docket No. A–94–08. Comments on this notice will be accepted until the date specified in DATES.

Commenters wishing to submit proprietary information for consideration should clearly distinguish such information from other comments, and clearly label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the contact person listed above, and not to the

public docket, to ensure that proprietary information is not inadvertently placed in the docket. Information covered by such a claim of confidentiality will be disclosed by the EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by the EPA, it may be made available to the public without further notice to the commenter.

B. Public Hearing

Any affected person desiring to present testimony at the public hearing (see **DATES**) is asked to notify the contact person listed above at least seven days prior to the day of the public hearing. The contact person should also be provided an estimate of the time required for the presentation of the testimony and notified of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling the order of testimony. The EPA suggests that sufficient copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, it would be helpful to receive an advance copy of any statement or material to be presented at the hearing prior to the scheduled hearing date. All materials submitted will be made a part of the official record for this rulemaking.

The hearing will be conducted informally, and technical rules of evidence will not apply. Written transcripts of the hearing will be made available for public inspection and copying during normal working hours at the EPA's Air and Radiation Docket and Information Center in Washington, DC (see **ADDRESSES** section of this preamble).

III. Statutory Authority

The statutory authority for this proposal is provided by section 111 of the Act: 42 U.S.C. 7411.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (FR 51735 (October 4, 1993)), the EPA must determine whether a regulation is "significant" and therefore subject to review by the Office of Management and Budget (OMB), and the requirements of the Executive Order. The order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities, (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs, or the rights and obligations of recipients thereof, or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, the OMB determined that this rule is a "significant" regulatory action and has thereby been reviewed by the OMB.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the EPA to consider potential impacts of proposed regulations on small "entities." If a preliminary analysis indicates that a proposed regulation would have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis must be prepared.

For the variety of directly affected industry sectors, the Small Business Administration's definition of small entity is independently owned and operated companies ranging from less than 500 to 1,000 employees in the manufacturing sectors, and less than $3.5 million in sales in the automotive service sectors. An estimate of the number of small businesses that would be directly affected by the proposed standards could not be feasibly obtained; however, a majority of the companies in the affected sectors are likely to be small businesses.

Economic impacts were estimated based on small, independently owned and operated model facilities. As stated in the accompanying "Basis and Purpose" document summarizing economic impacts, the impact of the proposed rule on these entities is likely to be insignificant in terms of changes in demand, changes in expansion plans and employment, and changes in profitability. Based on these analysis results it is reasonable to conclude that small entities, regardless of their number, are not significantly affected.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted to the Office of Management and Budget (OMB) under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection document has been prepared by the EPA (ICR. No. 1707.01) and a copy may be obtained from Sandy Farmer, Information Policy Branch, U.S. Environmental Protection Agency, Mail Code 2136, 401 M Street, SW., Washington DC 20460, or by calling (202) 260–2740.

This collection of information has an estimated annual reporting burden per respondent of 1.2 hours. This burden is 0.5 hours less than the burden used in the regulatory analysis. This burden includes time for reviewing instructions and completing the required reports.

Send comments regarding the burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden to: Chief Information Policy Branch, Mail Code 2136, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and to the Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Reporting and recordkeeping requirements, Volatile organic compound.

Dated: August 31, 1994.

Jonathan Z. Cannon,

Acting Administrator.

[FR Doc. 94–22135 Filed 9–8–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket No. 80–286; FCC 94–199]

Establishment of a Joint Board

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; notice of inquiry.

SUMMARY: The Federal Communications Commission has adopted a Notice of Inquiry (Notice) inviting comment on the desirability of revising the assistance mechanisms contained in the jurisdictional separations rules applicable to the Universal Service Fund (USF) and Dial Equipment Minute (DEM) weighting. The Notice asks that

interested parties comment on whether a notice of proposed rulemaking to revise the current rules should be issued. The Notice also seeks comment on a variety of alternative assistance mechanisms and, in addition, requests that interested parties propose additional alternatives for possible inclusion in a subsequent notice of proposed rulemaking. The intended effect of adopting the Notice is to examine, in light of changes in the telecommunications industry and associated regulatory changes, the extent to which the existing USF and DEM weighting rules and potential alternatives promote universal service, competition, and efficient investment and operation, and to determine whether a notice of proposed rulemaking should be issued.

DATES: Comments must be filed on or before October 28, 1994, and reply comments must be filed on or before December 2, 1994.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Common Carrier Bureau, Accounting and Audits Division, (202) 418–0873.

SUPPLEMENTARY INFORMATION: The Notice proposes to undertake an evaluation of the existing USF and DEM weighting assistance mechanisms, explaining that the past several years of experience with those rules should assist the Commission in evaluating the current rules and prospective alternatives. The Notice also requests comment regarding variations on two primary alternatives to the present assistance mechanisms.

Assistance Based on Reported Costs. First, the Notice asks interested parties to consider and comment on modifications to the existing USF rules, which provide assistance to local exchange carriers (LECs) based upon their reported local loop costs. The Notice requests comment upon the definition of costs used to determine assistance, specifically the possibility of basing assistance upon the combination of local loop costs and switching costs (which are currently the basis for DEM weighting assistance). The Notice also raises the question of whether switching costs per subscriber vary significantly among LECs. The Notice asks interested parties to address the possibility of eliminating or reducing support for LECs serving large study areas or non-rural areas. Finally, the Notice seeks comment regarding several possible changes in the existing formula for USF assistance, including establishing a sliding scale of declining assistance, changing the percentage of assistance for above-average costs, and changing the threshold for high-cost assistance.

Assistance Based on Proxy Factors. Second, the Notice asks interested parties to comment on the possibility of basing assistance to local service providers on the application of proxy factors rather than on reported costs, explaining that proxy factors could promote increased efficiency and cost control. The Notice describes several alternative proxy methods and, in addition, requests that commenters propose additional alternatives that could preserve universal service while promoting efficient operation and competition in the provision of telecommunications services.

The proxy approaches described in the Notice include the following alternatives for use as proxy factors: The number of subscriber loops per exchange, a combination of study area size and population density, and a combination of a proxy factor for cost and a proxy factor for general need (such as the ratio of average income to the cost of living in the area served). The Notice also asks interested parties to evaluate the merit of using proxy factors to make an initial determination of the amount of high-cost assistance to be directed to each state jurisdiction, and then using reported costs to determine the amount of assistance provided to individual carriers. Under such a system, the Notice requests comment regarding possible administration of the assistance plan by state regulatory commissions, pursuant to requirements set by the Commission. Finally, the Notice requests comment upon the possibility of establishing a voucher or credit system for telecommunications users, who would be allowed to claim high-cost assistance credits on their local service bills from the carrier of their choice.

Copies of the Notice can be obtained from International Transcription Services, Room 640—1990 M Street, N.W., Washington, D.C. 20036, telephone number: (202) 857–3800.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–22193 Filed 9–8–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC74

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Helianthus eggertii (Eggert's Sunflower)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to determine threatened status for *Helianthus eggertii* (Eggert's sunflower) under the authority of the Endangered Species Act of 1973, as amended (Act). This rare plant is presently known from Alabama, Tennessee and Kentucky with a total of 24 populations in 13 counties. It is threatened throughout its range by habitat alteration; residential, commercial, or industrial development; succession; and conversion of its limited habitat to pasture or cropland. Additionally, herbicide use, particularly along roadsides, may also be a threat. This proposal, if made final, would extend the Act's protection and recovery provisions to Eggert's sunflower.

DATES: Comments from all interested parties must be received by November 8, 1994. Public hearing requests must be received by October 24, 1994.

ADDRESSES: Comments, materials, and requests for a public hearing concerning this proposal should be sent to the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. J. Allen Ratzlaff at the above address (704/665–1195, Ext. 229).

SUPPLEMENTARY INFORMATION:

Background

Helianthus eggertii (Eggert's sunflower) is a perennial member of the aster family (Asteraceae) known only from Kentucky, Tennessee, and Alabama. It is a tall (to 2.5 meters) plant arising from a short, thick base, perennating by shallow elongate, fleshy rhizomes that can form an extensive network. The plant is smooth, except for some slight roughening on the upper leaf surfaces, and has a blue-waxy coloration. Lower leaves are

conspicuously whitened. The plant's opposite (rarely whorled) leaves are mostly lanceolate to narrowly ovate—the largest being 10 to 20 centimeters (3.9 to 7.9 inches) long. Leaf edges are smooth or minutely toothed and the tip is usually pointed. Large (3-inch) yellow flowers are borne on the upper third of the stem. Achenes (seeds) are blackish or grayish and mottled, 5 to 6 millimeters (0.25 inches) long, very faintly striated, with just a few scattered trichomes ("hairs"). Flowering begins in early August and continues through mid-September, and achenes mature from early September to early October (Jones 1991). Jones (1991) observed fruit set at between 5 and 25 seeds per head. Germination rates are generally low for *Helianthus*, rarely exceeding 25 percent, and most require cold treatment (Heiser *et al.* 1969).

Eggert's sunflower develops an extensive rhizome system and it is likely these rhizomes can live for many years. Thus, the plant would not necessarily have to have fruit every year to insure its survival. Further, if environmental conditions changed (i.e., increased competition, shading, etc.) it may be able to survive for several years by vegetative means. Jones (1991) noted this was the case at several populations. How long they can survive under these conditions is unknown.

Small (1903) described Eggert's sunflower from specimens collected by H. Eggert near White Bluff in Dickson County, Tennessee. Beatley (1963) considered the plant a distinct species that was "conspicuous because of the colonial habit and glaucescense." In a comprehensive essay on *Helianthus*, Heiser *et al.* (1969) retained H. *eggertii* as a distinct species and placed it in the series *Divaricati*, being distinguished by the nearly sessile, glaucous, and glabrous leaves. This work pointed out that *H. eggertii* is a hexaploid (n=51) and could have arisen from a cross between *H. laevigatus* (n=34), a shale barren species of the Alleghany Mountains, and *H. decapetalus* (n=17), a widespread species of the eastern United States.

Spring and Schilling (1991) found *Helianthus eggertii* to have a unique chemical profile. Of the related sunflowers, the most similar was *H. laevigatus*, which shares 9 of 12 compounds. Smith (1957) considered *H. eggertii* to be a local minor variant of *H. strumosus* but this species proved to be very dissimilar biochemically.

Helianthus eggertii typically occurs on rolling to flat uplands in full sun or partial shade. It is often found in open fields or thickets along woodland borders with other tall herbs and small trees. The distribution of this species shows a strong correlation with the barrens (and similar habitats) of the Interior Low Plateau Province, with a few records from the Cumberland Plateau and Appalachian Plateau Provinces. The following is a description of the species' status within each State where it occurs.

Alabama. The one known location for Eggert's sunflower in Alabama (Blount County) was discovered in 1981 by Robert Kral (Jones 1991). This population, while presently vigorous, could be impacted by Interstate-65 maintenance or improvements, or by development.

Tennessee. The following information on Eggert's sunflower in Tennessee is primarily from Jones (1991).

Prior to the status survey conducted by Jones (1991) there were 12 counties in Tennessee with records (13) of *Helianthus eggertii*. Four sites have been extirpated (one each in Coffee, Davidson, Lawrence, and Williamson Counties) and four were found to be erroneous (one each in Dekalb, Grundy, Clay, and Morgan Counties). Additional populations were discovered during the status survey and later by Milo Pyne (Tennessee Department of Environment and Conservation, 1993, *in litt.*). Several sites in Coffee County and Lewis County are likely single populations and are treated as such in this document. The 15 known *H. eggertii* sites in Tennessee are distributed as follows: Coffee County—5 populations (one of which has 8 "subpopulations"), Lawrence County—4 populations, and 1 population each in Dickson, Franklin, Lewis (with 6 "subpopulations"), Marion, Maury, and Williamson Counties. Most of these populations are small—half have fewer than 20 individual plants (genets). The other populations contain several hundred stems, but likely only a small percentage of these are individual genets. Ten of the 15 Tennessee populations are threatened by either roadside maintenance, weedy invaders, or development. One entire population (Arnold Engineering Development Center—this population is made up of 8 subpopulations) and a portion of another in Tennessee are on Federal land, three are all or partially on State land, and the remainder are in roadside rights-of-way or on private land.

Kentucky. The following information on Eggert's sunflower in Kentucky was primarily derived from Jones (1991).

All known Eggert's sunflower populations in Kentucky are from the Mammoth Cave Plateau region. Prior to the status survey conducted by Jones (1991) there were three counties in Kentucky with single occurrence records of *Helianthus eggertii*. One site, in Edmonson County, has been extirpated and the other two records proved to be erroneous (one each in Lincoln and Jackson Counties). However, seven new populations were discovered during the status survey and an additional site was discovered in July 1992 (D. White, Kentucky State Nature Preserves Commission, 1993, *in litt.*). The eight known *H. eggertii* sites in Kentucky are distributed as follows: one population from the Edmonson/Barren County line, and one additional population from each of these counties, one population from Grayson County, and four populations from Hart County. All but one of these populations have fewer than 15 individual plants (genets) and 4 have 5 or fewer. Only two populations are in barrens and half are threatened by weedy competitors and/or road maintenance. Three of the eight Kentucky populations are all or partially on Federal land (Mammoth Cave National Park), one is owned by The Nature Conservancy, and the remainder are in roadside rights-of-way or are in private ownership.

Previous Federal Action

Federal government actions on this species began with Section 12 of the Act (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution (Smithsonian) to prepare a report on those plants considered endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice (40 FR 27823) that formally accepted the Smithsonian report as a petition within the context of Section 4(c)(2) (now Section 4(b)(3)) of the Act. By accepting this report as a petition, the Service also acknowledged its intention to review the status of those plant taxa named within the report. *Helianthus eggertii* was included in the Smithsonian report and the July 1, 1975, Notice of Review. On June 16, 1976, the Service published a proposed rule (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endangered species pursuant to section 4 of the Act; *Helianthus eggertii* was included in this proposal.

The 1978 amendments to the Act required that all proposals over 2 years old be withdrawn. On December 10, 1979 (44 FR 70796), the Service published a notice withdrawing plants proposed on June 16, 1976. The revised notice of review for native plants published on December 15, 1980 (45 FR 82480), included *H. eggertii* as a category 2 species. This species was

retained as a category 2 species when the notice of review for native plants was revised in 1983 (48 FR 53640), 1985 (50 FR 39526), and again in 1990 (50 FR 6184). Category 2 species are those for which the Service has information to indicate that proposing to list them as endangered or threatened may be appropriate, but for which substantial data on biological vulnerability and threats are not currently known or on file to support the preparation of rules.

Section 4(b)(3)(B) of the Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within twelve months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Helianthus eggertii* because of the acceptance of the 1975 Smithsonian report as a petition. Beginning in October 1983, and in each October thereafter until 1993, the Service made an annual finding that listing *Helianthus eggertii* was warranted but precluded by other pending listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. Additional data, discussed below, are now available to indicate that listing is warranted. The current proposal represents the final petition finding for this species.

The Service funded a survey in 1989 to better determine the status of *H. eggertii* throughout its range, and a final report on this survey was accepted by the Service in 1991. Based primarily on information contained in the 1991 report, the Service elevated *H. eggertii* to a category 1 species on August 30, 1993, and it was included as such in the revised notice of review for native plants published on September 30, 1993 (50 FR 51144). Category 1 species are those for which the Service has sufficient information on hand to support a proposal for listing.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Helianthus eggertii* Small (Eggert's sunflower) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Fifty-eight percent of the 24 known populations of *Helianthus eggertii* are threatened with destruction or adverse modification of their habitat.

Thirteen (54 percent) of the 24 known *Helianthus eggertii* locations are threatened by the encroachment of more competitive herbaceous vegetation and/or woody plants that produce shade and compete for limited water and nutrients. Active management is required to ensure that the species continues to survive at all sites.

Direct destruction of habitat for commercial, residential, or industrial development, along with intensive right-of-way maintenance, are significant threats to 9 (38 percent) of the 24 known sites.

Barrens habitat, which seems to be preferred by Eggert's sunflower, has been disappearing from the south-central United States at a rapid rate. Most of the habitat has been converted to cropland or pasture, or developed as residential or industrial sites. Further, DeSelm (1989), in a study on Tennessee barrens, reported that all of his study sites were in the later stages of succession—the absence of periodic fire being a major contributing factor.

As its natural habitat disappears, Eggert's sunflower is now found most often in habitats that only mimic its ecological requirements. These sites typically are disturbed habitats such as roadside rights-of-way, ditches, roadcuts, or mounds of soil and have the accompanying assortment of weedy vegetation associated with disturbed areas. Colonization likely occurs soon after the disturbance and the sunflower is able to compete initially. However, as succession progresses, this species is consequently reduced to vegetative growth from rhizomes and is eventually eliminated. Periodic burning, mowing, or thinning of vegetation at these sites could favor the species by lessening competition.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* There is little or no commercial trade in *Helianthus eggertii* at this time. Most populations are very small and cannot support collection of plants for scientific or other purposes. Inappropriate collecting for scientific purposes or as a novelty could be a threat to the species.

C. *Disease or predation.* Disease and predation do not appear to be factors affecting the continued existence of the species at this time. However, in several populations, larval insects have been noted as having destroyed nearly all the mature seeds in several flower heads (Jones 1991, personal observation 1992).

D. *The inadequacy of existing regulatory mechanisms. Helianthus eggertii* is a Species of Special Concern in Tennessee, but because it is not listed as endangered under that State's Rare Plant Protection and Conservation Act, it receives no formal protection. In Alabama, the species does not receive any protection by the State. In Kentucky, this sunflower is listed as endangered by the Kentucky Academy of Science and Kentucky State Nature Preserves Commission. However, these lists have no legal standing in the State.

Should the species be added to the Federal list of endangered and threatened species, additional protection from taking will be provided to the five populations that are all or partially on Federal land. Protection from inappropriate commercial trade also would be provided.

E. *Other natural or manmade factors affecting its continued existence.* The only other additional factor that threatens *Helianthus eggertii* is the extended drought the species has faced during the past few years. This condition is likely causing higher than normal mortality of seedlings in the natural populations and could, if continued over an extended period of time, have an adverse effect on the survival of *H. eggertii.*

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Helianthus eggertii* as a threatened species. Threatened status is more appropriate than endangered, as threats to the species are not imminent and the species does not appear to be in danger of extinction at the present time. Critical habitat is not being designated for the reasons discussed below.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) Essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at

which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Helianthus eggertii* at this time. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

Most populations of this species are small and the loss of even a few individuals to activities such as collection for scientific purposes could extirpate the species from some locations. Taking, without a permit, is prohibited by the Act from locations under Federal jurisdiction; however, only two of the known populations are entirely under Federal jurisdiction. Publication of critical habitat descriptions and maps would increase public interest, possibly lead to additional threats to the species from collecting and vandalism, and would increase enforcement problems.

Critical habitat would not be beneficial in terms of adding additional protection for the species under section 7 of the Act. Regulations promulgated for the implementation of section 7 provide for both a "jeopardy" standard and a "destruction or adverse modification" of critical habitat standard. Any additional protection from Federal actions gained under Section 7 of the Act would be minimal compared to the increase in risk from taking. Should Federal involvement occur, habitat protection will be addressed through the Section 7 consultation process, utilizing the "jeopardy" standard.

The owners and managers of all the known populations of *Helianthus eggertii* will be made aware of the plant's location and of the importance of protecting the plant and its habitat. Protection of this species' habitat will also be addressed through the recovery process.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The majority of *Helianthus eggertii* populations are on privately owned or State owned land. However, one entire population and portions of three others are on Mammoth Cave National Park and one population of *H. eggertii* is on Arnold Engineering Defense Center (Department of the Interior, U.S. Park Service and Department of Defense, U.S. Air Force, respectively).

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for endangered plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any State law or resolution, including State criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulations. This protection may apply to threatened plants once revised regulations are promulgated. Certain exceptions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. It is anticipated that few permits would ever be sought or issued because the species is not common in cultivation or in the wild. Requests for copies of the regulations on listed plants and inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services (TE), 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345–3301 (phone 404/679–4000) (facsimile 404/679–7081).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Helianthus eggertii;*

(2) The location of any additional populations of *Helianthus eggertii* and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Helianthus eggertii.*

Final promulgation of the regulation on *Helianthus eggertii* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of this proposal. Such requests must be made in writing and addressed to the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Beatley, J. C. 1963. The sunflowers (genus *Helianthus*) in Tennessee. J. of the Tenn. Acad. of Sci. 38:135–154.

DeSelm, H. R. 1989. The barrens of Tennessee. J. of the Tenn. Acad. of Sci. 64:89–95.

Heiser, Jr., C. B., D. M. Smith, S. B. Clevenger, and W. C. Martin, Jr. 1969. The North American Sunflowers. Memoirs of the Torrey Botanical Club 22(3):1–218.

Jones, R. L. 1991. Status Report on *Helianthus eggertii* Small. Unpublished report to the Asheville Field Office, U.S. Fish and Wildlife Service, Asheville, North Carolina. 99 pp.

Small, J. K. 1903. Flora of the Southeastern United States. Published by the author. New York.

Smith, D. M. 1957. The taxonomy of *Helianthus strumosus* and related species. Ph. D. Diss. Ind. Univ., Bloomington.

Spring, O,. and E. E. Schilling. 1991. The sesquiterpene lactone chemistry of *Helianthus* Sect. *Atrorubentes* (Asteraceae: Heliantheae). Biochemical Systematics and Ecology 19:59–79.

Author

The primary author of this proposed rule is Mr. J. Allen Ratzlaff, Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806 (704/665–1195, Ext. 229).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Public Law 99–625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under Asteraceae to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	*
Asteraceae—Aster family:						
*	*	*	*	*	*	*
Helianthus eggertii	Sunflower, Eggert's	U.S.A. (AL, TN, KY)	T	.....	NA	NA
*	*	*	*	*	*	*

Dated: August 26, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–22368 Filed 9–8–94; 8:45 am]

BILLING CODE 4310–55–P

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Notice of Finding on a Petition To Change the Status of the Grizzly Bear Population in the Northern Continental Divide Ecosystem From Threatened To Recovered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day Petition Finding.

SUMMARY: The U.S. Fish and Wildlife Service announces a 90-day finding for a petition to amend the List of Endangered and Threatened Wildlife and Plants. The petitioners requested that the grizzly bear (*Ursus arctos horribilis*) population in the Northern Continental Divide Ecosystem be delisted from threatened to recovered.

The Fish and Wildlife Service finds that the petitioners did not provide substantial information to indicate that the petitioned action may be warranted.

DATES: The finding announced in this notice was approved on August 31, 1994.

ADDRESSES: Questions and comments concerning this finding should be sent to Field Supervisor, Ecological Services, U.S. Fish and Wildlife Service, 100 N. Park., Suite 320, Helena, Montana, 59601. The petition, finding, and supporting data are available for public inspection, by appointment, during normal business hours at the Fish and Wildlife Service office at the above address

FOR FURTHER INFORMATION CONTACT: Kemper McMaster (see **ADDRESSES** above), telephone (406) 449–5225.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the U.S. Fish and Wildlife Service (Service) make a 90-day finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. Notice of the finding is to be published promptly in the **Federal Register**. This notice meets the latter requirement for the 90-day finding made earlier for the petition discussed below. Information contained in this notice is a summary of the information in the 90-day finding, which is the Service's decision document.

On March 14, 1994, the Service received a petition dated March 11, 1994, from the Resource Organization On Timber Supply (ROOTS). The petitioners requested that the Service delist the grizzly bear (*Ursus arctos*

horribilis) population in the Northern Continental Divide Ecosystem (NCDE) from threatened to recovered.

Grizzly bears in the conterminous United States were listed as a threatened species under the Act in 1975 (41 FR 12382). In 1982, the Service identified the NCDE in Montana as one of four remaining ecosystems in the conterminous United States known to support a grizzly bear population (U.S. Fish and Wildlife Service (1982). For each of these ecosystems, the Grizzly Bear Recovery Plan (Recovery Plan) (U.S. Fish and Wildlife Service 1993) includes a chapter which outlines recovery actions and defines population subgoals that reflect conditions under which threats to the populations have been eliminated or significantly minimized.

For each of the five factors listed in section 4(a)(1) of the Act, the petitioners presented information to suggest that threats to grizzly bears in the NCDE have been eliminated or minimized to the extent that the population no longer requires protection under the Act. In a second portion of their petition, the petitioners also submitted that the demographic recovery criteria for the NCDE specified in the Recovery Plan are being met except for female grizzly bear mortality subgoal, and that assumptions used in developing the recovery subgoals should be considered when evaluating female mortality.

The Service agrees with most of the information presented by the petitioners regarding the five factors. However, only two of three demographic subgoals established in the Recovery Plan have been attained in the NCDE based on monitoring data from the past 6 years. The subgoal for the limit on known, human-caused female grizzly bear mortality for the NCDE was exceeded during 1992 (U.S. Fish and Wildlife Service 1993) and 1993 (Montana Department of Fish, Wildlife, and Parks, unpublished data, 1988–1993; U.S. Forest Service, Missoula, Montana, unpublished data, 1988–1993).

The Service maintains that the assumptions used to develop the population subgoals were necessarily conservative in order to: (1) Facilitate recovery of the population, (2) allow for error in minimum population estimates, and (3) allow for unknown, unreported mortality. The Service recognizes that the resulting limits on human-caused mortality are conservative. The Service believes this to be a reasonable and prudent approach to the conservation of listed species, especially those species, including grizzly bears, for which there are no applicable scientific methods available to estimate the actual population with statistical confidence.

Finally, the Service recommends that a Conservation Strategy for the grizzly bear in the NCDE be finalized and approved by all cooperating State and Federal land and wildlife management agencies prior to delisting a grizzly bear population. A draft Conservation Strategy for the NCDE has been prepared in anticipation that the population will achieve recovery goals. However, the document has not been finalized nor approved by all participating agencies.

The Service will begin delisting proceedings for the grizzly bear population in the NCDE when: (1) The population has attained all population demographic parameters for that ecosystem within the monitoring period specified, and (2) a Conservation Strategy detailing the adequate regulatory mechanisms that will continue after delisting has been finalized and agreed to by cooperating agencies.

In summary, the Service finds that the petitioners did not supply substantial information to indicate that the petitioned action may be warranted at this time.

The Service's 90-day finding contains more detailed information regarding the above decision. A copy may be obtained from the Service's Helena office (see **ADDRESSES** above).

References Cited

U.S. Fish and Wildlife Service. 1982. Grizzly bear recovery plan. U.S.D.I. Fish and Wildl. Serv. Missoula, Mont. 195pp.

U.S. Fish and Wildlife Service. 1993. Grizzly bear recovery plan. U.S.D.I. Fish and Wildl. Serv. Missoula, Mont. 181pp.

Author

This notice was prepared by Anne Vandehey at the Service's Helena Field Office (see **ADDRESSES** above).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: August 31, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–22371 Filed 9–8–94; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 644

[I.D. 083094A]

Atlantic Billfish Fisheries

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

ACTION: Atlantic billfishes; announcement of additional scoping meetings.

SUMMARY: NMFS has previously announced scoping meetings for Atlantic billfish. The purpose of the scoping meetings is to receive comments concerning the Atlantic billfish fishery from fishery participants and other members of the public regarding: A definition of overfishing, reducing fishing mortality, reporting requirements, and other issues. This document announces additional scoping meetings.

DATES: Written scoping comments must be received by October 1, 1994. The scoping meetings will be held on September 14, 1994, 1:30 to 4:30 p.m., San Juan, PR and September 15, 1994, 7 to 10 p.m., La Parguera, PR.

ADDRESSES: Written scoping comments should be sent to Richard B. Stone, Chief, Highly Migratory Species Management Division (F/CM4), Office of Fisheries Conservation and Management, National Marine Fisheries Service, 1315 East-West Highway, Room 14853, Silver Spring, MD 20910. Clearly mark the outside of the envelope "Atlantic Billfish Scoping Comments." Input for the issues/options statement may also be provided to the same address, or by sending a fax to C. Michael Bailey at 301–713–1035. The scoping meetings will be held in the following locations:

1. Condato Plaza Hotel, 999 Ashford Ave. Condato, San Juan, PR 00906, 809–721–1000.

2. Centro Comunal, La Parguera, La Jas, PR 00667, 809–766–5926.

FOR FURTHER INFORMATION CONTACT: C. Michael Bailey, 301–713–2347 or fax: 301–713–1035.

SUPPLEMENTARY INFORMATION:

Scoping Meeting

Depending upon the interest of the audience, the Meeting Officer may increase the length of the meeting. NMFS is also soliciting written comments on issues of concern in this

fishery. NMFS requests input at any time during the scoping process, by mail or by fax. An issues/options statement was prepared for the initial hearing and revised, based on written and oral comments, for subsequent hearings. This hearing is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Richard B. Stone by September 9, 1994 (see **ADDRESSES**). NMFS previously announced scoping meetings on February 9, 1994 (59 FR 5978); March 1, 1994 (59 FR 9720); April 5, 1994 (59 FR 15882); June 16, 1994 (59 FR 30903); and July 11, 1994 (59 FR 35308).

Dated: September 2, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–22217 Filed 9–2–94; 4:50 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 59, No. 174
Friday, September 9, 1994

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

Forms Under Review by Office of Management and Budget

September 2, 1994.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection;

(2) Title of the information collection;

(3) Form number(s), if applicable;

(4) How often the information is requested;

(5) Who will be required or asked to report;

(6) An estimate of the number of responses;

(7) An estimate of the total number of hours needed to provide the information;

(8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

- Farmers Home Administration

7 CFR 1943–B, Insured Soil and Water Loan Policies, Procedures, and Authorizations
On occasion
Farms; businesses or other for-profit; small businesses or organizations; 90 responses; 60 hours
Jack Holston (202) 720–9736

- Farmers Home Administration

7 CFR 1901–K, Certificates of Beneficial Ownership and Insured Notes
FmHA 471–7
On occasion
Individuals or households; businesses or other for-profit; 140 responses; 80 hours
Jack Holston (202) 720–9736

- Farmers Home Administration

7 CFR 2054–W, Employment, Pay and Functions of County and/or Area Committees
FmHA 2054–5
On occasion
Individuals or households; farms; 7,200 responses; 2,700 hours
Jack Holston (202) 720–9736

- Farmers Home Administration

7 CFR 1927–B, Real Estate Title Clearance and Loan Closing
FmHA 1927–5, 8, 9, 10, 11, 12, 15, 16, 19, 20
On occasion
Individuals or households; farms; businesses or other for-profit; non-profit institutions; small businesses or organizations; 407,000 responses; 96,780 hours
Jack Holston (202) 720–9736

- Farmers Home Administration

Form FmHA 1910–11, Application Certification, Federal Collection Policies for Consumer or Commercial Debts
Form FmHA 1910–11
On occasion
Individuals or households; State or local governments; farms; businesses or other for-profit; non-profit institutions; small businesses or organizations; 135,000 responses; 22,545 hours
Jack Holston (202) 720–9736

- Food Safety and Inspection Service

Exportation, Transportation, and Importation of Meat and Poultry Products
FSIS Form 9060–6, FISS Form 7350–1, FSIS Form 9540–1, and FSIS Form 9510–1
Recordkeeping; on occasion; monthly
businesses or other for-profit; 2,179,933 responses; 168,711 hours
Lee Puricelli (202) 720–7163

Extension

- Foreign Agricultural Service

Buyer Alert
FAS 964
On occasion
Farms; businesses or other for-profit; small businesses or organizations; 1,500 responses; 255 hours
Jeffrey Hesse (202) 690–3424

Reinstatement

- Animal and Plant Health Inspection Service

Importation of Animal & Poultry, Animal/Poultry Products, Certain Animal Embryos, Semen and Zoological Animals
VS 17–8, 17–11, 17–12, 17–20, 17–23, 17–29, 17–128, 17–32, 17–65A, 17–65B, 17–65C, 17–65D, 17–129, 17–130, 17–135A
Recordkeeping; quarterly; annually
Businesses or other for-profit; 1,655,209 responses; 62,335 hours
David Vogt (301) 436–8590

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 94–22214 Filed 9–8–94; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

Bosworth Forest Health Multi-Resource Project Pacific Ranger District, Eldorado National Forest; Notice of Intent

AGENCY: Forest Service, USDA.

ACTION: Correction to notice of intent to prepare an environmental impact statement.

SUMMARY: On July 14, 1994, a Notice of Intent appeared in the **Federal Register** for the Bosworth Forest Health Multi-Resource Project. This document changes the date by which comments concerning the scope of the analysis are due from August 1, 1994 to October 15, 1994.

The Forest Service will prepare an environmental impact statement (EIS) for resource management activities, including biomass removal, timber harvest, fuelbreak construction, and wildlife habitat improvement work on the Bosworth Forest Health Multi-resource Project, involving a total planning area size of about 3,500 acres on the Pacific Ranger District of the Eldorado National Forest. The agency invites written comments and suggestions on the scope of the analysis. The agency also gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by October 15, 1994.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Don Errington, District Timber Officer, Pacific Ranger Station, Pollock Pines, California, 95726.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS should be directed to Don Errington, District Timber Officer, Pacific Ranger Station, Pollock Pines, California 95726, phone 916–644–2349.

SUPPLEMENTARY INFORMATION: The Eldorado National Forest Land and Resource Management Plan was completed in January 1989. The Bosworth Forest Health Multi-resource Project EIS will tier to the Eldorado National Forest Land and Resource Management Plan. Most of the land in the analysis area is identified in the Plan as having a general management direction of timber management.

There are no known permits or licenses required to implement the proposed action.

In preparing the EIS, the Forest Service will identify and consider a range of alternatives for this project. The following tentative alternative themes have been identified thus far:

1. No Action
2. Forest Health—Timber product, including biomass, management emphasis
3. Forest Health—Wildlife management emphasis
4. Forest Health—Fuels management emphasis
5. Forest Health—Multiple use management emphasis

These alternatives will include varying levels and distribution of vegetation manipulation, timber harvest, and fuels management. Minor new specified road construction is anticipated. Road reconstruction needs will include drainage work, clearing, and minor realignment. The amount of road reconstruction necessary for this project will vary between alternatives. Harvest prescriptions will include understory removal of both merchantable and sub-merchantable trees, commercial thinning, and fuelbreak construction guidelines. All harvest prescriptions will conform with the California Spotted Owl Sierran Province Guidelines. Adaptive management strategies for the California Spotted Owl may be included under certain alternatives where benefits to the spotted owl will be realized, that is, wildlife habitat activities or fuels management activities that are designed to better maintain future management options for the spotted owl by improving or retaining stand components most at risk.

Volume estimates of timber to be harvested range from 0 to 10 mmbf of commercial sawtimber. Biomass estimates range from 0 to 30,000 tons. These estimates vary, depending on the alternative.

Preliminary issues that have been identified during the internal scoping process include:

1. The potential for cumulative watershed effects within the project area
2. The selection and application of adaptive management strategies to best achieve the habitat needs of the spotted owl

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7).

The Forest Service will be seeking information, comments, and assistance from federal, state, and local agencies and other individuals or organizations who may be interested in or affected by the proposed project. This input will be used in preparation of the draft EIS. The scoping process includes:

1. Defining the scope of the analysis and nature of the decision to be made.
2. Identifying the issues and determining the significant issues for consideration and analysis within the EIS.
3. Defining the proper interdisciplinary team make-up.
4. Determining the effective use of time and money in conducting the analysis.
5. Identifying potential environmental, technical, and social impacts of the proposed action and alternatives.
6. Determining potential cooperating agencies.
7. Identifying groups or individuals interested or affected by the decision.

John Phipps, Forest Supervisor, Eldorado National Forest, is the responsible official.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by January, 1995. At that time, EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date EPA's notice of availability appears in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage, but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).

Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by April 1995. In the final EIS the Forest Service is required to respond to the comments and responses received (40 CFR 1503.4). The responsible official will consider the comments, responses, and environmental consequences discussed in the draft EIS, and applicable laws, regulations, and policies in making a decision regarding this project. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR 215.

Dated: August 23, 1994.

Peggy O'Connell,

Acting Forest Supervisor, Eldorado National Forest.

[FR Doc. 94–22318 Filed 9–8–94; 8:45 am]

BILLING CODE 3410–11–M

Revision of the Land and Resource Management Plan for the Rio Grande National Forest; Rio Grande County, Mineral County, Saguache County, Conejos County, Alamosa County, Hinsdale County, San Juan County, and Archuleta County, CO

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to 36 CFR 219.10(g), the Regional Forester for the Rocky Mountain Region gives revised notice of the agency's intent to prepare an environmental impact statement (EIS) for the revision of the Rio Grande National Forest and Land and Resource Management Plan (Forest Plan) to make specific changes described in the Analysis of the Management Situation (AMS). A notice of intent was originally published in the **Federal Register** on June 7, 1990. According to 36 CFR 219.10(g), Forest Plans are ordinarily revised on a 10-year cycle. The existing Rio Grande Forest Plan was approved on January 4, 1985.

DECISIONS TO BE MADE: The Rio Grande National Forest intends to reexamine the primary decisions made in the Forest Plan by addressing the issues identified as revision topics. The revision topics are those areas of the Forest Plan, identified through monitoring, evaluation, and public involvement, where a potential need for change was identified. The revision topics are:

1. Biological Diversity
2. Timber Suitability and Management
3. Wilderness, Unroaded, and Other Special Area Considerations
4. Recreation Opportunities and Travel Management
5. Oil and Gas Leasing

The primary decisions made in the Forest Plan are:

Establishment of forest-wide multiple-use goals and objectives, 36 CFR 219.11(b);

Establishment of forest-wide management requirements (standards and guidelines) to fulfill the requirements of 16 U.S.C. 1604 applying to future activities (resource integration requirements), 36 CFR 219.13 to 219.27;

Establishment of management-area direction (management-area prescriptions) applying to future activities in that management area (resource integration and minimum, specific management requirements), 36 CFR 219.11(c);

Designation of lands suited or not suited for timber production and other resource management activities, 36 CFR 219.14, 219.15, 219.20, and 219.21;

Establishment of monitoring and evaluation requirements, 36 CFR 219.17(b)1;

Recommendations to Congress for the establishment of Wilderness, and

Recommendations regarding Wild and Scenic Rivers, and other special designations.

No irreversible or irretrievable commitment of resources (site-specific actions) will be made as a result of this decision. Projects to implement the Forest Plan will involve site-specific environmental analysis and appropriate documentation.

PUBLIC INVOLVEMENT: The Forest Service continues to invite comments and suggestions from Federal, State, and local agencies, Native American tribes, individuals, and organizations on the scope of the analysis to be included in the Draft Environmental Impact Statement (DEIS). In addition, the Forrest Service gives notice that it has begun a full environmental analysis and decision-making process for this proposal so that interested or affected people may know how they can participate in the environmental analysis and contribute to the final decision. Public meetings were held in November and December of 1993 to discuss alternatives and to define the range of alternatives to be considered. Forest Service officials described and explained the preliminary alternatives the agency has identified and the process of environmental analysis and disclosure. Written comments are encouraged. Additional meetings with individuals or groups may be arranged by contacting Ron Pugh, Forest Planner, 719–852–5941.

DATES: Comments concerning the scope of the analysis or the alternatives may be sent in at any time.

ADDRESSES: Send written comments to Jim Webb, Forest Supervisor, Rio Grande National Forest, 1803 West Highway 160, Monte Vista Colorado, 81144.

FOR FURTHER INFORMATION CONTACT: Ron Pugh, Forest Planner, 719–852–5941.

SUPPLEMENTARY INFORMATION: The revision topics were identified through a process of examining the Forest Plan and determining what items may need to be changed. This process included a number of public meetings designed to get public input. Newsletters, seminars, and meetings with local government officials and interest groups have also aided in identifying the revision topics.

The revision process includes the development of an Analysis of the Management Situation (AMS) (36 CFR 219.12(e)), which describes the need and opportunity to alter or retain portions of the existing Forest Plan. The AMS for the Rio Grande National Forest has been completed. The public was involved in identifying the need for changes to the Forest Plan. Copies of the AMS may be obtained by contacting Ron Pugh at 719–852–5941.

The alternatives shown below are preliminary and continue to be developed. Some of the preliminary alternatives may not be analyzed in detail.

Alternative NA (No Action)

Alternative NA is the No-Action alternative. No-Action means that the current management allocations, activities, and management direction of the existing Forest Plan (as amended) would continue. All alternatives, including Alternative NA, have some modifications to existing direction for clarification, updating to new technology, new definitions, etc. Due to additional lands becoming Wilderness with the passage of the 1993 Colorado Wilderness Bill and refinements in the timber inventory, the tentatively suitable timber land base has changed from 806,426 acres to 756,108 acres. This new total represents approximately 39% of the gross acreage of the Forest.

How Revision Topics Are Affected

1. *Biological Diversity:* The management of ecosystems is only partially addressed in the existing Forest Plan. The evolving principles of ecosystems management would be applied within the context of the existing Forest Plan.

2. *Timber Suitability and Management:* Lands currently identified as suitable (using the revised tentatively suitable land base) would be scheduled for timber harvest within the context of the evolving principles of ecosystem management.

3. *Wilderness, Unroaded, and Other Special Area Considerations:* No additions to the National Wilderness Preservation System would be recommended. Land allocations in the current Forest Plan would apply to the undeveloped areas on the Forest.

4. *Recreation Opportunities and Travel Management:* Current management direction would apply. The Forest would be managed to provide existing levels of primitive and semi-primitive nonmotorized recreation. The current policy limiting motorized uses to designated roads and trails would not change.

5. *Oil and Gas Leasing:* The Rio Grande Forest would respond to lease requests rather than initiating actions. All legally available lands would be available for leasing.

Alternative A

Some people think that the best way to perpetuate ecosystems and forest health is with a "light touch" * * * little or no logging, no new road construction, significantly reducing the miles of existing roads, etc.

How Revision Topics Are Affected

1. *Biological Diversity:* The designated Wilderness, areas recommended for Wilderness designation, and other undeveloped areas would result in few changes to the composition, structure, and pattern of vegetation over the short term. Over the long term it is possible that large fires, insect epidemics, or other natural disturbances could result in significant changes to the composition, structure, and pattern of forest vegetation.

2. *Timber Suitability and Management:* There are no suitable, scheduled timber lands identified in this alternative. Production of timber will result only from treatment of the forest to achieve objectives such as wildlife habitat improvement of recreation improvements.

3. *Wilderness, Unroaded, and Other Special Area Considerations:* All unroaded areas would be recommended for Wilderness designation. These areas would be managed primarily to allow natural processes to occur with little human influence.

4. *Recreation Opportunities and Travel Management:* Primary emphasis will be on primitive and semi-primitive nonmotorized recreation opportunities. Some backcountry motorized recreation opportunities will be provided. However, the travel management emphasis will be on reducing the miles of open roads.

5. *Oil and Gas Leasing:* All Forest lands would be administratively unavailable for oil and gas leasing.

Alternative B

Some people feel that the best way to insure economic stability is through higher levels of timber harvest and the perpetuation of other programs that provide monetary returns at the local and national level.

How Revision Topics Are Affected

1. *Biological Diversity:* Vegetative composition, structure, and pattern in those areas of the Forest not designated Wilderness or managed as backcountry will be influenced by a relatively high level of logging.

2. *Timber Suitability and Management:* This alternative provides the largest amount of land suitable and scheduled for timber production.

3. *Wilderness, Unroaded, and Other Special Area Considerations:* There are no recommendations for Wilderness designation in this alternative. Some unroaded areas will be managed to provide backcountry motorized and nonmotorized recreation opportunities.

4. *Recreation Opportunities and Travel Management:* This alternative will emphasize multi-season, multi-use recreation programs. Recreation will equally emphasize the various recreation programs which include motorized and nonmotorized recreation, outfitter guides, special uses, and any programs that promote out-of-state tourism.

5. *Oil and Gas Leasing:* This alternative would authorize leasing on all legally available lands.

Alternative C

Many people feel that the Forest Service can operate more efficiently if resource management programs would be structured so that they pay for themselves. Some funding mechanisms will be hypothesized that are not currently allowed by law.

Allocations in this alternative would be exactly the same as alternative D, except that the programs would be self-supporting.

How the Revision Topics Are Affected

The effects to revision topics are the same as those for Alternative D.

Alternative D

This alternative emphasizes a multiple-use approach that is designed to maintain or improve the economy and quality of life in and around the San Luis Valley. There is an emphasis on recreation development using partnerships and cooperative agreements.

How the Revision Topics Are Affected

1. *Biological Diversity:* Vegetative composition, structure, and pattern in those areas of the Forest not designated Wilderness or managed as backcountry will be influenced by a moderate level of logging.

2. *Timber Management and Suitability:* This alternative provides a relatively high amount of land that is suitable and scheduled for timber production.

3. *Wilderness, Unroaded and Other Special Area Considerations:* There are no recommendations for Wilderness designation in this alternative. A significant number of unroaded areas will be managed to provide backcountry motorized and nonmotorized recreation opportunities.

4. *Recreation Opportunities and Travel Management:* This alternative will emphasize multi-season, multi-use recreation programs. Recreation will equally emphasize the various recreation programs which include motorized and nonmotorized recreation, outfitter guides, special uses, and any programs that promote or support out-of-state tourism.

5. *Oil and Gas Leasing:* Some suitable lands will be leased with standard lease terms and supplemental stipulations. The discretionary no-lease stipulation may be used where surface-leasing activity is not wanted.

Alternative E

Many people feel that the best way to manage the Forest is through an even distribution of multiple resource uses that are managed within the capabilities of the Forest's ecosystems. Only areas that have been developed in the past will be considered for activities such as timber harvest and recreation developments. Emphasis is placed on the Rio Grande National Forest Recreation Strategy.

How Revision Topics Are Affected

1. *Biological Diversity:* Vegetative composition, structure, and pattern in those areas of the Forest previously developed will be influenced by a modest level of logging. There will be significant amounts of the Forest in backcountry nonmotorized and motorized management prescriptions where ecosystems are expected to function with only minimal disturbances.

2. *Timber Management and Suitability:* Lands suitable for timber production are limited to those areas of the Forest where logging has taken place in the past.

3. *Wilderness, Unroaded, and Other Special Area Considerations:* Selected unroaded areas will be recommended for Wilderness designation. The majority of the remaining unroaded areas will be managed under backcountry nonmotorized and motorized prescriptions.

4. *Recreation Opportunities and Travel Management:* This alternative will emphasize multi-season, multi-use recreation programs.

5. *Oil and Gas Leasing:* Areas having special recreation values would have a discretionary no-lease stipulation applied. These areas might include backcountry areas, eligible Wild Rivers,

certain Special Interest Areas, Scenic Byways, and dispersed recreation areas.

Alternative F

This alternative emphasizes the protection of biodiversity and whole ecosystems using the concept of island biogeography and conservation reserves. Human uses are allowed as long as they are compatible with protecting biological diversity.

How Revision Topics Are Affected

1. *Biological Diversity:* This alternative was designed as an attempt to provide a high level of emphasis on protecting whole ecosystems. In this context, ecosystems primarily consider biological and physical attributes, and de-emphasize the social and economic attributes of ecosystems.

2. *Timber Management and Suitability:* Lands suitable for timber production are limited to those areas of the Forest allocated to the General Forest and Intermingled Rangelands management prescription.

3. *Wilderness, Unroaded, and Other Special Area Considerations:* Selected unroaded areas will be recommended for Wilderness designation. The majority of the undeveloped areas will be managed as "core reserves." All unroaded areas will remain unroaded.

4. *Recreation Opportunities and Travel Management:* The primary emphasis will be on nonmotorized recreation. Recreation is allowed but not emphasized in core reserve areas. No motorized uses are allowed in the core reserve areas.

5. *Oil and Gas Leasing:* Only those Forest lands that have high potential for oil and gas resources would be analyzed under this alternative.

The Draft EIS

The responsible official for approving the Forest Plan revision is Elizabeth Estill, Regional Forester, Rocky Mountain Region, USDA Forest Service, 740 Simms Street, P.O. Box 25127, Lakewood, Colorado 80225. The Forest Supervisor, Rio Grand National Forest, is delegated responsibility for preparing the environmental impact statement.

The Draft EIS and proposed Revised Forest Plan should be available for public review in March 1995. After a minimum comment period of 90 days, the Final Environmental Impact Statement and Revised Forest Plan should be completed by March 1996.

The 90 day public comment period on the Draft EIS will commence on the day the Environmental Protection Agency publishes a "Notice of Availability" in the **Federal Register**.

It is very important that those interested in this proposed action participate during the comment period. To be the most helpful, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft EIS or the merits of the alternatives formulated and discussed in the Draft EIS. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 when addressing these points. Please note that comments you make on the Draft EIS will be regarded as public information.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have raised at the draft environmental impact stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F. 2d 1016, 1022 (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

Dated: September 1, 1994.

Elizabeth Estill,

Regional Forester.

[FR Doc. 94–22319 Filed 9–8–94; 8:45 am]

BILLING CODE 3410–11–M

BIPARTISAN COMMISSION ON ENTITLEMENT AND TAX REFORM

Meeting

Notice is hereby given, pursuant to Public Law 92–463, that the Bipartisan Commission on Entitlement and Tax Reform will hold a meeting on Friday, September 23, 1994 at 1:00 p.m. in the Cannon House Office Building, Room 210, Washington, D.C.

The meeting of the Commission shall be open to the public. The proposed agenda includes discussion of issues relating to the Commission's charter, including but not limited to, options for controlling the spiraling growth on entitlement expenditures and the need to examine the structure of the current federal income tax system. It is expected that various interest groups will present testimony to Commission members regarding various entitlement programs and options for reform.

Records shall be kept of all Commission proceedings and shall be available for public inspection in Room 825 of the Hart Senate Office Building, 120 Constitution Avenue, N.E., Washington, D.C. 20510.

J. Robert Kerrey,

Chairman.

John C. Danforth,

Vice-Chairman.

[FR Doc. 94–22216 Filed 9–8–94; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–830]

Postponement of Final Antidumping Duty Determination: Coumarin From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: September 9, 1994.

FOR FURTHER INFORMATION CONTACT: Karla Whalen (202–482–6309) or David J. Goldberger (202–482–4136), Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: On July 28, 1994, the Department of Commerce ("the Department") issued its affirmative preliminary determination of sales at less than fair value (59 FR 39727, August 4, 1994).

On August 11, 1994, respondents Jiangsu Native Produce Import/Export Corp., Changzhou No. 2 Chemical Plant, Tianjin Chemical Import/Export Corp., Gaoyo City Perfumery Factory, Tianjin Native Produce Import/Export Corp., and Tianjin No. 1 Perfumery Factory requested an extension of the final determination. Pursuant to 19 CFR 353.20(b), if respondents who account for a significant proportion of exports of the subject merchandise request such an

extension subsequent to an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request.

Given that the requirement of 19 CFR 353.20(b) has been met, and that there are no compelling reasons to deny the request, we are postponing the final determination for this investigation until the 135th day after the publication date of the preliminary determination. The deadline for issuing this determination is now no later than December 19, 1994.

This notice is published pursuant to section 733(a)(2) of the Act and 19 CFR 353.20(b).

Dated: August 31, 1994.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94–22233 Filed 9–8–94; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Dean John A. Knauss Marine Policy Fellowship; Open for Applications

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: In 1979, the National Sea Grant College Program Office (NSGCPO), in fulfilling its broad educational responsibilities, initiated a program to provide educational experience in the policies and processes of the Legislative and Executive Branches of the Federal Government to graduate students in marine related fields. The Fellowship program accepts applications once a year during the month of September. All applicants must submit an application to one of the state Sea Grant College Programs in their area.

FOR FURTHER INFORMATION CONTACT: Dr. Bernard L. Griswold, Director, National Sea Grant Federal Fellows Program, National Sea Grant College Program, 1315 East-West Highway, Silver Spring, Maryland 20910, telephone (301) 713–2431 or call your nearest Sea Grant program:

University of Alaska—(907) 474–7086
University of California—(619) 534–4440
University of Connecticut—(203) 445–3457
University of Delaware—(302) 831–2841
University of Florida—(904) 392–5870
University of Georgia—(706) 542–7671
University of Hawaii—(809) 956–7031
University of Illinois—(317) 494–3593
Louisiana State University—(504) 388–6710
University of Maine—(207) 581–1436
University of Maryland—(301) 405–6371
Massachusetts Institute of Technology—(617) 253–7131
University of Michigan—(313) 763–1437
University of Minnesota—(218) 726–8106
Mississippi-Alabama Sea Grant Consortium—(601) 875–9341
University of New Hampshire—(603) 862–3505
New Jersey Marine Sciences Consortium—(908) 872–1300
State University of New York—(516) 632–6905
University of North Carolina—(919) 515–2454
Ohio State University—(614) 292–8949
Oregon State University—(503) 737–3396
University of Puerto Rico—(809) 832–3585
Purdue University—(317) 494–3585
University of Rhode Island—(401) 792–6800
South Carolina Sea Grant Consortium—(803) 727–2078
University of Southern California—(213) 740–1961
Texas A&M University—(409) 845–3854
Virginia Graduate Marine Science Consortium—(804) 924–5965
University of Washington—(206) 543–6600
University of Wisconsin—(608) 262–0905
Woods Hole Oceanographic Institute—(508) 457–2000 x2665

SUPPLEMENTARY INFORMATION: Dean John A. Knauss Marine Policy Fellowship, National Sea Grant College Federal Fellows Program, Purpose of the Fellowship Program.

In 1979, the National Sea Grant College Program Office (NSGCPO), in fulfilling its broad educational responsibilities, initiated a program to provide educational experience in the policies and processes of the Legislative and Executive Branches of the Federal Government to graduate students in marine related fields. The U.S. Congress recognized the value of this program and in 1987, Public Law 100–220 stipulated that the Sea Grant Federal Fellows Program was to be a formal part of the National Sea Grant College Program Act. The recipients are designated Dean John A. Knauss Marine Policy Fellows.

Announcement

Fellows program announcements are sent annually to all participating Sea Grant institutions and campuses by the state Sea Grant Director upon receipt of notice from the National Sea Grant College Program Office (NSGCPO). A brochure describing the program is also available from the NSGCPO for distribution by both the office and the state Sea Grant programs.

Eligibility

Any student, who at the time of application, is in a master's, doctoral or professional program in a marine related field from any accredited institution of higher education may apply to the NSGCPO through any state Sea Grant program.

Deadlines

- Students must submit applications to a state Sea Grant Director, who will be the applicants sponsor, by the date set by the Directors in their individual program announcement (usually early to mid-September).
- Applications are to be submitted to the NSGCPO by the sponsoring state Sea Grant Director, no later than close of business on September 30th of any given year.
- The selection process and subsequent notification will be completed by October 31st of any given year.

Stipend and Expenses

For 1994 a Fellow will receive a stipend amount of $27,000.

Application

An application will include:

- personal and academic résumé or curriculum vitae.
- education and career goal statement from the applicant with emphasis on what the prospective Fellow expects from the experience in the way of career development. (not to exceed 2 pages)
- No more than two letters of recommendations with at least one being from the student's major professor. Thesis papers are not desired.
- a letter of endorsement from the sponsoring state Sea Grant Director.
- copy of undergraduate and graduate student transcripts.

It is our intent that all applicants be evaluated only on their ability, therefore letters of endorsements from members of Congress, friends, relatives or others will not be considered.

Placement preference in the Executive or Legisaltive Branches of the Government may be stated, and will be honored to the extent possible.

Selection Criteria

The selection criteria will include:

- Strength of Academic Performance.
- Communication Skills (both written and verbal).
- Diversity of Academic Background.
- Work Experience.

- Support of Major Professor.
- Support of Sea Grant Director.
- Ability to Work with People.

Selection

Selection of finalists will be made by a panel chaired by the Director of Federal Fellowships of the NSGCPO and include representation from (1) the Council of Sea Grant Directors, (2) the Office of the Assistant Administrator for Oceanic and Atmospheric Research, and (3) the current and possibly past group of Fellows. The individuals representative of these groups will be chosen on a year by year basis according to availability, timing, and other exigencies. Selection of finalist by the panel will be done according to the criteria outlined above. After selection, the panel will group applicants into the two categories, legislative and executive, based upon the applicant's stated preference and/or the judgment of the panel based upon material submitted. The number of fellows assigned to the Congress will be limited to 10.

Dated: August 31, 1994.

Kurt Schnebele,

Executive Director, Assistant Administrator, Office of Oceanic and Atmospheric Research.

[FR Doc. 94–22372 Filed 9–8–94; 8:45 am]

BILLING CODE 3510–12–M

[I.D. 082594B]

Marine Mammals

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

ACTION: Issuance of scientific research permit no. 937 (P566)

SUMMARY: Notice is hereby given that Paul J. Ponganis, M.D., Ph.D., Center for Marine Biotechnology and Biomedicine, Scripps Institution of Oceanography, University of California, San Diego, La Jolla, CA 92093–0204, has been issued a permit to take Northern elephant seals (*Mirounga angustirostris*) and harbor seals (*Phoca vitulina*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment, in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Southwest Region, NMFS, 510 W. Ocean Blvd., Long Beach, CA 90802–4213 (310/980–4016).

SUPPLEMENTARY INFORMATION: On June 27, 1994, notice was published in the **Federal Register** (59 FR 32957) that a request for a scientific research permit to take the species listed above had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: August 30, 1994.

William W. Fox, Jr., Ph.D.

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 94–22219 Filed 9–8–94; 8:45 am]

BILLING CODE 3510–22–F

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 has received proposals 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: October 11, 1994.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (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, all entities of the Federal Government (except as otherwise indicated) 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 does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. 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 have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Janitorial/Custodial
Hastings Keith Federal Building
53 North 6th Street
New Bedford, Massachusetts
NPA: The Opportunity Center of Greater New Bedford, Inc., New Bedford, Massachusetts

Janitorial/Custodial
U.S. Rooseveltown Border Station/U.S. Custom House
Massena/Ogdensburg, NY
NPA: St. Lawrence County Chapter, NYSARC, Canton, New York

Janitorial/Custodial
Federal Building 01
Philadelphia, Pennsylvania
NPA: Elwyn, Inc., Elwyn, Pennsylvania

Janitorial/Custodial
Federal Building
Charlottesville, Virginia
NPA: WorkSource Enterprises, Charlottesville, Virginia

Janitorial/Custodial
Social Security Administration District Building
2301 Park Avenue
Lynchburg, Virginia
NPA: Lynchburg Sheltered Industries, Inc., Lynchburg, Virginia

Janitorial/Custodial
O.L. Building Motorpool
720 Sixth Street
Huntington, West Virginia
NPA: Prestera Center for Mental Health Services, Inc., Huntington, West Virginia

Janitorial/Custodial
Hampton Warehouse
Huntington, West Virginia
NPA: Prestera Center for Mental Health Services, Inc., Huntington, West Virginia

Janitorial/Custodial
RC Building
Morgantown, West Virginia
NPA: PACE Training & Evaluation Center, Inc., Star City, West Virginia

Beverly L. Milkman,
Executive Director.
[FR Doc. 94–22350 Filed 9–8–94; 8:45 am]
BILLING CODE 6820–33–P

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List commodities, a military resale commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 11, 1994.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On July 1, 8, 15 and 29, 1994, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (59 F.R. 33958, 35112, 36168 and 38585) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities, military resale commodity and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities, military resale commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

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 commodities, military resale commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities, military resale commodity and services.

3. The action will result in authorizing small entities to furnish the commodities, military resale commodity and services to the Government.

4. 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 commodities, military resale commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodities, military resale commodity and services are hereby added to the Procurement List:

Commodities

Marker, Tube Type
7520–01–383–7924
7520–01–383–7929

Military Resale Commodity

Scrubber, Sponge
M.R. 548

Services

Grounds Maintenance
U.S. Army Reserve Center
San Jose, California

Janitorial/Custodial
Naval Air Station Commissary
Point Mugu, California

Janitorial/Custodial
John F. Shea Federal Building
777 Sonoma Avenue
Santa Rosa, California

Janitorial/Custodial
Federal Law Enforcement Training Center
Building 252 and Outdoor Ranges 5 & 6
Glynco, Georgia

Janitorial/Grounds Maintenance
U.S. Army Reserve Center
Mt. View, California

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,
Executive Director.
[FR Doc. 94–22349 Filed 9–8–94; 8:45 am]
BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Navy Lightweight Exoatmospheric Projectile (LEAP) Technology Demonstration Environmental Assessment

AGENCY: Ballistic Missile Defense Organization (BMDO).

ACTION: Finding of No Significant Impact (FONSI) text is as follows:

Background

Pursuant to the Council on Environmental Quality regulations implementing the procedural provisions of the National Environmental Policy Act, 40 Code of Federal Regulations Part 1500–1508, and Department of Defense Directive 6050.1, the BMDO conducted an assessment of the potential environmental consequences of an additional flight test range to support the Navy LEAP Technology Demonstration program. A No Action alternative was also considered. The LEAP Technology Demonstration program is a joint BMDO and Navy program aimed at developing and integrating miniature kinetic energy (hit-to-kill) interceptors and then validating the concept by experiment. These interceptors have applications to theater and tactical ballistic missile defense.

Description of Proposed Action

The purpose of the Proposed Action is to add an alternative flight facility to the Navy LEAP Technology Demonstration program that can support flight tests before December 1994.

The 1992 Navy LEAP program Environmental Assessment (EA) evaluated nine test ranges during the original range-selection process for potential performance of the Navy LEAP missions. The BMDO and the Navy chose Cape Canaveral Air Force Station (CCAFS) as the primary flight test range to support Navy LEAP Technology Demonstration test flights. At the time it satisfied safety requirements, launch scheduling requirements, telemetry and mission control requirements, and had the necessary infrastructure to support flight test activities.

The Navy LEAP Technology Demonstration program uses the SM2 Block II/III Extended Range Terrier Missile which is launched from a Leahy-class guided missile cruiser. However, the Navy is decommissioning all Leahy-class cruisers by December 1994. It is now unlikely that CCAFS can meet cost, scheduling, environmental, and safety constraints for test flights before October 1994. Therefore, BMDO has identified a need to conduct flight tests at a test range that can accommodate Technology Demonstration flight tests before December 1994. The BMDO proposes to move the remaining flight tests to the NASA/Goddard Space Flight Center, Wallops Flight Facility (WFF), Wallops Island, Virginia.

The flight test target, on an Aries booster, is launched from WFF in a southeasterly direction. The Terrier ship, positioned in the Atlantic Ocean southeast of WFF, launches the LEAP interceptor in a northeasterly direction. Intercept of the target vehicle occurs

over open ocean approximately 350 km (220 miles) off the coast of South Carolina. No construction is required at any of these facilities to accommodate Navy LEAP Technology Demonstration activities. The Proposed Action alternative assessment resulted in a FONSI.

Alternatives Considered

The No Action alternative is not to conduct further flight tests to support the Navy LEAP Technology Demonstration program. The CCAFS remains as an alternative flight test range, if test flights are not conducted at WFF. The No Action alternative would preclude a critical series of flight tests that are needed to demonstrate the feasibility of using existing Navy shipboard weapon systems with LEAP technologies. These tests are essential for the near-term evaluation of the Navy Upper-Tier Ballistic Missile Defense.

Anticipated Environmental Effects

The BMDO conducted an EA to determine whether the Proposed Action or the No Action alternative would result in any impacts to the environmental resources in the Atlantic Ocean or at WFF. The EA also analyzed any potential impacts to determine if the impacts are potentially significant, as defined by 40 CFR 1508.27. The BMDO also reviewed the alternatives in the context of various laws and regulations to determine if impacts exceeded defined threshold levels.

The EA impacts in the Atlantic Ocean to biological resources, including fish, marine mammals and migratory birds. The BMDO consulted both the National Marine Fisheries Service and the U.S. Fish and Wildlife Service regarding potential impacts to protected and unprotected marine resources and bird species in the project and dispersion areas. Both agencies concurred that the Navy LEAP Technology Demonstration program would have little or no impact. Therefore, the BMDO concludes that implementing the Proposed Action will not have significant impacts on biological resources in the Atlantic Ocean.

At WFF, the previous Firebird Program EA addressed the impacts of rocket launches at WFF which resulted in a Finding of No Significant Impact (March 1991). The NASA produced the Environmental Resources Document (ERD) (July 1990). It provided a comprehensive baseline description of environmental conditions at WFF and the environmental impacts associated with rocket flight tests conducted at WFF. Where appropriate, this Navy LEAP Technology Demonstration EA incorporated the findings of these documents by reference (Council on Environmental Quality, § 1502.21). The BMDO, based on analysis conducted for the BMDO Navy LEAP EA, the Firebird Program EA, and the WFF ERD, finds the Proposed Action in the Navy LEAP Technology Demonstration EA does not have significant impacts to WFF resources.

Conclusion

The environmental analysis concludes that implementing the Proposed Action would not result in significant impacts to the natural environment or to human health and safety, at any of the aforementioned program facilities. Therefore, the preparation of an Environmental Impact Statement is not required. This EA, and the information herein, is unclassified and available to the public.

Point of Contact

Major Tracy Bailey, USAF, BMDO Environmental Coordinator, BMDO/AQT, 7100 Defense Pentagon, Washington, DC 20301–7100.

Dated: September 2, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–22191 Filed 9–8–94; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Army Science Board; Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 28–30 September 1994.

Time of Meeting: 0800–1700 hours.

Place: Ft. Benning, Georgia, and Ft. Knox, KY.

Agenda: The Army Science Board's Ad Hoc Subgroup on "The Science and Engineering Requirements for Military Officers and Civilian Personnel in the High Tech Army of Today and Tomorrow" will meet on 28 September at Ft. Knox to receive Armor branch and 2d ROTC Region briefings and discuss their impact on the science and engineering requirements for Army personnel. On 29–30 September the group will meet at Ft. Benning to receive the Infantry and Signal Corps branch briefings and discuss their impact on the science and engineering requirements for Army personnel. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 94–22320 Filed 9–8–94; 8:45 am]

BILLING CODE 3710–08–M

Department of the Army

Availability of Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning Treatment of Filariasis

AGENCY: U.S. Army Medical Research, Development, Acquisition and Logistics Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent No. 5,281,597, issued January 25, 1994, and entitled "Heterocyclic and Aromatic Thiosemicarbazones Useful in the Treatment of Filariasis." This patent has been assigned to the United States Government by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research, Development, Acquisitions and Logistics Command, ATTN: Staff Judge Advocate, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Moran, Patent Attorney, (301) 619–2065 or telefax (301) 619–7714.

SUPPLEMENTARY INFORMATION: The invention relates to the use of composition of matter and their pharmaceutically-acceptable acid addition salts of heterocyclic and aromatic thiosemicarbazones in the treatment of filariasis in mammals, including humans. The most effective of the series is filarizone, which completely destroys both macro- and microfilaria at therapeutic dose levels without causing apparent toxicity to the host.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–22187 Filed 9–8–94; 8:45 am]

BILLING CODE 3710–08–M

Department of the Army

Privacy Act of 1974; Notice to Amend a System of Records

AGENCY: Department of the Army.

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Army is amending one system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on October 11, 1994, unless comments are received which result in a contrary determination.

ADDRESSES: U.S. Army Information Systems Command, ATTN: ASOP-MP, Fort Huachuca, AZ 85613–5000.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Turner at (602) 538–6856 or DSN 879–6856.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 2, 1994.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0351bTRADOC

SYSTEM NAME:

Army Correspondence Course Program (ACCP) *(February 22, 1993, 58 FR 10114).*

CHANGES:

* * * * *

STORAGE:

Add 'microfiche.'

* * * * *

RETENTION AND DISPOSAL:

Replace 'Nonresident students are assigned a 6 month enrollment period or, if in multiple subcourses, and enrollment period of 1 year.' with 'Nonresident students are assigned a 12 month enrollment period.'

SYSTEM MANAGER(S) AND ADDRESS:

Replace 'ATTN: Institute for Professional Development,' with 'ATTN: ATIC IPS,' and change ZIP Code to '23604–5121.'

* * * * *

NOTIFICATION PROCEDURES:

Replace 'ATTN: Institute for Professional Development,' with 'ATTN: ATIC IPS,' and change ZIP Code to '23604–5121.'

RECORD ACCESS PROCEDURES:

Replace 'ATTN: Institute for Professional Development,' with 'ATTN: ATIC IPS,' and change ZIP Code to '23604–5121.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete 'from student's personnel records.'

* * * * *

A0351bTRADOC

SYSTEM NAME:

Army Correspondence Course Program (ACCP).

SYSTEM LOCATION:

U.S. Army Training Support Center, ATTN: ATIC IPS, Fort Eustis, VA 23604–5121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the Army, Navy, Marine Corps, and Air Force, Reserve Officer Training Corps and National Defense Cadet Corps students, Department of Defense civilian employees, and approved foreign military personnel enrolled in a nonresident course administered by the Army Institute for Professional Development.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain name, grade/rank, Social Security Number, address, service component, branch, personnel classification, military occupational specialty, credit hours accumulated, examination and lesson grades, student academic status, curricula, course description.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013 and E.O. 9397.

PURPOSE(S):

To record lessons and/or exam grades; maintain student academic status; course and subcourse descriptions; produce course completion certificates and reflect credit hours earned; and produce management summary reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, discs, paper printouts, and microfiche.

RETRIEVABILITY:

By Social Security Number.

SAFEGUARDS:

Random number sign-on authentication for each inquiry made to the system is required. Sign-on decks to enable such access are updated weekly, safeguarded under Army Regulation 380–19, Information Systems Security, and are unique to one terminal only. Access is granted only to designated personnel at the Army Institute for Professional Development responsible for the administration and processing of nonresident students.

RETENTION AND DISPOSAL:

Machine records are retained during student's enrollment, after which student's records are transferred to the Academic Records System History File for indefinite retention. Nonresident students are assigned a 12 month enrollment period. A hard copy transcript reflecting the student's personal and academic data is produced; this is retained by the Army Institute of Professional Development for 3 years, then transferred to the National Personnel Records Center, St. Louis, MO, where it is retained for 37 years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Training Support Center, ATTN: ATIC IPS, Fort Eustis, VA 23604–5121.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Training Support Center, ATTN: ATIC IPS, Fort Eustis, VA 23604–5121.

Individual should provide the full name, Social Security Number, and signature for identification.

Individual making request in person must provide acceptable identification such as driver's license and military identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army

Training Support Center, ATTN: ATIC IPS, Fort Eustis, VA 23604–5121.

Individual should provide the full name, Social Security Number, and signature for identification.

Individual making request in person must provide acceptable identification such as driver's license and military identification.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting content, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From individual upon enrollment, from class records and instructors, and from graded examinations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 94–22192 Filed 9–8–94; 8:45 am]

BILLING CODE 5000–04–F

Corps of Engineers, Department of the Army

Regulatory Guidance Letters Issued by the Corps of Engineers

AGENCY: Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY: The purpose of this notice is to provide a copy of the Regulatory Guidance Letter (RGL 94–2) to all known interested parties. RGL's are used by the Corps as a means to transmit guidance on the Corps Regulatory Program (33 CFR 320–330) to its division and district engineers. The Corps publishes RGL's in the **Federal Register** upon issuance as a means of informing the public of Corps guidance.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson, Regulatory Branch, Office of the Chief of Engineers at (202) 272–1782.

SUPPLEMENTARY INFORMATION: RGL 94–2, Subject: Superfund Projects, is hereby published.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

Regulatory Guidance Letter, RGL 94–2

Dated: August 17, 1994, Expires: December 31, 1999

CECW–OR

Subject: Superfund Projects

1. Regulatory Guidance Letter (RGL) 85–07, subject: "Superfund Projects" is hereby reissued (copy enclosed).

2. This RGL was previously extended by RGL 89–2. Although the extension expired, RGL 85–07 has continued to be U.S. Army Corps of Engineers policy.

3. This guidance expires 31 December 1999 unless sooner revised or rescinded.

For the Director of Civil Works:

/S/

Encl

John P. Elmore,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

RGL 85–7, Dated: July 5, 1985, Expires: December 31, 1987

Subject: Superfund Projects

1. Recently, the Chief Counsel, Mr. Lester Edelman, responded to a letter from Mr. William N. Hedeman, Jr., Director, Office of Emergency and Remedial Response, Environmental Protection Agency (EPA) which dealt with the need for Department of Army authorizations for the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) actions. This letter summarizes Mr. Edelman's opinion and provides operating guidance for field interaction with the EPA.

2. The EPA's basic position is that Congress did not intend for CERCLA response actions to be subject to other environmental laws. Rather, as a matter of sound practice, CERCLA response actions generally should meet the standards established by those laws. Consequently, it is the EPA's position that neither it nor the states, in pursuing response actions at the location of the release or threatened release under the authority of CERCLA, are required to obtain permits under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act for those actions.

3. Mr. Edelman stated in part that he has some reservations about the position that the EPA has taken. Nevertheless, he recognizes that the EPA has the primary authority for the interpretation and application of CERCLA, and therefore would defer to the EPA's reading of its own statutory authorities, at least for the time being.

4. In light of this legal opinion, FOAs should not require applications for the EPA or state response actions at the location of the release or threatened release pursued under the authority of CERCLA. Any permit applications in process should be terminated.

5. Both the EPA and OCE believe that the FOAs' expertise in assessing the public interest factors for dredging and filling operations can contribute to the overall quality of the CERCLA response action. The Director of Civil Works will be establishing a group from his staff to work with the EPA staff to develop a framework for integrating the Corps Section 10, Section 404 and, if appropriate, Section 103 concerns into the EPA's substantive Superfund reviews.

6. Until specific guidance is provided from OCE, FOAs should provide technical support to the EPA regions and/or the states on matters within their field of expertise.

For the Chief of Engineers.

/S/

C. E. Edgar III.

[FR Doc. 94–22188 Filed 9–8–94; 8:45 am]

BILLING CODE 3710–92–M

Deauthorization of Water Resources Projects

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of project deauthorizations.

SUMMARY: The Corps of Engineers is publishing the lists of water resources projects deauthorized under the provisions of section 1001, Public Law 99–662, 33 U.S.C. 579a, and projects not deauthorized due to statutory continuations. Previous **Federal Register** notices were published on October 5, 1990 (Vol. 55, No. 194, 40906–40912), and December 15, 1992 (Vol. 57, No. 241, 59335–59337).

FOR FURTHER INFORMATION CONTACT: Mr. John Micik, Headquarters, U.S. Army Corps of Engineers, Attention: CECW–BA, Washington, D.C. 20314–1000. Tel. (202) 272–0705.

SUPPLEMENTARY INFORMATION: The Water Resources Development Act of 1986, Pub. L. 99–662, as amended, contains two provisions for the deauthorization of water resource projects or separable elements of projects.

Section 1001(a), 44 U.S.C. 579a(a), requires the deauthorization of projects authorized in 1986, and thereafter, when five years have elapsed from the date of authorization without obligations of funds for planning, design or construction. Section 1001(b)(2), 33 U.S.C. 579a(b)(2), requires the Secretary of the Army to submit to the Congress a biennial list of unconstructed water resources projects, or separable elements of projects, which have had no obligations of funds for planning, design or construction during the prior ten full fiscal years. If no funds are obligated within thirty months from the date the list is submitted, the project/separate element is deauthorized. Notwithstanding these provisions, project authorizations may be specifically continued by law.

For purposes of the Water Resources Development Act of 1986, "separable element" is defined in section 103(f), Public Law 99–662, 33 U.S.C. 2213(f).

In accordance with 1001(a), 3 additional projects authorized in 1986 were deauthorized on November 18, 1991. See the **Federal Register** of December 15, 1992, for the list of other projects deauthorized on November 18, 1991.

In accordance with section 1001(a), 3 projects authorized in 1988 were deauthorized on November 18, 1993.

Fifteen project authorizations were continued by the Water Resources Development Act of 1990, Pub. L. 101–640, November 28, 1990, section 107, 104 Stat. 4619–4621.

Authority: This notice is required by the Water Resources Development Act of 1986, Pub. L. 99–662, section 1001(c), 33 U.S.C. 579a(c), and the Water Resources Development Act of 1988, Pub. L. 100–676, section 52(e), 102 Stat. 4045.

Dated: September 1, 1994.

Approved:

John H. Zirschky,

Acting Assistant Secretary of the Army (Civil Works).

PROJECTS AUTHORIZED IN 1986 AND DEAUTHORIZED ON 18 NOV 91 BY SECTION 1001(A) OF P.L. 99–662

[Supplements the List Published in the 15 Dec 92 FEDERAL REGISTER]

District	Project Name	Primary State	Purpose
NAN	Rahway River and Van Winkles Brook at Springfield.	NJ	FC
NAN	Robinson's Branch, Rahway River, Clark & Scotch Plains.	NJ	FC
SWF	Trinity River Project, Mitigation.	TX	FC

Total: 3.

PROJECTS AUTHORIZED IN 1988 AND DEAUTHORIZED ON 18 NOV 93 BY SECTION 1001(A) OF P.L. 99–662

District	Project name	Primary state	Purpose
SPK	Lakeport Lake (Reauthorization).	CA	FC
NCC	Des Plaines Wetlands Demonstration.	IL	FC
NCE	Hearding Island Inlet, Duluth Harbor.	MN	N

Total: 3.

PROJECT AUTHORIZATIONS CONTINUED BY LAW

[Original Authorizations in Parentheses]

District	Project name	Primary State	Purpose
Section 107, P.L. 101–640, Water Resources Development Act of 1990:			
SPK	Pajaro River, Santa Cruz (1966).	CA	FC
SPN	Santa Cruz Harbor, East Jetty (1986).	CA	N
SAJ	Hillsboro Inlet Dredging (1965).	FL	N
NCR	Freeport (1936)	IL	FC
NCC	Little Calumet River Basin, Cady Marsh Ditch (1986).	IN	FC
LMN	Louisiana State Penitentiary Levee (1986).	LA	FC
NCE	Ontonagon Harbor (1910).	MI	N
NCE	Sault Sainte Marie, Second Lock (1986).	MI	N
NCB	Conneaut Small Boat Harbor (1966).	OH	N
NCB	Fairport Harbor Dredging (1960).	OH	N
NCB	Fairport Small Boat Harbor (1977).	OH	N
NCB	Ottawa River Harbor, OH & MI (1976).	OH	N
LMM	Memphis Harbor (1986).	TN	N
SWF	East Fork of Trinity River (1962).	TX	FC
NAO	Norfolk Harbor Anchorages (1965).	VA	N

Total: 15.

Key to Abbreviations

LMV *Lower Mississippi Valley Division*
LMM Memphis District
LMN New Orleans District
LMS St. Louis District
LMK Vicksburg District
MRD *Missouri River Division*
MRK Kansas City District
MRO Omaha District
NED *New England Division*
NAD *North Atlantic Division*
NAB Baltimore District
NAN New York District
NAO Norfolk District
NAP Philadelphia District
NCD *North Central Division*
NCB Buffalo District
NCC Chicago District
NCE Detroit District
NCR Rock Island District
NCS St. Paul District
NPD *North Pacific Division*
NPA Alaska District
NPP Portland District
NPS Seattle District
NPW Walla Walla District
ORD *Ohio River Division*
ORH Huntington District
ORL Louisville District
ORN Nashville District
ORP Pittsburgh District
POD *Pacific Ocean Division*
SAD *South Atlantic Division*
SAC Charleston District
SAJ Jacksonville District
SAM Mobile District
SAS Savannah District
SAW Wilmington District
SPD *South Pacific Division*
SPL Los Angeles District
SPK Sacramento District
SPN San Francisco District
SWD *Southwestern Division*
SWA Albuquerque District
SWF Fort Worth District
SWG Galveston District
SWL Little Rock District
SWT Tulsa District

Purpose

N Navigation
BE Beach Erosion Control
FC Flood Control
MP Multiple Purpose Power

[FR Doc. 94–22316 Filed 9–8–94; 8:45 am]
BILLING CODE 3710–92–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Hearings

ACTION: Notice of public hearings.

SUMMARY: This notice sets forth the schedule and agenda of public hearings to be held by the Defense Nuclear Facilities Safety Board. The Board will conduct public hearings pursuant to 42 U.S.C. 2286b and invites any interested persons or groups to present any comments, technical information, or data concerning the fifth annual report to be submitted to Congress by the Defense Nuclear Facilities Safety Board under 42 U.S.C. 2286e (note).

ADDRESSES:

1. For: Rocky Flats Environmental Technology Site—*Time and Date:* 7:00 p.m., October 4, 1994. *Place:* Ramada Inn, 8773 Yates Drive, Ball Rooms A–C, Westminster, Colorado 80030.
2. For: Idaho National Engineering Laboratory—*Time and Date:* 7:00 p.m., October 6, 1994. *Place:* University of Idaho Auditorium, University Place, 1776 Science Center Drive, Idaho Falls, Idaho 83402.
3. For: Fernald Environmental Management Project and Mound Plant—*Time and Date:* 7:00 p.m., October 12, 1994. *Place:* Meadowbrook Inn, 2398 Venice Boulevard, Ball Room, Ross, Ohio 45061.
4. For: Hanford Site—*Time and Date:* 7:00 p.m., October 25, 1994. *Place:* Federal Building Auditorium, 825 Jadwin Avenue, Richland, Washington 99352.
5. For: Sandia National Laboratory, Los Alamos National Laboratory and Waste Isolation Pilot Project—*Time and Date:* 7:00 p.m., October 27, 1994. *Place:* Albuquerque Convention Center, 401 Second Street, NW., Ball Room, Albuquerque, New Mexico 87102.
6. For: Oak Ridge Reservation—*Time and Date:* 7:00 p.m., November 1, 1994. *Place:* American Museum of Science and Energy, 300 S. Tulane Avenue, Auditorium, Oak Ridge, Tennessee 37830.
7. For: Savannah River Site—*Time and Date:* 7:00 p.m., November 3, 1994. *Place:* Aiken Technical College, U.S. Highway 1 and 78, Amphitheater, Conference Center Building, Aiken, South Carolina 29802.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004, (202) 208–6400. This is not a toll free number.

SUPPLEMENTARY INFORMATION: An independent agency within the executive branch, the Defense Nuclear Facilities Safety Board (Board) provides advice and recommendations to the President and the Secretary of Energy regarding public health and safety issues at Department of Energy (DOE) defense nuclear facilities.

Broadly, the Board reviews operations, practices, and occurrences at DOE's defense nuclear facilities and makes recommendations to the Secretary of Energy that are necessary to protect public health and safety. If, as a result of its reviews, the Board determines that an imminent or severe threat to public health or safety exists, the Board is required to transmit its recommendations directly to the President, as well as to the Secretaries of Energy and Defense.

The Board's enabling statute, 42 U.S.C. 2286, requires the Board to review and evaluate the content and implementation of health and safety standards, including DOE's Orders, rules, and other safety requirements, relating to the design, construction, operation, and decommissioning of DOE's defense nuclear facilities. The Board must then recommend to the Secretary of Energy any specific measures, such as changes in the content and implementation of those standards, that the Board believes should be adopted to ensure that the public health and safety are adequately protected. The Board is also required to review the design of new defense nuclear facilities before construction begins, as well as modifications to older facilities, and to recommend changes necessary to protect health and safety.

The Board may conduct investigations, issue subpoenas, hold public hearings, gather information, conduct studies, establish reporting requirements for DOE, and take other actions in furtherance of its review of health and safety issues at defense nuclear facilities. These ancillary functions of the Board and its staff all relate to the accomplishment of the Board's primary function, which is to assist DOE in identifying and correcting health and safety problems at defense nuclear facilities.

These public hearings are being held to provide the Board with general public comments and views on topics related to the fifth annual report to be submitted by the Board to Congress under 42 U.S.C. 2286e (note) of the Atomic Energy Act of 1954, as amended. The Board's report must include the following:

"(1) An assessment of the degree to which the overall administration of the Board's activities are believed to meet the objectives of Congress in establishing the Board;

"(2) Recommendations for continuation, termination, or modification of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

"(3) Recommendations for appropriate transition requirements in the event that modifications are recommended."

The Board seeks the public's view on these issues.

A short introductory presentation may be made by a representative of the Board at each hearing, focusing on those Board activities of greatest relevance to the local communities. Requests to speak at the hearing may be submitted in writing or by telephone. We ask that commentators describe the nature and scope of the oral presentation. Those who contact the Board prior to close of business on the day before the hearing will be scheduled for time slots, beginning at approximately 7:10 p.m. The Board will post a schedule for those speakers who have contacted the Board before the hearings. The posting will be made at the entrance to each hearing room at the start of the hearing.

Anyone who wishes to comment, provide technical information or data may do so in writing, either in lieu of, or in addition to making an oral presentation. The Board members may question presenters to the extent deemed appropriate. The Board will hold the record for each hearing open for fourteen days after the hearing for the receipt of materials. A transcript of the hearings will be made available by the Board for inspection by the public at the Defense Nuclear Facilities Safety Board's Washington office and at the DOE's public reading rooms as follows:

1. *For:* Rocky Flats Environmental Technology Site, Front Range Community College, 3645 West 112 Avenue, Westminster, CO 80030.
2. *For:* Idaho National Engineering Laboratory, Idaho National Engineering Laboratory, 1776 Science Center Drive, Idaho Falls, ID 83415.
3. *For:* Fernald Environmental Management Project, Public Environmental Information Center, 10845 Hamilton-Cleves Highway, Harrison, OH 45030.
   For: Mound Plant, DOE Public Reading room, 305 Central Avenue, Miamisburg, OH 45342.
4. *For:* Hanford Site, Richland Operations Office, 100 Sprout Road, Room 130 West, Richland, WA 99352.
5. *For:* Sandia National Laboratory, Public Reading Room, c/o National Atomic Museum, 20358 Wyoming Boulevard, SE., Albuquerque, NM 87117.
   For: Los Alamos National Laboratory, LANL Community Reading Room, 1350 Central Avenue, Suite 101, Los Alamos, NM 87544.
   For: Waste Isolation Pilot Project, WIPP Public Reading Room, Carlsbad Public Library, 101 South Halagueno Street, Carlsbad, NM 88220.
6. *For:* Oak Ridge Reservation, DOE Public Reading Room, 55 Jefferson Circle, Room B–112, Oak Ridge, TN 37831.
7. *For:* Savannah River Site, Gregg-Graniteville Library, 171 University Parkway, University of South Carolina, Aiken, SC 29801.

The Board specifically reserves its right to further schedule and otherwise regulate the course of these hearings, to recess, reconvene, postpone or adjourn these hearings, conduct further reviews,

and otherwise exercise its power under the Atomic Energy Act of 1954, as amended.

Robert M. Andersen,

General Counsel.

[FR Doc. 94–22215 Filed 9–8–94; 8:45 am]

BILLING CODE 6820–KD–M

DEPARTMENT OF EDUCATION

President's Advisory Commission on Educational Excellence for Hispanic Americans; Meeting

AGENCY: President's Advisory Commission on Educational Excellence for Hispanic Americans.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule and agenda of a forthcoming meeting of the President's Advisory Commission on Educational Excellence for Hispanic Americans. This notice also describes the functions of the Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: September 23 and 24, 1994, 9 a.m.–5 p.m.

ADDRESSES: The Grand Hotel, 2350 M St., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Marsha Harper, Telephone: (202) 205–2420.

SUPPLEMENTARY INFORMATION: The President's Advisory Commission on Educational Excellence for Hispanic Americans is established under Executive Order of February, 1994. The Commission is established to advise on Hispanic achievement of the National Goals, as well as other educational accomplishments. The meeting of the Commission is open to the public. The agenda includes:

September 23, 1994, Friday 9 a.m.–5 p.m.—Commissioner Orientation and panel presentations by U.S. Department of Education officials, as well as other Federal Agency officials.

Saturday 9 a.m.–5 p.m.—All day Strategic Planning Session.

Records are kept of all Commission proceedings, and are available for public inspection at the White House Initiative for Hispanic Education at 600 Independence Avenue, SW., Room ____, Washington, DC 20202, from the hours of 9 a.m. to 5 p.m.

Dated: September 2, 1994.

Henry W. Smith,

Acting Assistant Secretary, Office of Intergovernmental and Interagency Affairs.

[FR Doc. 94–22223 Filed 9–8–94; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Draft Environmental Impact Statement for the F-Canyon Plutonium Solutions at the Savannah River Site

AGENCY: Department of Energy (DOE).

ACTION: Notice of availability of Draft Environmental Impact Statement (EIS) and notice of public hearings.

SUMMARY: The U.S. Department of Energy (DOE) announces the availability of a Draft EIS entitled "F-Canyon Plutonium Solutions, Savannah River Site, Aiken, South Carolina" (DOE/EIS–0219D). The Draft EIS assesses the potential environmental impacts of stabilizing plutonium solutions that are currently stored in F-Canyon at the Savannah River Site.

DOE invites public comments on the Draft EIS, and will hold public hearings on the document.

DATES: The public comment period for the Draft EIS ends on Monday, October 24, 1994. Written comments regarding the document should be postmarked by Monday, October 24, 1994, to ensure consideration in preparation of the Final Environmental Impact Statement. Comments sent after that date will be considered to the extent practicable. Three public hearings (which will also serve as informational meetings), will be held on the Draft EIS: Tuesday, October 4, 1994, in Columbia, South Carolina; Thursday, October 6, 1994, in North Augusta, South Carolina; and Tuesday, October 11, 1994, in Savannah, Georgia. The locations for these meetings are identified below.

ADDRESSES: Addresses for the public meeting locations are provided below. Written comments on the Draft EIS, requests for copies of the document, and requests for further information should be directed to: Dr. K.L. Hooker, NEPA Compliance Officer, U.S. Department of Energy, Savannah River Operations Office, P. O. Box 5031, Aiken, South Carolina 29804–5031, Attention: "F-Canyon Plutonium Solutions EIS". Telephone: (803) 725–9615 or through the Information Line (800) 242–8269.

FOR FURTHER INFORMATION CONTACT: For general information on DOE's National Environmental Policy Act (NEPA) process, please contact: Ms. Carol Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Telephone: (202) 586–4600 or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Scope of the Draft EIS

The Department proposes to stabilize the plutonium solutions currently within the F-Canyon facility. Based on technical and management judgment, DOE believes that these plutonium solutions present a safety concern that warrants expeditious processing to a more stable and storable form while decisions are made regarding interim to long-term disposition of this plutonium. The draft EIS indicates that the preferred alternative would be to operate the F-Canyon and FB-Line facilities in order to process the plutonium solutions into a more stable plutonium metal form.

The draft EIS also identifies and evaluates processing the solutions into plutonium oxide and vitrification as alternative methods of stabilizing the F-Canyon plutonium solutions. Consistent with NEPA's requirement that the "no action" alternative be considered, the draft EIS evaluates the potential environmental impacts of continuing to manage the F-Canyon plutonium solutions in their current liquid form until decisions regarding interim to long-term disposition are made.

Public Scoping Process

On March 17, 1994, DOE published a Notice of Intent (59 FR 12588) to prepare an EIS for the Interim Management of Nuclear Materials at the SRS. DOE developed the scope of the EIS following completion of the March 17 to May 31, 1994, public scoping period. DOE held public scoping meetings in Savannah, Georgia, May 12, 1994; in North Augusta, South Carolina on May 17, 1994; and in Columbia, South Carolina on May 19, 1994. DOE received oral and written comments from individuals and organizations regarding the scope of the EIS. On August 23, 1994, DOE published a Notice of an Amendment to the Environmental Impact Statement for the Interim Management of Nuclear Materials at the Savannah River Site (59 FR 43341), to explain the need to prepare the F-Canyon plutonium solutions EIS. Because the issues to be addressed in the F-Canyon Plutonium Solutions EIS were included within the Interim Management of Nuclear Materials EIS scoping process, no additional scoping meetings will be held. An Implementation Plan has been released that identifies the comments received during the previously held public scoping process, including those issues related to the F-Canyon Plutonium Solutions EIS, and identifies those matters to be addressed in both

EISs. All comments received during the scoping process relevant to the stabilization of F-Canyon plutonium solutions have been addressed in the preparation of the F-Canyon Plutonium Solutions EIS.

Copies of the EIS Implementation Plan may be obtained upon request from Dr. K.L. Hooker at the address given above. The Implementation Plan will also be available at the public hearings for the Draft EIS.

Background Information

For background information on the SRS, and for a discussion of the underlying purpose and need for stabilizing nuclear materials at the SRS, please refer to the original March 17, 1994, Notice of Intent to prepare an EIS for the Interim Management of Nuclear Materials at the SRS (59 FR 12588).

Approximately 80,000 gallons of in-process plutonium solutions currently are held in tanks in F-Canyon. These plutonium solutions include mixtures of plutonium-239 and uranium-238, as well as simple plutonium-239 solutions. Some of these solutions also contain fission products from irradiation in a nuclear reactor, as well as naturally occurring products from radioactive decay during storage. Such plutonium solutions historically and routinely have been created and treated in the F-Canyon as in-process materials of SRS production and reprocessing programs. However, the solutions currently in storage have been held much longer than called for in the original design and routine operation of the Canyon. Furthermore, as a result of specific manipulations of the solutions' chemistry to maintain safety, the solutions are now in a condition not previously envisioned for routine operations. These safety-related alterations to solution chemistry have prevented an imminent hazard from occurring. However, the operations staff of F-Canyon has documented a slow deterioration in solution chemistry, which requires continuous vigilance to assure safe storage and to avoid potentially severe radiological impacts should an accident occur. Therefore, DOE proposes to stabilize these solutions by conversion of the plutonium in solution to a solid state as plutonium metal. However, because it is not needed for weapons, the chemical purity of the plutonium would be made sufficient only for stabilization and safe long-term storage, rather than in compliance with purity standards previously set for weapons materials. The entire conversion process would take place in existing facilities in the F-Canyon building.

These potentially significant safety concerns, identified since the publication of the March 17, 1994, Notice of Intent, have led DOE to consider stabilization of these solutions in advance of any decisions made subsequent to the completion of the Interim Management of Nuclear Materials EIS. As a result, DOE has prepared a draft EIS on the F-Canyon Plutonium Solutions, pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 USC 4321 *et seq.*).

Availability of Draft EIS

Copies of the Draft EIS have been distributed to Federal, State, and local agencies, organizations, and individuals known to be interested in the Savannah River Site.

Copies of the Draft EIS and documents referenced in the draft are available for public inspection in the Library at the University of South Carolina's Aiken Campus, University Parkway, Aiken, South Carolina, and in DOE's Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC. Copies of the Draft EIS are also available for public inspection at many local and regional libraries in Georgia and South Carolina. Locations of nearest libraries can be obtained by contacting Dr. K.L. Hooker, DOE, at the telephone numbers given above.

Invitation To Comment

Interested parties are invited to provide oral or written comments on the Draft EIS. Written comments should be sent to Dr. K.L. Hooker, DOE at the address given above. To be considered in the final EIS, written comments should be postmarked by Monday, October 24, 1994; comments postmarked after that date will be considered to the extent practicable.

Information Meetings and Public Hearings

Combined information meetings and public hearings on the Draft EIS have been scheduled as follows:

Tuesday, October 4, 1994, from 1:00 p.m. to 4:00 p.m. and 6:00 p.m. to 9:00 p.m.: Holiday Inn Coliseum, 630 Assembly Street, Columbia, South Carolina 29201.

Thursday, October 6, 1994, from 1:00 p.m. to 4:00 p.m. and 6:00 p.m. to 9:00 p.m.: North Augusta Community Center, 495 Brookside Ave., North Augusta, South Carolina 29841.

Tuesday, October 11, 1994, from 1:00 p.m. to 4:00 p.m. and 6:00 p.m. to 9:00 p.m.: Coastal Georgia Center for Continuing Education, 305 Martin Luther King Boulevard, Savannah, Georgia 31401.

The public is invited to provide comments on the Draft EIS to DOE representatives at the hearings. Written and verbal comments will be given equal weight.

The program for the hearings will be flexible and informal in an effort to better accommodate the needs of the public. Each session will begin with approximately an hour for presentations and discussions by DOE personnel familiar with the topics addressed by the EIS. Members of the public in attendance will have the opportunity to ask questions and discuss matters of interest during these periods. These informal periods are designed to facilitate questions and answers and promote interaction with members of the public. Upon conclusion of the informal portion of the meetings, members of the public are invited to present comments which will be recorded by a court reporter. So that all interested parties have the opportunity to speak during the recorded portion of the meetings, five minutes will be allotted to each individual or representative of a group. More speaking time will be available depending upon the number of people who wish to comment. Commenters are requested to provide DOE with written copies of their oral comments, if possible. Individuals who wish to preregister to speak at any of the hearings may do so by calling (800) 242–8269.

Clarifying questions regarding statements made at the hearings may be asked by personnel conducting the hearings, but there will be no cross-examination of people presenting statements. Any additional procedural guidance will be provided by the Moderator at the start of the hearings.

A transcript of the hearings will be prepared, and DOE will make the entire record of the hearings, including the transcript, available for public inspection at the DOE reading rooms listed above.

DOE will consider all comments (both written and oral comments presented at the public hearings) received during the public comment period in preparing the Final EIS.

Henry K. Garson,

Director, Office of Environmental Support, NEPA Compliance Officer Defense Programs.

[FR Doc. 94–22339 Filed 9–8–94; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. TM95–1–48–000]

ANR Pipeline Company; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, tariff sheets as referenced below, proposed to be effective October 1, 1994:

Second Revised Volume No. 1
Fourth Revised Sheet No. 17
Original Volume No. 2
Twenty-Fifth Revised Sheet No. 16
Twenty-Fifth Revised Sheet No. 17
Twenty-Fifth Revised Sheet No. 18
Twenty-Fifth Revised Sheet No. 19
Twenty-Seventh Revised Sheet No. 20
Twenty-Sixth Revised Sheet No. 21
Twenty-Fourth Revised Sheet No. 22

ANR states that the above referenced tariff sheets are being filed to adjust its Annual Charge Adjustment ("ACA") rate as permitted by Section 24 of its Second Revised Volume No. 1 FERC Gas Tariff. The new ACA rate to be charged by ANR will be effective October 1, 1994.

ANR states that all of its customers and interested State Commission's have been mailed a copy of this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such petitions or protests should be filed on or before September 13, 1994. 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 application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22254 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–384–000]

ANR Pipeline Company; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, ANR Pipeline Company (ANR), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of September 1, 1994:

Fifth Revised Sheet No. 9
Fifth Revised Sheet No. 13
Fifth Revised Sheet No. 16
Fifth Revised Sheet No. 18

ANR states that the above-referenced tariff sheets are being filed pursuant to the approved recovery mechanism of its Tariff to implement recovery of $9.6 million of costs that are associated with its obligations to Dakota Gasification Company (Dakota). ANR proposes a reservation fee surcharge applicable to its Part 284 firm transportation customers to collect ninety percent (90%) of the Dakota costs and an adjustment to the maximum base tariff rates of Rate Schedule ITS shippers to recover the remaining ten percent (10%). ANR has requested that the Commission accept the tendered sheets to become effective September 1, 1994.

ANR states that all of its Volume No. 1 customers and interested State Commissions have been mailed a copy of this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 13, 1994. 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 application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22269 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–88–000]

Black Marlin Pipeline Company; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Black Marlin Pipeline Company (Black Marlin) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to be effective October 1, 1994:

Fifth Revised Sheet No. 4

Black Marlin states that the above-referenced tariff sheet is being filed pursuant to Section 18 of the General Terms and Conditions of Black Marlin's tariff to reflect the decrease of the ACA charge to .23¢/MMBtu based on the Commission's Annual Charge Billing for Fiscal Year 1994.

Black Marlin further states that a copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff and interested State commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 12, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22308 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–97–000]

Chandeleur Pipe Line Co.; Annual Charge Adjustment Clause Filing

September 2, 1994.

Take notice on August 31, 1994, Chandeleur Pipe Line Company (Chandeleur) tendered for filing proposed tariff sheets designed to add an Annual Charge Adjustment Clause to its FERC Gas Tariff.

Chandeleur also proposes to adjust its rates to reflect the Federal Energy Regulatory Commission's FY 1995 annual charge for natural gas pipeline companies of $0.0024 per Mcf. Chandeleur has proposed an effective date for the revised tariff sheets of October 1, 1994.

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, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.214 and 375.211 to the Commission's Rules of Practice and Procedure, 18 CFR 385.214 and 385.211. All such motions or protests should be

filed on or before September 13, 1994. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22294 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–22–000]

CNG Transmission Corporation; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, CNG Transmission Corporation (CNG), pursuant to Section 4 of the Natural Gas Act, Section 154.38(d)(6) of the Commission's Regulations providing for the Annual Charge Adjustment, and Section 14 of the General Terms and Conditions of CNG's tariff, filed the following revised tariff sheets to its FERC Gas Tariff:

Second Revised Volume No. 1
- Second Revised Sheet No. 31
- Fourth Revised Sheet No. 32
- Fourth Revised Sheet No. 33
- Third Revised Sheet No. 35
- Third Revised Sheet No. 36

Original Volume No. 2
- Seventh Revised Sheet Nos. 250 and 290

Original Volume No. 2A
- Seventh Revised Sheet Nos. 18, 28, 35, 48 and 87

CNG requests an effective date for these proposed tariff sheets of October 1, 1994. CNG states that the proposed tariff sheets reflect a new ACA unit rate of 0.23 cents per dekatherm.

CNG states that copies of the filing were served upon CNG's jurisdictional customers and interested state commissions. Copies of the filing are also available during regular business hours at CNG's offices in Clarksburg, West Virginia.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22266 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–379–000]

Colorado Interstate Gas Company; Tariff Filing

September 2, 1994.

Take notice that on August 31, 1994, Colorado Interstate Gas Company (CIG) submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Eighth Revised Sheet No. 11 and First Revised Sheet No. 343C, with an effective date of October 1, 1994.

CIG states the purpose of these revised tariff sheets is to amend its Stranded Account No. 858 surcharge to reflect an annual period of collection from the current five month collection period and to recover interest, included in its July 5, 1994, refunds, in determining a surcharge rate.

CIG states that copies of this filing are being served on all jurisdictional customers and interested state commissions, and are otherwise available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 12, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22283 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–383–000]

Columbia Gas Transmission Corporation; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, revised tariff sheets as set forth below:

Effective November 1, 1993

2nd Substitute Original Sheet No. 197
2nd Substitute Original Sheet No. 331

Effective October 1, 1994

Seventh Revised Sheet No. 25
Seventh Revised Sheet No. 26
Seventh Revised Sheet No. 27
Seventh Revised Sheet No. 28
Fifth Revised Sheet No. 29
Fifth Revised Sheet No. 30

Columbia states that the tariff sheets to be effective October 1, 1994, are made in compliance with prior Commission orders in Docket No. RS92–5, et al., which directed Columbia to remove from its cost of service costs associated with property taxes applicable to storage inventory which was transferred from Columbia to its customers in connection with service restructuring. The tariff sheets to be effective November 1, 1993, are being filed to correct certain cross-references to other sections of Columbia's tariff.

Columbia states that copies of the filing were served upon Columbia's firm customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22270 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95-2-21-000]

Columbia Gas Transmission Corporation; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following proposed changes to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective October 1, 1994:

Sixth Revised Sheet No. 25
Sixth Revised Sheet No. 26
Sixth Revised Sheet No. 27
Sixth Revised Sheet No. 28
Fourth Revised Sheet No. 29
Fourth Revised Sheet No. 30

Columbia is tendering this filing in accordance with § 36.2 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. The subject filing implements (i) revised TCRA rates reflecting a reduction of $8.2 million from the annual level of costs underlying the current TCRA rates, and (ii) a revision to the presentation format of the Transportation Cost component of the Total Effective Rate on certain of the aforementioned tariff sheets. With regard to the annual cost level upon which the subject rates are developed.

Columbia states that it will only collect one month of costs attributable to Columbia Gulf due to the expiration of the T-1 contract on October 31, 1994. Moreover, Columbia indicates that to the extent the FERC issues orders in separate proceedings that approve certain Exit Fee payments to its upstream pipeline transporters, it will make a Periodic TCRA filing to reflect the impact of such payments on its TCRA rates.

Columbia states that copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 13, 1994. 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 Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-22278 Filed 9-8-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM95-1-70-000]

Columbia Gulf Transmission Company; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 26, 1994, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective October 1, 1994:

2nd Sub Second Revised Sheet No. 018
Third Revised Sheet No. 018A
2nd Sub Second Revised Sheet No. 019
Third Revised Sheet No. 019A

Columbia Gulf states that the listed tariff sheets set forth the adjustment to its rates applicable to the Annual Charge Adjustment, pursuant to the Commission's Regulations and Section 32 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1.

Columbia Gulf states that it is cancelling certain tariff sheets and removing references on other tariff sheets regarding the terms "Settling Parties" and "Non-Settling Parties" since there are no "non-settling" parties by virtue of the Commission's Order issued June 22, 1994, in Docket Nos. RP91-160-009 and RP91-161-023, et al.

Columbia Gulf states that copies of the filing were served upon the Company's jurisdiction customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol 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 September 12, 1994. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94-22310 Filed 9-8-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM95-1-2-000]

East Tennessee Natural Gas Company; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, East Tennessee Natural Gas Company (East Tennessee) hereby submits for filing an as of Second Revised Sheet No. 4 of its FERC Gas Tariff, Second Revised Volume No. 1. East Tennessee states that the tariff sheet reflects a decrease of $.0003 per Dth in the ACA adjustment surcharge, resulting in a new ACA rate of $.0022/Dth. East Tennessee requests an effective date of October 1, 1994.

Pursuant to Section 34 of the General Terms and Conditions of its FERC Gas Tariff, East Tennessee proposes to track the Annual Charge Adjustment (ACA) of $.0024 per Mcf stated on the FERC Annual Charges Billing for Fiscal Year 1994. East Tennessee's proposed ACA surcharge of $.0022 gives effect to the Commission's prior fiscal year adjustment of ($10,801) and a Btu conversion factor of 1.0327. Determination of the surcharge is set forth in Workpaper 1.

East Tennessee states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214. All such petitions or protests should be filed on or before September 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-22279 Filed 9-8-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM95–1–33–000]

El Paso Natural Gas Company; Tariff Filing

September 2, 1994.

Take notice that on August 31, 1994, El Paso Natural Gas Company (El Paso), tendered for filing and acceptance pursuant to Part 154 of the Federal Energy Regulatory Commission (Commission) Regulations Under the Natural Gas Act, a notice of:

(i) A revision to the rates and charges for El Paso's Take-or-Pay Buyout and Buydown Cost Recovery for interest in accordance with Sections 22 and 21, Take-or-Pay Buyout and Buydown Cost Recovery, of its Second Revised Volume No. 1–A and Third Revised Volume No. 1 FERC Gas Tariff, respectively; and

(ii) A revision to the currently authorized Annual Charge Adjustment (ACA) in accordance with Section 21, Annual Charge Adjustment Provision, contained in the General Terms and Conditions in El Paso's Second Revised Volume No. 1–A FERC Gas Tariff.

El Paso states that the interest revision results in a Take-or-Pay Throughput Surcharge of $0.0354 per dth (a decrease of $0.0004). El Paso also states that its Monthly Direct Charges have been revised accordingly.

El Paso further states that its ACA surcharge will decrease by $0.0002 to $0.0023 per dth.

El Paso requests that the Commission accept the tendered tariff sheets for filing and permit them to become effective October 1, 1994, which is not less than thirty (30) days after the date of filing.

El Paso states that it has served a copy of the filing, together with all enclosures, except for the diskettes, on all affected interstate pipeline system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 12, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22260 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–745–000]

Florida Gas Transmission Co.; Request Under Blanket Authorization

September 2, 1994.

Take notice that on August 29, 1994, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP94–745–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a new delivery point for the City of Eunice (Eunice), Louisiana, under FGT's blanket certificate issued in Docket No. CP82–553–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, FGT proposes to construct and operate a 2-inch tap, electronic flow measurement equipment and such related appurtenances to deliver up to 1,000 MMBtu per day of gas to Eunice. FGT indicates that the tap will be located on its existing 24-inch mainline in Acadia Parish, Louisiana. FGT estimates the cost of the proposed construction to be $28,000, of which, Eunice would reimburse FGT. The end use will be primarily for commercial and residential, as stated by FGT.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22268 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–34–000]

Florida Gas Transmission Company; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to be effective October 1, 1994:

Sixth Revised Sheet No. 8A
Fifth Revised Sheet No. 8B

FGT states that the above-referenced tariff sheets are being filed pursuant to Section 22 of the General Terms and Conditions of FGT's tariff to reflect the increase of the ACA charge to .23¢/MMBtu based on the Commission's Annual Charge Billing for Fiscal Year 1994.

FGT further states that a copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff and interested State commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 12, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22281 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–51–000]

Great Lakes Gas Transmission Limited Partnership; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet:

Second Revised Sheet No. 7

Great Lakes states that the above tariff sheet reflects the new ACA rate to be

charged pursuant to the Annual Charges Adjustment Clause provisions established by the Commission in Order No. 472, issued May 29, 1987. The new ACA rate to be charged by Great Lakes was established by FERC notice given on July 25, 1994 and is to be effective October 1, 1994.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before September 13, 1994. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22313 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–110–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing Sixth Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1. The proposed effective date of the tariff sheet is October 1, 1994.

Iroquois states that, pursuant to section 154.38(d)(6) of the Commission's regulations and Section 12.2 of the General Terms and Conditions of its tariff, Iroquois is making its Annual Charge Adjustment (ACA) filing to reflect a decrease of $.0002 per Dth (from $.0026 to $.0024 per Dth) in its ACA surcharge.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1994. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22250 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–53–000]

KN Interstate Gas Transmission Co.; Tariff Filing

September 2, 1994.

Take notice that on September 1, 1994, KN Interstate Gas Transmission Co. (KNI) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, with an effective date of October 1, 1994:

Fifth Revised Sheet No. 4–D

KNI states that this tariff sheet reflects the Commission's revised Annual Charge Adjustment (ACA) unit charge and requests that the tariff sheet be made effective on October 1, 1994.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before September 13, 1994. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22275 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–11–000]

Koch Gateway Pipeline Company; Proposed Changes to FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Koch Gateway Pipeline Company (KGPC) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised sheets, with an effective date of October 1, 1994:

Third Revised Sheet No. 20
Third Revised Sheet No. 21
Third Revised Sheet No. 22
Third Revised Sheet No. 23

KGPC states that the above referenced tariff sheets reflect a downward revision to the unit rate of the Annual Charge Adjustment (ACA) Clause to be generally applied to interstate natural gas pipeline rates for the recovery of the 1994 Annual Charges, pursuant to Order No. 472.

KGPC notes that this revision authorizes KGPC to collect $0.0024 per each Mcf ($0.0023 per MMBtu as converted on KGPC's system) of natural gas transported applicable to the 1994 Annual Charge assessed KGPC by the Commission under Part 382 of the Commission's Regulations.

KGPC states that copies of the filing were served upon all of its customers and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (Sections 385.214, 385.211). All such petitions or protests should be filed on or before September 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22263 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–737–000]

Koch Gateway Pipeline Co.; Request Under Blanket Authorization

September 2, 1994.

Take notice that on August 25, 1994, Koch Gateway Pipeline Company (Koch), Post Office Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP94–737–000 an application pursuant to §§ 157.205(b) and 157.211(b) of the Commission's Regulations under the Natural Gas Act (NGA) for authorization for certificate authority to operate three existing delivery taps and meter stations as jurisdictional facilities under the

blanket certificate issued in Docket No. CP82–430–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Koch seeks authorization to place into jurisdictional service three delivery taps and associated meter stations currently serving Mississippi Valley Gas Company (MVG). Koch states that certification of the facilities would provide MVG with additional flexibility to use the facilities as a delivery point on MVG's blanket transportation agreements with Koch. The facilities consist of: (1) A two-inch tap and regulator, four-inch meter station and a flow computer located on Koch's 30-inch Kosciusko line, in Attala County, Mississippi; (2) a two-inch tap and regulator, four-inch meter station and a flow computer, also located on the Kosciusko line; and (3) a ten-inch tap, six-inch meter station and approximately 1,500 feet of ten-inch diameter pipeline, located in Lauderdale County, Mississippi.

Koch further states that Koch and MVG shared equally approximately $468,600 in construction costs for this project. In addition, Koch states that it would operate the proposed facilities in compliance with 18 CFR, part 157, subpart F. Koch states that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22292 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–5–000]

Midwestern Gas Transmission Company; Filing

September 2, 1994.

Take notice that on August 31, 1994, Midwestern Gas Transmission Company (Midwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Third Revised Sheet No. 5 to be effective October 1, 1994.

Midwestern states that this filing reflects the new Annual Charge Adjustment of $.0023 per dekatherm.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 12, 1994. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22259 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–15–000]

Mid Louisiana Gas Co.; Notice of Proposed Change of Rates

September 2, 1994.

Take notice that on September 1, 1994, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as part of Third Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheets to be effective October 1, 1994:

	Superseding
Third Revised Sheet No. 4.	Second Revised Sheet No. 4.
Third Revised Sheet No. 4A.	Second Revised Sheet No. 4A.
Third Revised Sheet No. 4B.	Second Revised Sheet No. 4B.

Mid Louisiana states that the purpose of the filing of the Revised Tariff Sheets is to reflect a revision to the unit rates for the collection of the Annual Charges imposed by Section 382 of the Commission's Regulations.

Mid Louisiana states that this filing is being made in accordance with Section 22 of Mid Louisiana's FERC Gas Tariff.

Mid Louisiana states that copies of this filing have been mailed to Mid Louisiana's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 395.211 and 385.211). All such petitions or protests should be filed on or before September 13, 1994. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22267 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–4–017]

Mississippi River Transmission Corp.; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 29, 1994, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Original Volume No. 1–A, and Third Revised Volume No. 1, the tariff sheets listed on the attached Appendix A.

MRT states that on May 13, 1994, it filed an uncontested Stipulation and Agreement (Base S & A) in the above captioned dockets. On July 29, 1994, the Commission issued an order approving without modification the Base S & A.

MRT states that the purpose of the instant filing is to effectuate the terms and provisions of the Base S & A and the tariff sheets contained in Appendix D therein. MRT states that in accordance with Article IV of the Base S & A the filing also includes a recalculation of recoverable Gas Supply Realignment Costs (GSRCs) and a reconciliation of such amounts with GSRC recoveries to date.

MRT states that a copy of this filing has been mailed to each of MRT's customers, parties on the service list in

each proceeding and to the state commissions of Arkansas, Illinois and Missouri.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before September 12, 1994. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

APPENDIX A

	Effective date
Second Revised Volume No. 1	
Substitute Second Revised Eighty-Fifth Revised Sheet No. 4	April 1, 1994.
Substitute Second Revised Forty-Fourth Revised Sheet No. 4. 1	April 1, 1993.
Second Substitute First Revised Seventh Revised Sheet No. 4–C	April 1, 1993.
Substitute Third Revised Eighty-Fifth Revised Sheet No. 4	May 1, 1993.
Substitute Third Revised Forty-Fourth Revised Sheet No. 4. 1	May 1, 1993.
Substitute Eighty-Eighth Revised Sheet No. 4	June 1, 1993.
Substitute Forty-Seventh Revised Sheet No. 4. 1	June 1, 1993.
Substitute Eighty-Ninth Revised Sheet No. 4	July 1, 1993.
Substitute Forty-Eighth Revised Sheet No. 4. 1	July 1, 1993.
Substitute Ninetieth Revised Sheet No. 4	August 1, 1993.
Substitute Forty-Ninth Revised Sheet No. 4. 1	August 1, 1993.
Substitute Ninety-Second Revised Sheet No. 4	September 1, 1993.
Substitute Fifty-First Revised Sheet No. 4. 1	September 1, 1993.
Substitute Ninety-Fourth Revised Sheet No. 4	October 1, 1993.
Substitute Fifty-Third Revised Sheet No. 4. 1	October 1, 1993.
Original Volume No. 1–A	
Second Substitute First Revised Eleventh Revised Sheet No. 2	April 1, 1993.
Second Substitute First Revised Eleventh Revised Sheet No. 3	April 1, 1993.
Second Substitute First Revised Sixth Revised Sheet No. 4	April 1, 1993.
Substitute First Revised Twelfth Revised Sheet No. 2	June 1, 1993.
Substitute First Revised Twelfth Revised Sheet No. 3	June 1, 1993.
Substitute First Revised Seventh Revised Sheet No. 4	June 1, 1993.
Second Substitute Thirteenth Revised Sheet No. 2	October 1, 1993.
Second Substitute Thirteenth Revised Sheet No. 3	October 1, 1993.
Second Substitute Eighth Revised Sheet No. 4	October 1, 1993.
Third Revised Volume No. 1	
First Revised Third Revised Sheet No. 5	May 1, 1994.
First Revised Third Revised Sheet No. 6	May 1, 1994.
First Revised Third Revised Sheet No. 7	May 1, 1994.
First Revised Sheet No. 8	May 1, 1994.
First Revised Third Revised Sheet No. 10	May 1, 1994.
First Revised Second Revised Sheet No. 11	May 1, 1994.
Substitute Fourth Revised Sheet No. 5	July 1, 1994.
Substitute Fourth Revised Sheet No. 6	July 1, 1994.
Substitute Fourth Revised Sheet No. 7	July 1, 1994.
Second Substitute Fourth Revised Sheet No. 10	July 1, 1994.
Fifth Revised Sheet No. 5	September 1, 1994.
Fifth Revised Sheet No. 6	September 1, 1994.
Fifth Revised Sheet No. 7	September 1, 1994.
Fifth Revised Sheet No. 10	September 1, 1994.
Third Revised Sheet No. 11	September 1, 1994.
First Revised Sheet No. 116	May 1, 1994.
First Revised Sheet No. 162	May 1, 1994.
First Revised Sheet No. 165	May 1, 1994.
First Revised Sheet No. 193	May 1, 1994.
First Revised Sheet No. 194	May 1, 1994.
Second Revised Sheet No. 195	May 1, 1994.
Second Revised Sheet No. 196	May 1, 1994.
Second Revised Sheet No. 197	May 1, 1994.
Second Revised Sheet No. 198	May 1, 1994.
Second Revised Sheet No. 199	May 1, 1994.
Second Revised Sheet No. 200	May 1, 1994.
Second Revised Sheet No. 201	May 1, 1994.
First Revised Sheet No. 202	May 1, 1994.
First Revised Sheet No. 212	May 1, 1994.

[FR Doc. 94–22290 Filed 9–8–94; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. TM95–1–114–000]

Mobile Bay Pipeline Co.; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Mobile Bay Pipeline Company (MBPC), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet No. 4, with an effective date of October 1, 1994.

MBPC states that the above referenced tariff sheets reflect a downward revision to the unit rate of the Annual Charge Adjustment (ACA) Clause to be generally applied to interstate natural gas pipeline rates for the recovery of the 1994 Annual Charges, pursuant to Order No. 472.

MBPC notes that this revision authorizes MBPC to collect $0.0024 per each Mcf of natural gas transported applicable to the 1994 Annual charge assessed MBPC by the Commission under Part 382 of the Commission's Regulations.

MBPC states that copies of this filing were served its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 12, 1994. Protests will be considered by the Commission in determining the appropriate proceeding, but will not serve to make protestant a party to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22293 Filed 9–8–94; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. TM95–1–16–000]

National Fuel Gas Supply Corporation; Tariff Filing

September 2, 1994.

Take notice that on August 31, 1994, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Third Revised Sheet No. 220, Fifth Revised Sheet No. 222 and Seventh Revised Sheet No. 225, with a proposed effective date of October 1, 1994.

National states that these tariff sheets are filed to flowthrough upstream pipeline-supplier take-or-pay charges in accordance with Section 20 of the General Terms and Conditions of National's tariff, and the May 4 and July 28, 1994, orders of the Federal Energy Regulatory Commission (Commission) in Docket No. RP91–47–000, et al.

National states that it is filing to flowthrough (1) fixed Tennessee Gas Pipeline Company take-or-pay charges, based on National's 1992 Winter Requirements Quantities (WR&S); (2) fixed Tennessee-related take-or-pay charges billed to National by CNG Transmission Corporation, based on National's 1992 WRQs; and (3) fixed Columbia Gas Transmission Corporation take-or-pay charges, allocated on an as-billed basis.

National states that a copy of this filing was posted pursuant to § 154.16 of the Commission's Regulations and that copies of this filing were served upon the company's jurisdictional customers and upon the Regulatory Commission's of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.G. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 214). All such motions to intervene or protest should be filed on or before September 12, 1994. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22262 Filed 9–8–94; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. TM95–1–59–000]

Northern Natural Gas Company; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets, proposed to be effective October 1, 1994:

Fifth Revised Volume No. 1

Ninth Revised Sheet No. 50
Ninth Revised Sheet No. 51
Third Revised Sheet No. 52
Fourteenth Revised Sheet No. 53
Fourth Revised Sheet No. 59
Fourth Revised Sheet No. 60

Original Volume No. 2

143 Revised Sheet No. 1C
Eighteenth Revised Sheet No. 1C.a

Northern states that the filing establishes the revised Annual Charge Adjustment (ACA) rate of $0.0024 effective October 1, 1994, for Northern's transportation rates. The ACA rate is designed to recover the charge assessed by the Commission pursuant to Part 382 of the Commission's Regulations.

Northern further states that copies of this filing have been mailed to each of its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests must be filed on or before September 13, 1994. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22276 Filed 9–8–94; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. TM95–1–78–000]

Overthrust Pipeline Company; Tariff Filing

September 2, 1994.

Take notice that on August 31, 1994, Overthrust Pipeline Company, pursuant to § 154.38(d)(6) and Part 382 of the Commission's Regulations, tendered for filing and acceptance to be effective October 1, 1994, First Revised Fifteenth Revised Sheet No. 6 to Original Volume No. 1 and First Revised Substitute Original Sheet Nos. 4 and 5 to First

Revised Volume No. 1–A of its FERC Gas Tariff.

Overthrust states that this filing incorporates into its transportation rates the annual charge unit rate of $0.0024 per Mcf, as adjusted by Overthrust's Btu factor of 1.05.

Overthrust states that copies of the filing were served upon Overthrust's jurisdictional customers and the Wyoming Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 12, 1994. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22309 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–64–000]

Pacific Interstate Offshore Company; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Pacific Interstate Offshore Company (PIOC) submitted for filing, to be part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of October 1, 1994:

First Revised Sheet No. 6

PIOC states the purpose of this filing is to set forth the applicable Annual Charge Adjustment (ACA) surcharge of .24 cents per MMBtu.

PIOC states that a copy of this filing has been served on PIOC's sole customer, the Southern California Gas Company and the Public Utilities Commission of the State of California and other interested parties.

Any persons desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 12, 1994. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22311 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

Ozark Gas Transmission System; Informal Settlement Conference

[Docket No. RP94–105–000 Phase II]

September 2, 1994.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding at 1:30 p.m. on September 26, 1994, at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information please contact Michael D. Cotleur, (202) 208–1076, or Russell B. Mamone (202) 208–0744.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22289 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–28–000]

Panhandle Eastern Pipe Line Company; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing revised sheets to its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2, as reflected in Appendix A, to the filing.

Panhandle states that these revised tariff sheets are being submitted in accordance with Section 18.2 (Annual Charge Adjustment Provision) of the General Terms and Conditions of Panhandles's FERC Gas Tariff, First Revised Volume No. 1. The Commission has changed the unit rate of the Annual Charge Adjustment to be applied to rates for recovery of 1994 Annual Charges pursuant to Order No. 472 in Docket No. RM87–3–000. The surcharge attributable to fiscal year 1994 program costs is $0.0024 per Mcf ($0.0024 per Dt. to reflect Panhandle's billing unit) of natural gas transported.

The proposed effective date of the above-referenced tariff sheets is October 1, 1994.

Panhandle respectfully requests that the Commission grant such waivers as may be necessary for the acceptance of the tariff sheets submitted herewith, to become effective October 1, 1994, as previously described.

Panhandle states that copies of this letter and enclosures are being served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 12, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22264 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–55–000]

Questar Pipeline Company; Tariff Filing

September 2, 1994.

Take notice that on August 31, 1994, Questar Pipeline Company, pursuant to § 154.38(d)(6) and part 382 of the Commission's Regulations, tendered for filing and acceptance to be effective October 1, 1994, the following tariff sheets of its FERC Gas Tariff:

First Revised Volume No. 1

Fourth Revised Sheet Nos. 5 and 5A
Third Revised Sheet No. 6
First Revised Sheet No. 6A

Original Volume No. 3

Fourteenth Revised Sheet No. 8

Questar states that this filing incorporates into its storage and transportation rates the annual charge unit rate of $0.0024 per Mcf as adjusted for transportation by Questar's Btu factor of 1.062.

Questar states that copies of this filing were served upon Questar's jurisdictional customers and the Utah and Wyoming Public Service Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 12, 1994. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22312 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–294–003]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the tariff sheets listed on Appendix A to the filing to its FERC Gas Tariff, First Revised Volume No. 1 to reflect an effective date of August 1, 1994.

Panhandle states that this filing is made in compliance with the Commission's August 26, 1994, Order Accepting Certain Tariff Sheets Subject To Conditions And Outcome Of Technical Conference, And Accepting And Suspending Other Tariff Sheets Subject To Refund, Conditions, And Outcome Of Technical Conference (August 26, 1994, Order) in the above-referenced docket.

Panhandle states that the August 26, 1994, Order accepted and suspended Sub Eighth Revised Sheet Nos. 4, 5 and 6 to be effective August 1, 1994, subject to refund and to the conditions set forth in the August 26, 1994 Order and the July 14, 1994 Order, 68 FERC 61,066 (1994).

Panhandle states that copies of its filing have been served on all affected customers, all parties to this proceeding and applicable state regulatory commissions.

Any person desiring to protest the said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before September 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22286 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–79–000]

Sabine Pipe Line Company; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on September 1, 1994, Sabine Pipe Line Company (Sabine) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, to be effective October 1, 1994:

Second Revised Sheet No. 20

Sabine states that the Commission has specified the Annual Charge Adjustment (ACA) unit charge of $.0024/Mcf to be applied to rates in 1995 for recovery of 1994 annual charges. The ACA unit rate of $.0024/Mcf converts to $.0023/MMBtu under Sabine's basis for billing.

Sabine states that copies of the filing were served upon Sabine's customers, the State of Louisiana, Department of Natural Resources, Office of Conservation and the Railroad Commission of Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR, §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protest should be filed on or before September 13, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22277 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–6–000]

Sea Robin Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised sheets, with an effective date of October 1, 1994:

Second Revised Sheet No. 7
Second Revised Sheet No. 8
Second Revised Sheet No. 9

Sea Robin states that the aforesaid tariff sheet implements the Federal Energy Regulatory Commission's (Commission) revised Annual Charge Adjustment (ACA) of .23¢ per MMBtu. This represents a decrease of .03¢ per MMBtu in the ACA charge from the current level of .26¢ per MMBtu.

Sea Robin states that copies of Sea Robin's filing will be served upon all of Sea Robin's customers, affected commissions and interested parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (§§ 285.214 and 385.211). All such petitions or protests should be filed on or before September 12, 1994. Protest will be considered by the Commission in determining the appropriate action to the taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22258 Filed 9–8–94; 8:45am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–8–000]

South Georgia Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised sheet, with an affective date of October 1, 1994:

First Revised Sheet No. 91

South Georgia states that the aforesaid tariff sheet implements the Federal Energy Regulatory Commission's (Commission) revised Annual Charge Adjustment (ACA) of .23¢ per MMBtu. This represents a decrease of .02¢ per MMBtu in the ACA charge from the current level of .25¢ per MMBtu.

South Georgia states that copies of South Georgia's filing will be served upon all of South Georgia's customers, interested state commissions and interested parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (§§ 385.214 and 385.211). All such motions or protests should be filed on or before September 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22256 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–7–000]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following revised sheet, with an effective date of October 1, 1994:

Second Revised Sheet No. 194

Southern states that the aforesaid tariff sheet implements the Federal Energy Regulatory Commission's (Commission) revised annual charge adjustment of .23¢ per MMBtu of October 1, 1994.

Southern states that copies of Southern's filing were served upon all of Southern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (§§ 385.214, 385.211). All such petitions or protests should be filed on or before September 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22257 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–380–000]

Southern Natural Gas Company; GSR Cost Recovery Filing

September 2, 1994.

Take notice that on August 31, 1994, Southern Natural Gas Company (Southern) set forth its revised demand surcharges and revised interruptible rates that will be charged in connection with its recovery of GSR costs associated with the payment of price differential costs under realigned gas supply contracts or contract buyout costs associated with continuing realignment efforts during the period May 1, 1994, through July 31, 1994.

Southern states that these GSR costs have arisen as a direct result of customers' elections during restructuring to terminate their sales entitlements under Order No. 636. Southern submitted the following tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, with the proposed effective date of October 1, 1994:

Twelfth Revised Sheet No. 15
Twelfth Revised Sheet No. 17
Eighth Revised Sheet No. 18
Tenth Revised Sheet No. 29
Tenth Revised Sheet No. 30
Tenth Revised Sheet No. 31

Southern states that copies of the filing were served upon Southern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 12, 1994. 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 Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22282 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

Southern Natural Gas Co; GSR Revised Tariff Sheets

[Docket No. RP94–264–005]

September 2, 1994.

Take notice that on August 31, 1994, Southern Natural Gas Company (Southern) submitted as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to reflect an increase in GSR billing units effective September 1, 1994, due to new transportation commitments under rate schedule FT:

Eleventh Revised Sheet No. 15
Eleventh Revised Sheet No. 17
Ninth Revised Sheet No. 29
Ninth Revised Sheet No. 30
Ninth Revised Sheet No. 31

Southern states that copies of the filing were served upon Southern's customers and interested state commissions.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before September 12, 1994. 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. Copies of Southern's filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22287 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–9–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

September 2, 1994.

Take notice that on August 31, 1994, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following sheet tariff sheet, with an effective date of October 1, 1994:

Eighth Revised Sheet No. 30

Tennessee states that the purpose of this filing is to reflect the decrease in the ACA rate adjustment to Tennessee's commodity rates for the period October 1, 1994, through September 30, 1995.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 12, 1994. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22255 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–18–000]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with an effective date of October 1, 1994:

Seventh Revised Sheet No. 10
Fourth Revised Sheet No. 11
Ninth Revised Sheet No. 12

Texas Gas states that the revised tariff sheets are being filed pursuant to Section 23 of the General Terms and Conditions of Texas Gas's FERC Gas Tariff, First Revised Volume No. 1, which affords Texas Gas the right to recover the costs billed to Texas Gas by the Federal Energy Regulatory Commission via the FERC ACA Unit Charge method. Texas Gas states that the unit charge, as determined by the Commission, is $.0023/Mcf ($.0022/MMBtu converted) as set forth on Texas Gas's Annual Charges Bill for fiscal year 1994, to be effective October 1, 1994.

Texas Gas states that copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 12, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22261 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–17–000]

Texas Eastern Transmission Corporation; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, the tariff sheets listed on Appendix A of the filing.

Texas Eastern states that the purpose of this filing is to permit the tracking of the ACA Unit Surcharge authorized by the Commission for fiscal year 1995. The ACA Unit Surcharge authorized by the Commission for fiscal year 1995 is $0.0024 per Mcf, $0.0023 per Dth converted to Texas Eastern's measurement basis.

The proposed effective date of the tariff sheets listed above is October 1, 1994.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers, interested state commissions, and all current interruptible customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 13, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22273 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–378–000]

Texas Eastern Transmission Corporation; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Texas Eastern Transmission Corporation (Texas Eastern) filed a limited application pursuant to Section 4 of the Natural Gas Act, 15 U.S.C. Section 717c (1988), and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission) promulgated thereunder to recover stranded Account No. 858 costs (Account No. 858 Costs) incurred as a consequence of Texas Eastern's implementation of Order No. 636.

Texas Eastern states that it is filing to recover Account No. 858 Costs pursuant to its Global Settlement in Docket No. RP85–177–119, *et al.* and § 15.2(D) of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume 1.

Original Sheet No. 193
Original Sheet No. 194
Original Sheet No. 195
Original Sheet No. 196
Sheet Nos. 197–199

The proposed effective date of these tariff sheets is October 1, 1994. Texas Eastern states that in accordance with

the Global Settlement, Texas Eastern's filing is subject to refund or adjustment only to the extent not in compliance with the Global Settlement. Texas Eastern requests the Commission to waive any of its regulations necessary to permit the above referenced tariff sheets to become effective on October 1, 1994.

Texas Eastern states that by this filing it seeks to recover known and measurable Account No. 858 Costs totalling $638,786.03 incurred from June 1, 1994, through July 31, 1994. Interest of $8,812.75 at the current FERC annual rate of 6.50% is included for the carrying charges from the date of payment of the costs to the projected date of payment by the Customers.

Texas Eastern states that copies of its filing have been served on all firm customers of Texas Eastern and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 12, 1994. 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 a file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22284 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–377–000]

Texas Gas Transmission Corporation; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with an effective date of October 1, 1994:

First Revised Sheet No. 52
First Revised Sheet No. 53
First Revised Sheet No. 55
Original Sheet No. 55A
First Revised Sheet No. 57
First Revised Sheet No. 60
First Revised Sheet No. 69
First Revised Sheet No. 74
First Revised Sheet No. 90
First Revised Sheet No. 91
Original Sheet No. 91A
First Revised Sheet No. 247
First Revised Sheet No. 252
First Revised Sheet No. 264
First Revised Sheet No. 265
First Revised Sheet No. 269

Texas Gas states that the tariff sheets are being filed to "fine-tune" two aspects of Texas Gas' FERC Gas Tariff as a result of its first summer of operating experience under Order No. 636. First, the filing provides increased flexibility to customers under Rate Schedules NNS and SGT by increasing the customers' Summer Quantity Entitlement by an amount equal to the unused portion of the Customer's Unnominated Seasonal Quantity remaining in storage at the end of the prior winter season. Second, the filing establishes procedures for the scheduling and performance of necessary maintenance, construction and tests without requiring reservation charge credits for impairment of deliveries.

Texas Gas states that copies of the revised tariff sheets are being mailed to Texas Gas's affected former jurisdictional sales customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 12, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22285 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–119–000, et al.]

Texas Gas Transmission Corp.; Informal Settlement Conference

September 2, 1994.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding at 10:00 a.m. on September 8, 1994, at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE, Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information please contact Michael D. Cotleur, (202) 208–1076, or Arnold H. Meltz (202) 208–2161.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22288 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–754–000]

Texas Gas Transmission Corp.; Request Under Blanket Authorization

September 2, 1994.

Take notice that on August 31, 1994, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro Kentucky 42302, filed in Docket No. CP94–754–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to operate a new delivery point to accommodate natural gas deliveries to United World Energy Corporation (United World), a producer, to enhance the productions of the wells being developed by providing a "gas-lift" service under the blanket certificate issued in Docket No. CP82–407–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

The proposed delivery point is located in Jefferson Davis Parish, Louisiana. United World presently owns and operates a two-inch check meter run and chart recorder, it is through this check meter that Texas Gas will provide the deliveries of gas to United World. The check meter will be designated as the United World-Hayes Meter and will be operated by Texas Gas during such period that the gas is being delivered to United World, instead of received from United World.

Texas Gas asserts that the proposed delivery point will permit Texas Gas to accommodate natural gas deliveries of 325 MMBtu per day of interruptible transportation service on a month-to-month basis to United World pursuant to Texas Gas' IT Rate Schedule. Texas Gas states that the proposal will have no

significant impact on its peak day and annual deliveries, because it will only provide an interruptible transportation service at the subject delivery point.

Texas Gas claims that no construction or installation of any new facilities are required in connection with the delivery of gas through the United World-Hayes Meter.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22291 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–42–000]

Transwestern Pipeline Company; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Transwestern Pipeline Company (Transwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of October 1, 1994:

109th Revised Sheet No. 5
15th Revised Sheet No. 5A
10th Revised Sheet No. 5A.01
7th Revised Sheet No. 5A.02
7th Revised Sheet No. 5A.03
7th Revised Sheet No. 5A.04
13th Revised Sheet No. 5B

Transwestern states that the tariff sheets referenced above are being filed to adjust Transwestern's Annual Charge Adjustment (ACA) pursuant to Section 23 of the General Terms and Conditions of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1. The adjustment of the ACA Surcharge is determined each fiscal year pursuant to the Commission's Order No. 472. The ACA Surcharge of $0.0023/dth as determined by the Commission reflects a decrease of $0.0002/dth from the currently effective ACA Surcharge of $0.0025/dth.

Transwestern states that there are no ACA Surcharges included in any of the rates reflected on 10th Revised Sheet No. 5A.01. In addition, to clarify that all rates reflected on Transwestern's rate sheets are expressed in dollars per MMBTU, Transwestern has added "($/MMBTU)" under the hearing of the following tariff sheets being filed herewith: 109th Revised Sheet No. 5, 15th Revised Sheet No. 5A, 10th Revised Sheet No. 5A.01, 7th Revised Sheet No. 5A.02, 7th Revised Sheet No. 5A.03, and 7th Revised Sheet No. 5A.04. Consistently therewith, that same language is being added to Footnote No. 9 on 13th Revised Sheet No. 5B.

Transwestern requested any waiver of any Commission Regulation and its tariff provisions as may be required to allow the tariff sheets referenced above to become effective on October 1, 1994.

Transwestern states that copies of the filing were served on its gas utility customers, interested state commissions, and all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 12, 1994. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22272 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–30–000]

Trunkline Gas Company; Change in Tariff

September 2, 1994.

Take notice that on August 31, 1994, Trunkline Gas Company (Trunkline) tendered for filing the revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, and to its FERC Gas Tariff, Original Volume No. 2, as reflected in Appendix No. 1 attached to the filing.

The proposed effective date of these revised tariff sheets is October 1, 1994.

Trunkline states that the above-referenced tariff sheets are being filed in accordance with the Commission's Order No. 472 and pursuant to Section 21 (Annual Charge Adjustment (ACA) Provision) of the General Terms and Conditions of Trunkline's FERC Gas Tariff, First Revised Volume No. 1.

Trunkline's current ACA Unit Surcharge of $0.0025 per Dt effective October 1, 1993, as approved by the Commission's Order dated September 30, 1993, in Docket No. TM94–1–30–000 changes to $0.0023 per Dt with the tracking of the ACA Unit Surcharge authorized for the fiscal year 1994.

Two of Trunkline's rate schedules involve utilization of third party pipelines. This filing incorporates ACA revisions filed by these third party pipelines into Trunkline's FERC Gas Tariff, Original Volume No. 2.

Trunkline states that copies of this letter and enclosures are being served on all customers subject to the tariff sheets and the applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22265 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–381–000]

Williams Natural Gas Company; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Williams Natural Gas Company (WNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet Nos. 240, 242, and 248. The proposed effective date of these tariff sheets is October 1, 1994.

WNG states that this filing is being made to amend §§ 11.2(d) and 11.4(b)(5) of the General Terms and Conditions to clarify that the reservation balancing fee is part of the reservation fee for which the Primary Shipper, any Subsequent Shipper, and any Replacement Shipper are liable and is included in the posted rate for reassignments. Section 11.7(d) is being added to clarify that balancing fees will be deducted from the gross revenue received from the Replacement Shipper before credit is given to the Releasing Shipper when the FTS component is released under a TSS contract. These amendments and additions are for clarification, only. No changes have been made to WNG's business practices. Shippers have been aware of these practices and procedures through notices on WNG's EBB and instructions included with WNG's EBB software.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22271 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–43–000]

Williams Natural Gas Company; Proposed Changes in FERC Gas Tariff

September 2, 1994.

Take notice that on August 31, 1994, Williams Natural Gas Company (WNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Fifth Revised Sheet Nos. 6 and 6A. The proposed effective date of these tariff sheets is October 1, 1994.

WNG states that these tariff sheets are being filed pursuant to Article 26 of the General Terms and Conditions of its FERC Gas Tariff to reflect a decrease in the FERC Annual Charge Adjustment from $.0025 to $.0023 per Dth for the fiscal year beginning October 1, 1994, per the FERC Annual Charges Billing under 18 CFR part 382 dated July 25, 1994.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22274 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–49–000]

Williston Basin Interstate Pipeline Company; Annual Change Adjustment Filing

September 2, 1994.

Take notice that on August 31, 1994, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, the following revised tariff sheets, with an effective date of October 1, 1994:

Second Revised Volume No. 1

Seventh Revised Sheet No. 15
Seventh Revised Sheet No. 16
Seventh Revised Sheet No. 18
Seventh Revised Sheet No. 21

Original Volume No. 2

Fifty-fourth Revised Sheet No. 10
Fifty-third Revised Sheet No. 11B

Williston Basin states that the instant filing reflects a revision to the Federal Energy Regulatory Commission's Annual Charge Adjustment (ACA) unit charge amount pursuant to the Commission's Statement of Annual Charges under 18 CFR Part 382 and Section 41 of the General Terms and Conditions of Williston Basin's FERC Gas Tariff, Second Revised Volume No. 1. The filing incorporates the Commission approved ACA surcharge of .240 cents per Mcf (.226 cents per dkt on the Williston Basin system), a decrease of .02 cents per Mcf from the current amount as authorized by the Commission.

Williston Basin states that copies of the filing were served upon the company's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 12, 1994. 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22280 Filed 9–8–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–4715–1]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 or (202) 260–5075.

Weekly receipt of Environmental Impact Statements Filed August 29, 1994 Through September 2, 1994 pursuant to 40 CFR 1506.9.

EIS No. 940363, LEGISLATIVE DRAFT, AFS, KY, Daniel Boone National Forest, Wild and Scenic Rivers Study, Six River for Inclusion in the National Wild and Scenic Rivers System, Suitability or Non-suitability, Jackson, Laurel, McCreary, Pulaski and Whitley Counties, KY, Due: December 9, 1994, Contact: Jorge Hersel (606) 745–3100.

EIS No. 940364, FINAL EIS, AFS, ID, West Fork Papoose Timber Sale, Implementation, Clearwater National Forest, Powell Ranger District, Idaho

County, ID, Due: October 10, 1994, Contact: Stewart Hoyt (208) 942–3113.
EIS No. 940365, DRAFT EIS, FHW, CA, CA–41 Route Adoption of Alignment Project, between El Paso Avenue and CA–145, Funding, Right-of-Way Acquisition and COE Section 404 Permit, Fresno and Madera Counties, CA, Due: October 24, 1994, Contact: Leonard E. Brown (916) 551–1140.
EIS No. 940366, FINAL EIS, SFW, LA, Bayou Sauvage National Wildlife Refuge Master Plan, Implementation, Orleans Parish, LA, Due: October 10, 1994, Contact: Dan Tabberer (504) 646–7579.
EIS No. 940367, DRAFT EIS, DOE, SC, F-Canyon Plutonium Solutions, Implementation, Savannah River Site (SRS), Aiken and Barnwell Counties, SC, Due: October 24, 1994, Contact: Karen L. Hooker (803) 725–9615.
EIS No. 940368, FINAL EIS, BLM, NV, Robinson Mining Project, Construction, Operation and Expansion, Plan of Operation Approval, White Pine, Elko and Eureka Counties, NV, Due: October 10, 1994, Contact: Dan Netcher (700) 469–2000.
EIS No. 940369, FINAL EIS, FHW, WA, Twin Bridges Replacement Project, Grosscup Road over the Yakima River, Funding and COE Section 10/404 Permit, Benton County, WA, Due: October 10, 1994, Contact: Barry F. Morehead (206) 753–2120.
EIS No. 940370, FINAL EIS, USN, IN, Great Lakes Naval Training Center Realignment of Naval Training Centers in Orlando, Florida; San Diego, California; Treasure Island and Combat Systems Technical Schools Command, Mare Island, California and Relocation of Commander Navy Recruiting Command, Washington, DC, Implementation, Lake County, IN, Due: October 10, 1994, Contact: Robert Teaque (803) 743–0785.
EIS No. 940371, FINAL EIS, CDB, NY, Southwest Middle School Project, Construction and Operation, Site Approval and CDBG Funds, City of Rochester, Monroe County, NY, Due: October 10, 1994, Contact: Don Naetzker (716) 262–8384.
EIS No. 940372, FINAL EIS, NRC, LA, Claiborne Uranium Enrichment Center, Construction and Operation, (NUREG–1482), NPDES Permit and Licensing, Homer, Claiborne Parish, LA, Due: October 10, 1994, Contact: Merri Horn (301) 504–2606.

Amended Notices

EIS No. 940354, DRAFT EIS, COE, MO, ND, SD, NB, IA, KS, Missouri River Master Water Plan Operation, Multipurpose Project, SD, NB, IA, MO, Due: November 30, 1994, Contact: Lawrence Cieslik (402) 221–7360.
Published FR—9–2–94—Due Date Correction.

Dated: September 6, 1994.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 94–22364 Filed 9–8–94; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–4715–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared August 22, 1994 Through August 26, 1994 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) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 8, 1994 (59 FR 16807).

Draft EISs

ERP No. D–FHW–D40265–PA Rating EC2, US 222 Corridor Design Location Study, Improvements from Breingsville to the I–78 Interchange, Funding, Lower and Upper Macungie Township, Lehigh County, PA.

Summary: EPA had environmental concerns based on the information provided, the potential natural resource impacts appear to be minor. EPA was concerned about the potential significant impacts from residential displacements. In regard to the quality of the documentation, the technical credibility of the draft EIS is undermined by the number of discrepancies and lack of supporting data.

ERP No. D–FHW–E40750–AL Rating EC2, Tuscaloosa East Bypass Corridor, Construction, I–59/I–20 east of Tuscaloosa to US 82 west of Northport, Funding, NPDES Permit, COE Section 10 and 404 Permits, Tuscaloosa County, AL.

Summary: EPA expressed environmental concerns about impacts to natural resources which included the loss of wetlands and upland forests. Information was lacking on wetlands mitigation and on impacts to hardwood forest habitat.

ERP No. D–FHW–E40751–NC Rating EC2, US 70 Goldsboro Bypass Construction, US 70 in the vicinity of NC–1237 to US 70 in the vicinity of NC–1731, Funding and COE Permits, Wayne County, NC.

Summary: EPA believes additional information was needed on potential mitigation of unavoidable impacts. If a northern corridor is selected, EPA would have greater concerns.

ERP No. D–NOA–K90027–00 Rating LO, Deep Seabed Hard Mining Exploration Project, License Issuance for the former Kenecott Mining Site (USA–4) to Ocean Minerals Mining, Pacific Ocean, Central America to HI.

Summary: EPA had no comments based upon the review of the draft EIS.

ERP No. D–USA–E11034–NC Rating EC2, Military Ocean Terminal Navigation Basins and Entrance Channels Improvements, Implementation, Sunny Point, Brunswick and New Hanover Counties, NC.

Summary: EPA had environmental concerns about potential adverse impacts to water quality resulting from the deepened navigation features.

Dated: September 6, 1994.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 94–22365 Filed 9–8–94; 8:45 am]

BILLING CODE 6560–50–U

[FRL–5069–8]

Colloquium on Ecological Risk Assessment Issues

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: This notice announces a colloquium sponsored by EPA's Risk Assessment Forum to discuss ecological risk assessment issues. The colloquium will focus on approaches for applying ecological risk methods to larger spatial scales. These discussions should be useful to EPA scientists seeking to apply ecological risk principles beyond small geographic areas.

DATES: The colloquium will begin on Thursday, September 15, 1994 at 1:30 p.m. and end at 4:45 p.m. and will begin on Friday, September 16, 1994 at 8:00 a.m. and end at 5:00 p.m. Members of the public may attend as observers.

ADDRESSES: The meeting will be held at the Sheraton National Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia (Tel: 703/521–1900).

Eastern Research Group, Inc., an EPA contractor, is providing logistical support for the colloquium. To attend the colloquium as an observer, call Eastern Research Group at 617/674–7374. Space is limited.

FOR FURTHER INFORMATION CONTACT: Suzanne Marcy, U.S. Environmental Protection Agency, Office of Water (4304), 401 M Street, SW., Washington, DC 20460, Tel: (202) 260–0689.

SUPPLEMENTARY INFORMATION: EPA's Office of Water and Risk Assessment Forum are jointly evaluating approaches for determining ecological risk assessments of larger spatial scales based on the ecological risk assessment process as described in the EPA report Framework for Ecological Risk Assessment (EPA/630/R–92/001). Preliminary site-specific examples of larger scale assessments developed by EPA scientists will serve as focal points for discussions at the colloquium. Colloquium participants will comment on the techniques available for conducting larger-scale risk assessments and will suggest approaches for completing the design and analysis of the examples.

Dated: August 30, 1994.

Carl Gerber,

Acting Assistant Administrator for Research and Development.

[FR Doc. 94–22355 Filed 9–8–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5069–1]

Science Advisory Board; Radiation Advisory Commmittee; Notification of Public Advisory Committee Meeting; Open Meeting

Radiation Environmental Futures Teleconference—September 26, 1994: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Radiation Advisory Committee (RAC) and its Radiation Environmental Futures Subcommittee (REFS) of the Science Advisory Board (SAB) will conduct a teleconference meeting on Monday, September 26, 1994 from 11:00 a.m. to 1:00 p.m. eastern time. In this teleconference meeting, the RAC intends to concur on technical edits to its draft report on review of the topic of radiation environmental futures for the purpose of closure by the full committee and to incorporate comments from the SAB's Environmental Futures Committee (EFC) from their September 13 and 14 meeting in Washington, D.C. (see **Federal Register**, Vol. 59, No. 134, Thursday, July 14, 1994, pp. 35927–35928). The August or September working drafts will be made available to the Agency or the public. The teleconference meeting is open to the public and teleconference lines will be assigned on a first come basis. Previous public meetings to discuss the topic of future issues in environmental radiation include those held on May 4–6, 1994 (See **Federal Register**, Vol. 59, No. 68, Friday, April 8, 1994, pp. 16809–16811), June 20, July 11, July 13, and August 29, 1994. (See **Federal Register**, Vol. 59, No. 106, Friday, June 3, 1994, pp. 28856–28857, and **Federal Register**, Vol. 59, No. 157, Tuesday, August 16, 1994, pp. 42044–42045). At the teleconference meeting of August 29, 1994, the RAC was not able to achieve closure, and therefore is holding one more teleconference to achieve closure on this topic.

Any member of the public wishing further information, such as a proposed agenda for the meeting, should contact Dr. K. Jack Kooyoomjian, Designated Federal Official, or Ms. Diana L. Pozun, Staff Secretary; Science Advisory Board (1400–F); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460, Phone: (202) 260–6552 or FAX (202) 260–7118. Members of the public who wish to make a brief oral presentation at the teleconference should contact Dr. Kooyoomjian or Ms. Pozun no later than September 21, 1994 in order to have time reserved on the agenda. The Science Advisory Board expects that public statements presented at the teleconference meeting will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of three minutes. Written comments (at least 24 copies) received by the SAB by September 19, 1994 may be mailed to the SAB's RAC and REFS prior to the meeting; comments received after that date will be provided to the RAC and the REFS as logistics allow. Members of the public desiring additional information about the meeting should contact Ms. Diana L. Pozun, Staff Secretary, Science Advisory Board (1400F), US EPA, 401 M Street, SW, Washington DC 20460, by telephone at (202) 260–6552, fax at (202) 260–7118, or via the INTERNET at: Pozun.Diana@EPAMAIL.EPA.GOV.

Dated: August 30, 1994.

Stephanie Sunzone,

Acting Staff Director, Science Advisory Board.

[FR Doc. 94–22356 Filed 9–8–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5069–4]

Meeting of the Ozone Transport Commission for the Northeast United States

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing a meeting of the Ozone Transport Commission to be held on September 27, 1994.

This meeting is for the Transport Commission to deal with appropriate matters within the transport region, as provided for under the Clean Air Act Amendments of 1990. This meeting is not subject to the provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

DATES: The meeting will be held on September 27, 1994, 9:00 a.m. to 4:00 p.m.

PLACE: The meeting will be held at: The Newport Islander Doubletree Hotel, Goat Island, Newport, RI 02840.

FOR FURTHER INFORMATION CONTACT: Doug Gutro, State Relations Coordinator, Region I, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, MA 02203, (617) 565–3383.

FOR PRESS INQUIRES CONTACT: Steve Majkut, Rhode Island Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767, (401) 277–2808.

FOR DOCUMENTS CONTACT: Stephanie A. Cooper, Ozone Transport Commission, 444 North Capitol Street, N.W., Suite 604, Washington, DC 20001, (202) 508–3840.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at section 184 provisions for the "Control of Interstate Ozone Air Pollution." Section 184(a) establishes an ozone transport region comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia.

The Assistant Administrator for Air and Radiation of the Environmental Protection Agency convened the first meeting of the commission in New York City on May 7, 1991. The purpose of the Transport Commission is to deal with appropriate matters within the transport region.

The purpose of this notice is to announce that this Commission will meet on September 27, 1994. The meeting will be held at the address noted earlier in this notice.

Section 176A(b)(2) of the Clean Air Act Amendments of 1990 specifies that the meetings of Transport Commissions are not subject to the provisions of the Federal Advisory Committee Act. This

meeting will be open to the public as space permits.

Type of Meeting: Open.

Agenda: Copies of the final agenda will be available from Stephanie Cooper of the OTC office, (202) 508–3840 on Tuesday, September 20, 1994. The purpose of the meeting is to receive reports from its committees, and to consider actions relating to the November 15, 1994, State Implementation Plan revisions, especially controls on stationary source nitrogen oxides emissions.

John DeVillars,

Regional Administrator, EPA Region I.

[FR Doc. 94–22357 Filed 9–8–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[PR Docket No. 91–270; DA 94–937]

Private Land Mobile Radio Services; Washington Public Safety Plan Amendment

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Acting Chief, Land Mobile and Microwave Division and the Acting Chief, Spectrum Engineering Division released this Order amending the Public Safety Radio Plan for Washington (Region 43). As a result of accepting the amendment for the Plan for Region 43, the interests of the eligible entities within the region will be furthered.

EFFECTIVE DATE: August 31, 1994.

FOR FURTHER INFORMATION CONTACT: Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

Order

Adopted: August 23, 1994.
Released: August 31, 1994.
By the Acting Chief, Land Mobile and Microwave Division and the Acting Chief, Spectrum Engineering Division:

1. The Private Radio Bureau and the Office of Engineering and Technology, acting under delegated authority, accepted the Washington (Region 43) Public Safety Plan (Plan) on November 15, 1991, 6 FCC Rcd 7017 (1991).

2. By letter dated April 4, 1994, the Region proposed to amend its Plan. The proposed amendment would reformat the Plan, add two yearly filing windows and further clarify the application review procedures. The Commission placed the letter on Public Notice for comments due on July 28, 1994, 59 FR 32961 (June 27, 1994), and received no comments.

3. We have reviewed the proposed amendment to the Region 43 Plan and, having received no comments to the contrary, conclude it furthers the interests of the eligible entities within the Region.

4. Accordingly, It Is Ordered, That the Public Safety Radio Plan for Washington (Region 43) Is Amended, as set forth in the Region's letter of April 4, 1994. This Amendment is effective immediately.

Federal Communications Commission.

Rosalind K. Allen,

Acting Chief, Land Mobile and Microwave Division.

[FR Doc. 94–22195 Filed 9–8–94; 8:45 am]

BILLING CODE 6712–01–F

[PR Docket No. 91–228; DA 94–938]

Private Land Mobile Radio Services; Illinois Public Safety Plan Amendment

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Acting Chief, Land Mobile and Microwave Division and the Acting Chief, Spectrum Engineering Division released this Order amending the Public Safety Radio Plan for Illinois (Region 13). As a result of accepting the amendment for the Plan for Region 13, the interests of the eligible entities within the region will be furthered.

EFFECTIVE DATE: September 1, 1994.

FOR FURTHER INFORMATION CONTACT: Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

Order

Adopted: August 25, 1994.
Released: September 1, 1994.
By the Acting Chief, Land Mobile and Microwave Division and the Acting Chief, Spectrum Engineering Division:

1. The Private Radio Bureau and the Office of Engineering and Technology, acting under delegated authority, accepted the Illinois (Region 13) Public Safety Plan (Plan) on September 30, 1991, 56 FR 54576 (October 22, 1991).

2. By letter dated May 10, 1994, the Region proposed to amend its Plan. The proposed amendment would revise the current channel allotments. The Commission placed the letter on Public Notice for comments due on August 4, 1994, 59 FR 34623 (July 6, 1994), and received no comments.

3. We have reviewed the proposed amendment to the Region 13 Plan and, having received no comments to the contrary, conclude it furthers the interests of the eligible entities within the Region.

4. Accordingly, It Is Ordered, That the Public Safety Radio Plan for Illinois (Region 13) Is Amended, as set forth in the Region's letter of May 10, 1994. This Amendment is effective immediately.

Federal Communications Commission.

Rosalind K. Allen,

Acting Chief, Land Mobile and Microwave Division.

[FR Doc. 94–22194 Filed 9–8–94; 8:45 am]

BILLING Code 6712–01–F

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Reissuance of License

Notice is hereby given that the following ocean freight forwarder license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License No.	Name/address	Date reissued
2731	Hemisphere Forwarding, Inc., 7 Cerro Street, Inwood, New York 11696.	Aug. 24, 1994.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 94–22315 Filed 9–8–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

The Sakura Bank, Limited; Application To Engage in Nonbanking Activities

The Sakura Bank, Limited, Tokyo, Japan (Applicant), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23 of the Board's Regulation Y (12 CFR 225.23), to engage *de novo* through its wholly owned subsidiary, Sakura Securities (USA) Inc., New York, New York (Company), in the following nonbanking activities:

(1) Acting as agent in the private placement of all types of securities, and providing related advisory services; and

(2) Purchasing and selling all types of securities on the order of customers as a riskless principal.

Applicant seeks approval to conduct the proposed activities throughout the United States and abroad.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. 12 U.S.C. 1843(c)(8). In determining whether a proposed activity is closely related to banking for purposes of the BHC Act, the Board considers, *inter alia*, the criteria set forth in *National Courier Association* versus *Board of Governors of the Federal Reserve System*, 516 F.2d 1229 (D.C. Cir. 1975). These considerations are: (1) whether banks generally have in fact provided the proposed services; (2) whether banks generally provide services that are operationally or functionally so similar to the proposed services as to equip them particularly well to provide the proposed services; and (3) whether banks generally provide services that are so integrally related to the proposed services as to require their provision in a specialized form. See 516 F.2d at 1237. In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. *Board Statement Regarding Regulation Y*, 49 FR 806 (1984).

Applicant states that the Board previously has determined by order that each of the proposed activities, when conducted within the limitations established by the Board in its previous orders, are closely related to banking, and, where applicable, consistent with section 20 of the Glass-Steagall Act (12 U.S.C. 377). See, e.g., J.P. Morgan & Co. Incorporated, et al., 75 Federal Reserve Bulletin 192 (1989), *aff'd sub nom. Securities Industries Ass'n* versus *Board of Governors of the Federal Reserve System*, 900 F.2d 360 (D.C. Cir. 1990), *Order Approving Modifications to the Section 20 Orders*, 75 Federal Reserve Bulletin 751 (1989), Order Approving Modifications to the Section 20 Orders, 79 Federal Reserve Bulletin 226 (1993), and Supplement to Order Approving Modifications to Section 20 Orders, 79 Federal Reserve Bulletin 360 (1993) (underwriting and dealing activities); and Bankers Trust New York Corporation, 75 Federal Reserve Bulletin 829 (1989) (private placement and riskless principal activities).

Applicant maintains that Company will conduct the foregoing, previously approved activities in conformity with the conditions and limitations established by the Board in prior cases.

In order to approve the proposal, the Board must determine that the proposed activities to be conducted by Company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. 12 U.S.C. 1843(c)(8).

Applicant believes that the proposal will produce public benefits that outweigh any potential adverse effects. In particular, Applicant maintains that the proposal will enhance competition and efficiency. In addition, Applicant states that the proposed activities will not result in adverse effects such as an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application, and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, on or before September 19, 1994. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco.

Board of Governors of the Federal Reserve System, September 7, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-22541 Filed 9-8-94; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection Under OMB Review

Under the provisions of the Federal Paperwork Reduction Act (44 U.S.C. Chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for the reinstatement of an information collection previously approved under OMB control number 0980–0141. The request titled: State Plan for Foster Care and Adoption Assistance Title IV–E is sponsored by the Children's Bureau of the Administration for Children and Families (ACF).

Addresses: Copies of this information collection may be obtained from Edward E. Saunders, by calling (202) 205–7921. Written comments and questions regarding the requested approval for information collection should be sent directly to: Kathy McHugh, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, Room 3002, 725 17th Street, N.W., Washington, D.C. 20503, (202) 395–7316.

Information on Document

Title: State Plan for Foster Care and Adoption Assistance (Title IV–E)

OMB No.: 0980–0141

Description: The Title IV–E State Plan for Foster Care and Adoption Assistance is required by Section 471 of the Social Security Act. Section 471 of the Act, Federal Payments for Foster Care and Adoption Assistance, requires that every State operate the Federal foster care and adoption assistance programs under an approved Title IV–E State plan. States may submit the Title IV–E plans using a preprinted format or they may develop their own format as long as the requirements of the Act are addressed.

States must document how they meet the Title IV–E requirement. Therefore, this information collection is requested to ensure there are no systematic problems that would later be the basis for disallowances for individual children during a financial review

Annual Number of Respondents: 51
Annual Frequency: 1
Average Burden Hours Per Response: 12*
Total Burden Hours: 180

*The State Plan is submitted only once and amended as necessary. Our experience is that a State will amend a plan once every 4 years.

Dated: August 30, 1994.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 94–22321 Filed 9–8–94; 8:45 am]

BILLING CODE 4184–01–M

Agency for Toxic Substances and Disease Registry

[ATSDR–81]

Availability of ATSDR's Draft Criteria for Determining the Appropriateness of a Medical Monitoring Program Under CERCLA

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the availability of draft criteria for determining the appropriateness of site-specific medical monitoring programs under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The public is invited to comment on these draft criteria.

DATES: Comments must be received on or before October 24, 1994.

ADDRESSES: Submit written comments relating to the draft criteria to Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–31, Atlanta, Georgia 30333, telephone (404) 639–6200.

FOR FURTHER INFORMATION CONTACT: Dr. Wendy E. Kaye, Chief, Epidemiology and Surveillance Branch, Division of Health Studies, ATSDR, telephone (404) 639–6203.

SUPPLEMENTARY INFORMATION: Section 104(i)(9) of the CERCLA, as amended [42 U.S.C. 9604(i)(9)], provides for the Administrator of ATSDR to initiate a health surveillance program for populations at significant increased risk of adverse health effects as a result of exposure to hazardous substances released from a facility. A program included under health surveillance is referred to as "Medical Monitoring or Screening" by ATSDR and is defined in the legislation as "the periodic medical testing" to screen people "at significant increased risk" for diseases. The legislation states that a mechanism to refer people who are screened positive for such diseases for treatment should be included in the program. Statutory language only enables ATSDR to provide medical care or treatment in cases of public health emergencies. ATSDR has established criteria to determine when medical monitoring is an appropriate health activity and the requirements for establishing a medical monitoring program at a site.

Background

ATSDR is responsible for the public health related activities of CERCLA. ATSDR's primary initial response at a hazardous substance release or facility is the public health assessment, which is required for every site on the National Priorities List (NPL). A public health assessment can also be conducted in response to a petition from the public. Other important components of ATSDR's initial response at sites include health consultations and public health advisories. The public health assessments, health consultations, and public health advisories undergo review by ATSDR to determine if follow-up health activities are needed at a site.

The types of follow-up health activities recommended for a site will depend on the amount of information on the possible exposures and their suspected pathways. In any case in which an association has not been established between an exposure and a specific adverse health outcome, several research and health education activities could be considered. Those activities could include exposure assessment at the site, epidemiologic studies, or professional education.

ATSDR's Division of Health Assessment and Consultation is establishing a program for the investigation of exposures in communities. That program will enable a more timely response to questions on whether individuals in a community are being exposed. The program will incorporate a variety of industrial hygiene techniques for measuring chemicals in the environment, as well as selected biological markers of exposure.

The Division of Health Education provides a wide variety of services to educate health care professionals and communities on the effects of exposures to hazardous substances. Activities in a community around a hazardous substance release or facility may include conducting grand rounds for health care providers on the effects of a specific chemical, providing fact sheets on chemicals, conducting workshops on clues to environmental disease, and producing case studies in environmental medicine.

The Division of Health Studies (DHS) is responsible for conducting epidemiologic research, including several types of studies, surveillance programs, and exposure registries. Cluster investigations and disease and symptom prevalence studies examine the occurrence of disease in populations. Analytic epidemiology studies are conducted to evaluate the causal nature of associations between exposure to hazardous substances and disease outcomes.

DHS also has a surveillance program focusing on exposures to substances at hazardous substance release or facility. The surveillance program includes systems that follow populations exposed to hazardous substances because of where they live or their occupation. It also includes surveillance of emergency events in which hazardous substances are released into the environment.

DHS is responsible for maintaining the National Exposure Registry, a listing of people exposed to hazardous substances. The Registry is composed of substance specific subregistries. The chemicals are selected from the list designated by ATSDR as being of greatest threat to health.

Medical monitoring is considered one of several follow-up health activity options under the site-specific work conducted by ATSDR. A medical monitoring program for the community exposed to hazardous substances from a site will be considered with other health follow-up activities when the information from ATSDR's initial response at the site is reviewed. In cases in which there is no known association between the exposure and specific adverse health effects (which could include health outcomes, illnesses, or markers of effect), medical monitoring is not an appropriate public health activity. In cases in which there is limited information on a specific health effect's relationship to an exposure, then options such as epidemiologic surveillance, a disease and symptom prevalence study, or an epidemiologic study are more appropriate. When adequate information exists linking exposure to a hazardous substance with a specific adverse health effect, further consideration will then be given to the appropriateness of medical monitoring in that population.

Medical monitoring should be directed towards a target community identified as being at "significant increased risk for disease" on the basis of exposure. Significant increased risk will vary for particular sites depending

upon such factors as the underlying risk of the outcome of concern, the risk attributable to the exposure, and the presence of sensitive subpopulations. These factors will be considered when evaluating the appropriateness of medical monitoring in a community.

The CERCLA legislation also provides for a mechanism for referral for treatment of those who are screened positive for the health outcomes of concern; therefore, a mechanism to refer people for diagnosis, interventions, or treatment should be in place prior to the initiation of a medical monitoring program.

The primary purpose of a medical monitoring program is not considered to be a research activity that further investigates the cause-effect relationship between exposure and outcome. The primary purpose of a medical monitoring program is case finding in order to refer individuals for further evaluation and, as appropriate, treatment. Within this framework, medical monitoring may include both testing for early biological effect and an assessment of exposure using biological specimens (for example, blood or urine), when appropriate. This is provided as a service to individuals in communities where there is believed to be significant increased risk of disease from exposure to hazardous substances released into the environment.

Criteria for Considering Medical Monitoring

The criteria outlined below will be used to determine the appropriateness of conducting medical monitoring in a community and will be applied in a phased approach. Phase I, conducted by ATSDR, consists of an evaluation of the exposure and outcome criteria. Phase II consists of an evaluation of the system criteria. Phase II will be conducted by a panel consisting of community, State and local health officials, and ATSDR. At the end of Phase II, a detailed medical monitoring plan for a community will be written. All of the criteria must be met at a site in order for a medical monitoring program to be established at that site.

Phase I

Exposure Criteria

A. There Should Be Evidence of Contaminant Levels in Environmental Media That Would Suggest the High Likelihood of Environmental Exposure to a Hazardous Substance and Subsequent Adverse Health Outcomes

The exposure must be to a hazardous substance as defined under CERCLA, and the result of a release from a CERCLA covered facility. The primary criteria for medical monitoring should be documented evidence of exposure of a population to a hazardous substance in the environment. An exposure will be considered to be at a sufficient level if there is documentation of an increased opportunity for exposure to a level that meets or exceeds some health-based comparison value or that meets or exceeds a level reported in the peer-reviewed literature to result in some adverse health effect. Documentation is considered sufficient if it is from an exposure assessment, environmental exposure modeling, or sampling from a general area (for example, water samples from an aquifer or a town water supply). Documentation of individual levels of exposure is not required. In cases in which exposures are unknown or undocumented, environmental monitoring is a more appropriate initial activity.

B. There Should Be a Well-Defined, Identifiable Target Population of Concern in Which Exposure to a Hazardous Substance at a Sufficient Level Has Occurred

Initially, the target population of concern will be defined geographically on the basis of exposure. In addition, all populations considered will be assessed for the presence of any sub-population at increased risk of the adverse health effects associated with the exposures. An example of a subpopulation at increased risk would be preschool children in an area with soil lead contamination. The size of the target population of concern is not a factor in the decision for monitoring. In areas where biological markers of exposure have not been collected, environmental sampling can be used to estimate exposure levels. The target population of concern is the population in which there is documented exposure at a sufficient level to place the individuals in that population at significant increased risk for developing some specific adverse health effect.

Outcome Criteria

A. There Should Be Documented Human Health Research That Demonstrates a Scientific Basis for a Reasonable Association Between an Exposure to a Hazardous Substance and a Specific Adverse Health Effect (Such As an Illness or Change in a Biological Marker of Effect)

There must be previous studies on human populations which demonstrate a reasonable association between a particular exposure and an adverse health effect. In order to make that inference, consideration should be given to the strength, specificity, and consistency of the association among the identified studies. The period of exposure (including its timing and duration) and its relationship to the latency period for the disease or illness should also be examined if information is available. Consideration should be given as to whether the association has demonstrated a dose-response relationship and whether the association is consistent with the existing body of knowledge. This information could include a variety of occupational, epidemiologic, or other studies involving human populations.

B. The Monitoring Should Be Directed at Detecting Adverse Health Effects That Are Consistent With the Existing Body of Knowledge and Amenable to Prevention or Intervention Measures

The monitoring should be established for specific adverse health effects. The specific adverse health effect being monitored should be a result of the possible exposure consistent with the existing body of knowledge. An adverse health effect is consistent with the existing body of knowledge if it has been described in the literature as caused by that agent or by similar agents, taking into account structure-activity relations.

In addition, the adverse health effects (disease process, illness, or biomarkers of effect) should be such that early detection and treatment or intervention interrupts the progress to symptomatic disease, improves the prognosis of the disease, improves the quality of life of the individual, or is amenable to primary prevention. If the adverse health effects that are of concern in an individual or in a community are not easily detectable and not medically treatable, then medical monitoring would not be beneficial and would not be an appropriate public health activity. An easily detectable effect is one that can be found on clinical examination, or through the use of simple, diagnostic tests in an outpatient setting. Also, the test procedures must be acceptable to the patient and the community. The diagnostic tests must be nonexperimental, relatively noninvasive (such as the drawing of a tube of blood for laboratory tests), and simple to administer.

Monitoring for Evidence of Continuing Exposure

In cases such as those at sites with lead exposure, the monitoring program might include following biological markers of continuing exposure. Those sites would be ones in which the

exposure is known to have a variety of adverse health effects, but for which no tests are available to detect those effects at a time when intervention could affect the course of the disease process. In those instances, the primary intervention is to remove the individual from the exposure. This allows the medical monitoring system to recommend referral for intervention prior to the onset of detectable adverse health effects. A monitoring system that includes biomarkers of continuing exposure is similar to medical surveillance of hazardous waste workers where changes indicative of increasing or continued exposures occur sufficiently early that the exposure can be curtailed and the risk for disease reduced (Gochfeld 1990).

Phase II

General Information

When ATSDR has determined that exposure from a site has met the exposure and outcome criteria, a site panel will be formed to review the system criteria and to develop a site-specific medical monitoring plan.

The site panel will include representatives from the community, State or local health departments, and local medical societies.

System Criteria

A. The General Requirements for a Medical Screening Program Should Be Satisfied

The monitoring aspect of a health surveillance program consists of the periodic medical testing to screen individuals who are at increased risk of disease. Monitoring serves to identify those individuals with an unrecognized adverse health effect. This is consistent with the definition of screening as "the presumptive identification of unrecognized disease or defect by the application of tests, examinations, or other procedures which can be applied rapidly. Screening tests sort out apparently well persons who probably have a disease from those who probably do not. A screening test is not intended to be diagnostic. Persons with positive or suspicious findings must be referred to their physicians for diagnosis and necessary treatment." (Commission on Chronic Illness, 1957) In general, the ability to predict the presence or absence of disease from test results depends on the sensitivity and specificity of the test and the prevalence of the disease in the population being tested. The higher the prevalence, the more likely a positive test indicates disease (Mausner & Kramer, 1985). In order for a screening program to be of public health benefit, the population being screened should be at a significantly high risk for the undiagnosed disease (i.e., the disease should have a sufficiently high prevalence in the population).

Given that definition, there are certain requirements for screening programs that should be considered when evaluating a possible medical monitoring program for a site (adopted from Mausner & Kramer, 1985).

- The natural history of the disease process should be understood sufficiently for screening.
- The early detection through screening should be known to have an impact on the natural history of that disease process. For example, the detection of breast cancer while it is localized has been shown to increase the ten-year survival rate. For that reason, several groups have made recommendations for the early detection of breast cancer in asymptomatic women. Those recommendations include breast self-examination, breast physical examination, and mammography (Mettlin & Dodd, 1991; Kelsey & Gammon, 1991).
- There should be an accepted screening test that meets the requirements for validity, reliability, estimates of yield, sensitivity, specificity, and acceptable cost. The purpose of ATSDR-sponsored medical monitoring is not to develop new screening tests. The medical monitoring program will use tests that have been recommended and used for screening in other settings.
- The screening program should be one that is feasible and acceptable to individuals and the community. Therefore, plans for a medical monitoring program will be presented to the community for input prior to the initiation of any recommended program.

B. An Accepted Treatment, Intervention, or Both for the Condition (Outcome or Marker of Exposure) Must Exist and a Referral System Should Be in Place Prior to the Initiation of Medical Monitoring Program

There should be established criteria for determining who should receive referral for intervention or treatment. These criteria will be based on the selected effect being screened for and the screening test being used. Results will be evaluated longitudinally and cross-sectionally to identify changes in the system or screening tools that require follow-up (Gochfeld 1990). A referral mechanism should exist so that those who are eligible for the intervention can be referred to a qualified health care provider for further diagnosis, treatment, or intervention. The referral must be for treatment or intervention that is standard practice and not experimental in nature. The medical monitoring (screening) program is not responsible for the cost of the referral, the intervention, or the treatment of individuals participating in the program.

C. The Logistics of the System Must Be Resolved Before the Program Can Be Initiated

After medical monitoring has been determinedappropriate for a site, the specifics of the monitoring system will be detailed in a medical monitoring plan. The site panel consisting of the community members and appropriate health officials will develop the site-specific medical monitoring plan. The specifics of the medical monitoring system recommended can vary for each site. The monitoring plan is the protocol for the specific program to be proposed in a community. The plan will outline the target community, the types of outcomes to be screened for, the participants in the referral system, and the program reports. The plan will include a review of the latency period for the outcomes being monitored and the duration of the exposure to define the period of time that the program will operate in a specific site population. The target population; the completeness with which the exposed population can be identified, contacted, and followed; the screening tests; and the selected health outcomes will all influence the specifics of the system. Existing medical facilities and personnel will be used when possible. The plan for a site might require review by an expert panel. ATSDR's Division of Health Studies will work closely with the Division of Health Education to provide for professional health education when needed to enhance the medical monitoring program. Additionally, the monitoring plan will be submitted for peer review prior to its implementation at a site. The monitoring activity at each site will be routinely evaluated for the effectiveness of the screening tests in place and the types of effects being detected. Due to confidentiality issues in dealing with small groups of people, the reporting from the system will consist of annual reports noting the number of individuals screened, the number of referrals made, and the number of conditions diagnosed in the referral system.

The referral system will consist of the review of the screening results and the referral to appropriate health care providers or referral physicians. The specific mechanisms for determining

who needs referral and for selecting the health care providers in the referral pool must be in place prior to the initiation of the medical monitoring. Once the participant has been referred to the referral providers, those providers will be responsible for the subsequent diagnosis, treatment, or intervention.

Summary

Medical monitoring will be considered along with the other health follow-up activities to be recommended for populations around specific sites. The Division of Health Studies will make a determination on whether a site meets the exposure and outcome criteria for medical monitoring. If a site meets the previously discussed criteria and is selected for further consideration of a medical monitoring program, ATSDR will work with the community and other appropriate entities in designing the specific monitoring and referral system for that site's target population. ATSDR will notify, and where appropriate, will work with the State health department to establish the program. The Division of Health Studies will monitor the program and be responsible for oversight on the annual reports.

References

Commission on Chronic Illness: Chronic Illness in the United States, Vol. 1. Commonwealth Fund, Harvard University Press, Cambridge, 1957, page 45.

Gochfeld M. Medical surveillance of hazardous waste workers. In Principles and Problems in Occupational Medicine State of the Art Reviews: Hazardous Waste Workers. Gochfeld M and EA Favata, editors. Philadelphia: Hanley & Belfus, Inc., 1990;5(1):1–8.

Kelsey JL and MD Gammon. The epidemiology of breast cancer. CA–A Cancer Journal for Clinicians 1991;41(3):146–165.

Mausner JS and S Kramer. Epidemiology—an introductory text. Philadelphia: W.B. Saunders, 1985, pages 220–230.

Mettlin C and GD Dodd. The American Cancer Society guidelines for the cancer-related checkup: An Update. CA–A Cancer Journal for Clinicians 1991;41(5):279–282.

Dated: September 1, 1994.

Claire V. Broome,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 94–22228 Filed 9–8–94; 8:45 am]

BILLING CODE 4163–70–P

Centers for Disease Control and Prevention

Workshop on Prevention and Control of Waterborne Cryptosporidiosis: An Emerging Public Health Threat

The Centers for Disease Control and Prevention (CDC) announces an open meeting concerning *Cryptosporidium* contamination of public water supplies.

Name: Workshop on Prevention and Control of Waterborne *Cryptosporidiosis:* An Emerging Public Health Threat.

Times and Dates: 8:30 a.m.—3:30 p.m., September 22, 1994; 1 p.m.—4 p.m., September 23, 1994.

Place: CDC, Auditorium B, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The objective of this meeting is to discuss the immediate and long-term public health practice, policy, and research needs concerning *Cryptosporidium* contamination of public water supplies.

Matters To Be Discussed: The agenda will focus on:

1. Waterborne Cryptosporidiosis in the United States
2. Testing for Cryptosporidium in Untreated and Finished Surface Water
3. Infectious Dose
4. Infectious Dose and Community Risk
5. Insights and Lessons Learned from the Milwaukee Outbreak, the Investigation, and Follow-up Surveillance Activities
6. Presentations and Discussion on Waterborne cryptosporidiosis and the immunosuppressed
7. Cryptosporidium Testing and the Information Collection Rule
8. Presentations and Discussions: Issues and Perspectives on Cryptosporidium in Public Water Supplies

The discussion will include presentations by community, State, and Federal representatives. Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information: Margaret R. Hurd, DPD, NCID, CDC, Mailstop F–22, 4770 Buford Highway, NE, Atlanta, Georgia 30341–3724, telephone 404/488–7761.

Dated: September 2, 1994.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–22229 Filed 9–8–94; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

Advisory Committee Meeting; Cancellation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is cancelling the joint meeting of the Dermatologic Drugs and Anti-Infective Drugs Advisory Committees scheduled for September 23, 1994, 1 p.m. to 5 p.m., to allow additional time for the agency to identify speakers concerning the potential for development of antibiotic resistance with over-the-counter use of topical erythromycin in the treatment of acne. The meeting was announced in the **Federal Register** of August 22, 1994 (59 FR 43126 at 43127). It is anticipated that the meeting will be rescheduled in a few months, to be announced at a later date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ermona B. McGoodwin, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

Dated: September 2, 1994.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 94–22354 Filed 9–8–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94N–0307]

American Cyanamid Co.; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by American Cyanamid Co. The NADA provides for use of chlortetracycline bisulfate soluble bulk for making medicated drinking water for animals for the prevention and treatment of various bacterial infections. The sponsor requested the withdrawal of approval of the NADA.

EFFECTIVE DATE: September 19, 1994.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1623.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., Agricultural Research Division, Box 400, Princeton, NJ 08543–0400, is the sponsor of NADA 65–217 that provides for use of chlortetracycline bisulfate soluble bulk for making medicated drinking water for animals for the prevention and treatment of various bacterial infections. American Cyanamid Co. requested withdrawal of NADA 65–217 because there are no

products being marketed based on this application.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with 21 CFR 514.115 *Withdrawal of approval of applications*, notice is given that approval of NADA 65–217 and all supplements and amendments thereto is hereby withdrawn, effective September 19, 1994.

Dated: September 1, 1994.

Richard H. Teske,

Deputy Director, Pre-market Review, Center for Veterinary Medicine.

[FR Doc. 94–22353 Filed 9–8–94; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Public Health Service (PHS) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program ("the Program"), as required by section 2112(b)(2) of the PHS Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program generally, contact the Clerk, United States Court of Federal Claims, 717 Madison Place, N.W., Washington, D.C. 20005, (202) 219–9657. For information on the Public Health Service's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 8A35, Rockville, MD 20857, (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to PHS. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at section 2114 of the PHS Act. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a partial list of petitions received by PHS on October 1, 1990 through January 29, 1991.

Section 2112(b)(2) also provides that the special master "shall afford all interested persons an opportunity to submit relevant, written information" relating to the following:

1. The existence of evidence "that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition," and

2. Any allegation in a petition that the petitioner either:

(a) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table (see section 2114 of the PHS Act) but which was caused by" one of the vaccines referred to in the Table, or

(b) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine" referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading "For Further Information Contact"), with a copy to PHS addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, Room 8–05, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Denise Polanco on behalf of Jasmine Polanco, New York City, New York, Claims Court Number 91–0195 V
2. Darlene Smith on behalf of Wesley Smith, Santa Ana, California, Claims Court Number 91–0196 V
3. Robert Leist, Miami, Florida, Claims Court Number 91–0197 V
4. Paolino Mangiafico on behalf of Rosario Mangiafico, New Britain, Connecticut, Claims Court Number 91–0198 V
5. James Robinson on behalf of Kathryn Robinson, Fairport, New York, Claims Court Number 91–0199 V
6. Edith Falk on behalf of Laura Falk, Newell, South Dakota, Claims Court Number 91–0200
7. Diane Mosley, Baltimore, Maryland, Claims Court Number 91–0201
8. Fred and Alison Land on behalf of Cody Land, Oklahoma City, Oklahoma, Claims Court Number 91–0202 V
9. Terren Frenz on behalf of Timothy Frenz, Canton, Ohio, Claims Court Number 91–0203 V
10. Betty Dickerson on behalf of Shakia Dickerson, Towson, Maryland, Claims Court Number 91–0204 V
11. Laura Evans on behalf of Katherine Evans, Knoxville, Tennessee, Claims Court Number 91–0205 V
12. Kathryn Lopez on behalf of Mary Muldowney, Warren, New Jersey, Claims Court Number 91–0206 V
13. Linda Zuback on behalf of Alex Zuback, Deceased, Lock Haven, Pennsylvania, Claims Court Number 91–0207 V
14. Nancy Page on behalf of Sarah Englert, Deceased, Lock Haven, Pennsylvania, Claims Court Number 91–0208 V
15. Irvin Bowmaster on behalf of Wayne Bowmaster, Deceased, Lock Haven, Pennsylvania, Claims Court Number 91–0209 V

16. Charles Knarr on behalf of Joshua Knarr, Lock Haven, Pennsylvania, Claims Court Number 91–0210 V
17. Joni Bumbarger, Lamar, Pennsylvania, Claims Court Number 91–0211 V
18. Kenneth Phelps on behalf of Stephan Phelps, Brookville, Ohio, Claims Court Number 91–0212 V
19. Clifford Sauer on behalf of Mindy Sauer Deceased, Kingston, New York, Claims Court Number 91–0213 V
20. Richard Fowler on behalf of Kimberly Fowler, Pasadena, Texas, Claims Court Number 91–0214 V
21. Dee Dee Roehrig on behalf of Rebecca Roehrig, Middletown, Kentucky, Claims Court Number 91–0215 V
22. Denver Ritchey on behalf of Jess Ritchey, Oklahoma City, Oklahoma, Claims Court Number 91–0216 V
23. Mario Marigonda on behalf of Mark Marigonda, Pisa, Italy, Claims Court Number 91–0217 V
24. Priscilla Jackson on behalf of Robert Jackson, Macon, Georgia, Claims Court Number 91–0218 V
25. Lois Boyd, Farmington, Missouri, Claims Court Number 91–0219 V
26. Susan Utterstrom on behalf of Paul James Utterstrom, Portland, Maine, Claims Court Number 91–0220 V
27. Fred Holthaus on behalf of Christopher Holthaus, Kapaa, Hawaii, Claims Court Number 91–0221 V
28. Mary Ann Kluczynski on behalf of John Kluczynski, Deceased, Toledo, Ohio, Claims Court Number 91–0222 V
29. Marilyn Voss on behalf of Lynn Voss, Deceased, Hinsdale, Illinois, Claims Court Number 91–0223 V
30. Mickey L. Smith on behalf of Michael D–L Smith, Huntsville, Alabama, Claims Court Number 91–0224 V
31. Dewey Lewis on behalf of David Lewis, Fort Monroe, Virginia, Claims Court Number 91–0225 V
32. Rebekah Brayton, NO CITY AND STATE AVAILABLE, Claims Court Number 91–0226 V
33. Thelma Wahlstrom on behalf of Ross Wahlstrom, Ogden, Utah, Claims Court Number 91–0227 V
34. Mark Clayburn on behalf of Seth Clayburn, Berrien Spring, Michigan, Claims Court Number 91–0228 V
35. Delores Fulk on behalf of Elizabeth Fulk, Harrisonburg, Virginia, Claims Court Number 91–0229 V
36. Nalonni Petersen on behalf of Darcy Petersen, Deceased, Sioux Falls, South Dakota, Claims Court Number 91–0230 V
37. Telisa Winston, Syracuse, New York, Claims Court Number 91–0231 V
38. Doris Buffum on behalf of Jerry Harris, Deceased, Lamar, Colorado, Claims Court Number 91–0232 V
39. Daniel and Shelia Staats on behalf of Daniel Matthew Staats, Dalton, Georgia, Claims Court Number 91–0233 V
40. Cynthia Welbon, Fort Worth, Texas, Claims Court Number 91–0234 V
41. Floren and Marcella Snyder on behalf of Cynthia Snyder, Findlay, Ohio, Claims Court Number 91–0235 V
42. Mary Neuharth, Pontiac, Michigan, Claims Court Number 91–0236 V
43. Mary Dunkley, Blytheville, Arkansas, Claims Court Number 91–0237 V
44. Pamela Lewis on behalf of Gary L. Lewis, Milford, Delaware, Claims Court Number 91–0238 V
45. Pamela Tiedemann on behalf of Scott Tiedemann, Deceased, South Yarmouth, Massachusetts, Claims Court Number 91–0239 V
46. Shannon Tibbetts on behalf of Trevor Tibbetts, Rapid City, South Dakota, Claims Court Number 91–0240 V
47. Vincent Campanile on behalf of Samuel Campanile, Deceased, Concord, California, Claims Court Number 91–0241 V
48. Tyrone and Wanda Hill on behalf of Christopher Hill, Hawthorne, California, Claims Court Number 91–0242 V
49. Joseph and Cynthia DeMatt on behalf of Johanna DeMatt, Butler, Pennsylvania, Claims Court Number 91–0243 V
50. Richard Matson on behalf of Tracy Matson, Binghamton, New York, Claims Court Number 91–0244 V
51. Ernesto Lopez on behalf of Arjan Lopez, Torrance, California, Claims Court Number 91–0245 V
52. Anthony Marciano on behalf of Maria Marciano, Clifton, New Jersey, Claims Court Number 91–0246 V
53. Robert Francis Vaughn on behalf of Robert Joseph Vaughn, Johnston, Rhode Island, Claims Court Number 91–0247 V
54. Daniel Tscheiner on behalf of Daniel Tscheiner, Jr., Cincinnati, Ohio, Claims Court Number 91–0248 V
55. Kimberly Bowerman, Tacoma, Washington, Claims Court Number 91–0249 V
56. Lanedra Johnson on behalf of Robert Bell, Atlanta, Georgia, Claims Court Number 91–0250 V
57. Paul Mantwill, Winchester, Massachusetts, Claims Court Number 91–0251 V
58. Vickie Callahan on behalf of Daniel Callahan, St. Louis, Missouri, Claims Court Number 91–0252 V
59. Karl Slivka on behalf of Alexander Slivka, Erie, Pennsylvania, Claims Court Number 91–0255 V
60. Virginia Cagle on behalf of Jennifer Cagle, Lithonia, Georgia, Claims Court Number 91–0256 V
61. Christopher Fersaci on behalf of Anthony Haskins, Deceased, Brighton, New York, Claims Court Number 91–0257 V
62. Vivian Mitchell on behalf of Aaron Mitchell, New Haven, Connecticut, Claims Court Number 91–0258 V
63. Luis Larco, Brooklyn, New York, Claims Court Number 91–0259 V
64. Lori Davey on behalf of Jamie Patrick Davey, Aberdeen, South Dakota, Claims Court Number 91–0260 V
65. Ronald Johnston on behalf of Jesse Johnston, Deceased, Charlotte, North Carolina, Claims Court Number 91–0261 V
66. Steve Thumann on behalf of Michele Thumann, Kingwood, Texas, Claims Court Number 91–0262 V
67. Evelyn Woodson on behalf of Frederick Woodson, Richmond, Virginia, Claims Court Number 91–0263 V
68. Constance Deene on behalf of Mark Connoly, Deceased, Greensburg, Pennsylvania, Claims Court Number 91–0264 V
69. Jim Schmidt on behalf of Jennifer Schmidt, Chubbuck, Idaho, Claims Court Number 91–0265 V
70. Jim Harvey on behalf of Keen Harvey, Creston, Iowa, Claims Court Number 91–0266 V
71. Kathy Brown on behalf of Nicole Brown, Chico, California, Claims Court Number 91–0267 V
72. Wanda Murphy on behalf of Michael Murphy, Huntington, New York, Claims Court Number 91–0268 V
73. William Magaw on behalf of William Magaw, Jr., Chester, Pennsylvania, Claims Court Number 91–0269 V
74. Priscilla Hall on behalf of Samantha Hall, Honolulu, Hawaii, Claims Court Number 91–0270 V
75. Rita Armstrong, Brattleboro, Vermont, Claims Court Number 91–0271 V
76. Deborah Ring on behalf of Trinity Burns, Hobart, Indiana, Claims Court Number 91–0272 V
77. Ronald Cancellieri on behalf of Joseph Cancellieri, Spring Valley, New York, Claims Court Number 91–0273 V
78. Carla Pisko on behalf of Shari Pisko, Flushing, New York, Claims Court Number 91–0274 V
79. Perry Miller, Memphis, Tennessee, Claims Court Number 91–0275 V
80. Elizabeth Rekawik on behalf of Peter Rekawik, Chicago, Illinois, Claims Court Number 91–0276 V
81. Barbara E. Lane on behalf of Barbara Ann Lane, Zanesville, Ohio, Claims Court Number 91–0277 V
82. Chandrakant Bhakta on behalf of Vivek Bhakta, Deceased, Berwyn, Illinois, Claims Court Number 91–0278 V
83. Mark and Gaeta Copeland on behalf of Mark Copeland, II, Mount Lebanon, Pennsylvania, Claims Court Number 91–0279 V
84. Lorraine Markowski on behalf of Stephen Markowski, South Hampton, New York, Claims Court Number 91–0280 V
85. Galen Vaa on behalf of Brianna Vaa, Fargo, North Dakota, Claims Court Number 91–0281 V
86. Duhl Evans on behalf of Leslie Evans, Deceased, Murray, Kentucky, Claims Court Number 91–0282 V
87. Janice Baldomino on behalf of Donovan Baldomino, Ft. Collins, Colorado, Claims Court Number 91–0283 V
88. Maria O'Keefe on behalf of Kevin O'Keefe, Jr., Washington Township, New Jersey, Claims Court Number 91–0284 V
89. Rebecca Anaya, Los Angeles, California, Claims Court Number 91–0285 V
90. Linda Bieniek, Chicago, Illinois, Claims Court Number 91–0286 V
91. Theresa Short, Los Angeles, California, Claims Court Number 91–0287 V
92. William Zuke, Glendale, California, Claims Court Number 91–0288 V
93. David Kennebrew on behalf of Michael Kennebrew, Pomona, California, Claims Court Number 91–0289 V
94. Jeffrey Hall on behalf of Megan Hall, Thousand Oaks, California, Claims Court Number 91–0290 V

95. Jacqueline Jimenez on behalf of Nicole Jimenez, Los Angeles, California, Claims Court Number 91–0291 V
96. Margaret Pugh on behalf of Christopher Pugh, Deceased, San Francisco, California, Claims Court Number 91–0292 V
97. Jacqueline Lane, Frankford Army Hospital, Darmstadt, Germany, Claims Court Number 91–0293 V
98. Donald and Mona Massey on behalf of Mary Ann Massey, St. Louis, Missouri, Claims Court Number 91–0294 V
99. Donald and Mona Massey on behalf of Stephen Massey, St. Louis, Missouri, Claims Court Number 91–0295 V
100. David Kautz on behalf of Amber Kautz, Deceased, Littleton, Colorado, Claims Court Number 91–0296 V
101. Garry Gates on behalf of Jane Gates, Deceased, Sacramento, California, Claims Court Number 91–0297 V
102. Paula Castles, Woodland, California, Claims Court Number 91–0298 V
103. Linda Nissen, Kansas City, Missouri, Claims Court Number 91–0299 V
104. Darrell Westwood on behalf of Cathi Westwood, Deceased, Ogden, Utah, Claims Court Number 91–0300 V
105. Gary John Huftile, Sacramento, California, Claims Court Number 91–0301 V
106. Cyril Quarterson on behalf of Jamie Quarterson, Sharpsville, Pennsylvania, Claims Court Number 91–0302 V
107. Bernie Dolan on behalf of Michael Dolan, Scranton, Pennsylvania, Claims Court Number 91–0303 V
108. Fred Wright on behalf of Sherri Wright, Deceased, Reno, Nevada, Claims Court Number 91–0304 V
109. Adam and Sherri Chavis on behalf of Brandi Chavis, Randallstown, Maryland, Claims Court Number 91–0305 V
110. Barbara Shafer on behalf of Andrew Shafer, Mount Angel, Oregon, Claims Court Number 91–0306 V
111. Robert Kohl on behalf of Robert M. Kohl, Deceased, Lewiston, Idaho, Claims Court Number 91–0307 V
112. Fred and Karen Driver on behalf of Fred Adam Driver, Deceased, Bloomington, Minnesota, Claims Court Number 91–0308 V
113. Evans and Elizabeth Shelby on behalf of Susan Shelby, Deceased, Jackson, Mississippi, Claims Court Number 91–0309 V
114. Darrald Melvin, Jr., Baton Rouge, Louisiana, Claims Court Number 91–0310 V
115. James Dennis on behalf of Heather Dennis, Anchorage, Alaska, Claims Court Number 91–0311 V
116. Samuel Berry on behalf of Susan Berry, Deceased, Williamsport, Pennsylvania, Claims Court Number 91–0312 V
117. Katheryn Hrala, Johnstown, Pennsylvania, Claims Court Number 91–0313 V
118. Stephen Durham, Sr. on behalf of Stephen Durham, Jr., Chester, Pennsylvania, Claims Court Number 91–0314 V
119. Edward Garrett on behalf of Kelly Garrett, Atlanta, Georgia, Claims Court Number 91–0315 V
120. Daniel Brown, Monroeville, Alabama, Claims Court Number 91–0316 V
121. Max Steele on behalf of Marissa Steele, Salt Lake City, Utah, Claims Court Number 91–0317 V
122. Larry and Karen French on behalf of Matthew French, Moscow, Idaho, Claims Court Number 91–0318 V
123. Mitchell Lobdell on behalf of Jenna Lobdell, Deceased, West Monroe, New York, Claims Court Number 91–0319 V
124. Steven Johnston on behalf of Amie Johnston, Columbia, Maryland, Claims Court Number 91–0320 V
125. Clara Briscoe on behalf of Theodore Briscoe, Fort Washington, Maryland, Claims Court Number 91–0321 V
126. David Swanson on behalf of Jason Swanson, Canton, New York, Claims Court Number 91–0322 V
127. Scott Paeth on behalf of James Paeth, Deceased, Fairport, New York, Claims Court Number 91–0323 V
128. Michael Arnold on behalf of Cameron Arnold, Tampa, Florida, Claims Court Number 91–0324 V
129. Richard F. Zeiner on behalf of Richard A. Zeiner, Erie, Pennsylvania, Claims Court Number 91–0325 V
130. Judy Long on behalf of John Long, Lakeport, California, Claims Court Number 91–0326 V
131. Donald Schneider on behalf of Dana Schneider, Revere, Massachusetts, Claims Court Number 91–0327 V
132. Elizabeth Renee Teitloff on behalf of Elizabeth Nicole Teitloff, Bowling Green, Kentucky, Claims Court Number 91–0328 V
133. Ryan Bennett Smith, Provo, Utah, Claims Court Number 91–0329 V
134. Ginny Grody, East Syracuse, New York, Claims Court Number 91–0330 V
135. Alicia Albrecht on behalf of Philip Albrecht, Deceased, Portland, Oregon, Claims Court Number 91–0331 V
136. Steven M. Starosta on behalf of Steven W. Starosta, Parma, Ohio, Claims Court Number 91–0332 V
137. DeAnn Kincy, Dexter, Missouri, Claims Court Number 91–0333 V
138. Sandy Patterson, Fort Worth, Texas, Claims Court Number 91–0334 V
139. Joseph B. Gaul on behalf of Joseph M. Gaul, Oakland, New Jersey, Claims Court Number 91–0335 V
140. Albert Wilt, Tampa, Florida, Claims Court Number 91–0336 V
141. John Brochowicz on behalf of Ronald Brochowicz, Buffalo, New York, Claims Court Number 91–0337 V
142. Michael Cloughessy, Cuyahoga Falls, Ohio, Claims Court Number 91–0338 V
143. Jennifer Thompson on behalf of Terry Thompson, Crescent City, California, Claims Court Number 91–0339 V
144. Meri Melnick on behalf of Dani Melnick, Encino, California, Claims Court Number 91–0340 V
145. James Ingargiola on behalf of James Ingargiola, Jr., Babylon, New York, Claims Court Number 91–0341 V
146. David Terry on behalf of Stephanie Terry, Deceased, West Palm Beach, Florida, Claims Court Number 91–0342 V
147. Brenda Boggs on behalf of Tammy Boggs, Olive Hill, Kentucky, Claims Court Number 91–0343 V
148. Jack Yassin on behalf of Samir Yassin, Tuscaloosa, Alabama, Claims Court Number 91–0344 V
149. James Brester on behalf of Joseph Brester, Lafayette, Indiana, Claims Court Number 91–0345 V
150. Delores Worrell on behalf of Michael Worrell, Hinton, West Virginia, Claims Court Number 91–0346 V
151. Dennis Fabel on behalf of Christen Fabel, Deceased, Baldwin Park, California, Claims Court Number 91–0347 V
152. William Vernia, Southfield, Michigan, Claims Court Number 91–0348 V
153. Darrel Retzlaff on behalf of Nvette Retzlaff, Enderlin, North Dakota, Claims Court Number 91–0349 V
154. Lauretta Hyatt on behalf of Taylor Hyatt, Deceased, Sacramento, California, Claims Court Number 91–0350 V
155. Dave Petrilla on behalf of Matthew Petrilla, Deceased, Akron, Ohio, Claims Court Number 91–0351 V
156. Marie Maly on behalf of Todd Maly, Deceased, Wahoo, Nebraska, Claims Court Number 91–0352 V
157. Molly Phelan on behalf of Charles Phelan, Sante Fe, New Mexico, Claims Court Number 91–0353 V
158. Jon David Toler, Clay City, Illinois, Claims Court Number 91–0354 V
159. Barbara Marston on behalf of Ryan Labbe, Farmington, Maine, Claims Court Number 91–0355 V
160. Carol Switzer, Bakersfield, California, Claims Court Number 91–0356 V
161. Sarah Sullins on behalf of Leah Sullins, Logan, West Virginia, Claims Court Number 91–0357 V
162. Phyllis Snyder on behalf of Jason D. Snyder, Sellersville, Pennsylvania, Claims Court Number 91–0358 V
163. Paul Dallas, Levittown, Pennsylvania, Claims Court Number 91–0359 V
164. William Warhurst on behalf of William Warhurst, Jr., Phoenix, Arizona, Claims Court Number 91–0360 V
165. Ignacio Pina on behalf of Gabriel Pina, Bakersfield, California, Claims Court Number 91–0361 V
166. Carl Elder on behalf of Jolene Elder, Pittsburgh, Pennsylvania, Claims Court Number 91–0362 V
167. Ero Musgrave, Coalgate, Oklahoma, Claims Court Number 91–0363 V
168. Rhonda Small on behalf of Corey Small, Lewiston, Maine, Claims Court Number 91–0364 V
169. John Belusik, Sr. on behalf of John Belusik, Jr., Huntingdon Valley, Pennsylvania, Claims Court Number 91–0365 V
170. Susan Siar on behalf of Matthew Kraszewski, Deceased, Metuchen, New Jersey, Claims Court Number 91–0366 V
171. Sayed Elsiah on behalf of Omar Elsiah, Bridgeport, Connecticut, Claims Court Number 91–0367 V
172. Mary Ruth Poag Adams on behalf of Christopher Poag, Deceased, Osceola, Arkansas, Claims Court Number 91–0368 V
173. Andrew Repas on behalf of Joseph Repas, Jr., Deceased, Sharon, Pennsylvania, Claims Court Number 91–0369 V

174. Roddy Alsman on behalf of Katie Alsman, Sullivan, Indiana, Claims Court Number 91–0370 V
175. James Clifford Mashburn on behalf of James Michael Mashburn, Blue Ridge, Georgia, Claims Court Number 91–0371 V
176. Richard Laurin on behalf of Randolph Laurin, Champlain, New York, Claims Court Number 91–0372 V
177. Danny and Velma Webb on behalf of Jaron Webb, Deceased, Brenton, West Virginia, Claims Court Number 91–0373 V
178. Allan Wahlstrom on behalf of Kevin Wahlstrom, Layton, Utah, Claims Court Number 91–0374 V
179. William and Cindy Del Conte on behalf of Nicholas Del Conte, New York City, New York, Claims Court Number 91–0375 V
180. Emma Jean Armstrong on behalf of Joseph Roderick Armstrong, Fort Gordon, Georgia, Claims Court Number 91–0376 V
181. Jennifer Frank, Farmington, Michigan, Claims Court Number 91–0377 V
182. Tammy Fritz on behalf of Justin Fritz, Deceased, Hartsville, South Carolina, Claims Court Number 91–0378 V
183. Tanya Bethel, Silver Spring, Maryland, Claims Court Number 91–0379 V
184. Nick Sapharas, Cleveland, Ohio, Claims Court Number 91–0380 V
185. Michael Matotek on behalf of Joseph Matotek, State College, Pennsylvania, Claims Court Number 91–0381 V
186. Bradley Stanton, Ponca City, Oklahoma, Claims Court Number 91–0382 V
187. Rita Manning on behalf of Jarren Manning, Ann Arbor, Michigan, Claims Court Number 91–0383 V
188. Jon Erickson on behalf of Ashley Erickson, Deceased, Salt Lake City, Utah, Claims Court Number 91–0384 V
189. Gerald Fassell on behalf of Mark Fassell, Auburn, New York, Claims Court Number 91–0385 V
190. Linda and Bradley Hain on behalf of Dena Jo Hain, Ponca City, Oklahoma, Claims Court Number 91–0386 V
191. Everett Rowton on behalf of Shanda Rowton, Texarkana, Arkansas, Claims Court Number 91–0387 V
192. Sandra Berry on behalf of Robert Berry, Burlington, Massachusetts, Claims Court Number 91–0388 V
193. Ellis Williams on behalf of Jeanette Williams, Deceased, Miamisburg, Ohio, Claims Court Number 91–0389 V
194. Irwin Osterloh on behalf of Kathleen M. Osterloh, Coldwater, Ohio, Claims Court Number 91–0390 V
195. Douglas Lowry on behalf of Dawn Lowry, Maywood, New Jersey, Claims Court Number 91–0391 V
196. I. Scott Chamberlin on behalf of Brian Chamberlin, Portland, Maine, Claims Court Number 91–0392 V
197. James and Janet Moody on behalf of Lindsay Moody, Savannah, Georgia, Claims Court Number 91–0393
198. Mavis Santiago, Syracuse, New York, Claims Court Number 91–0394
199. Patricia Redmond on behalf of Shawn Mayo, Mineola, New York, Claims Court Number 91–0395
200. Anthony and Laura Gentle on behalf of Matthew Gentle, Birmingham, Alabama, Claims Court Number 91–0396

Dated: September 6, 1994.

Ciro V. Sumaya,

Administrator.

[FR Doc. 94–22352 Filed 9–8–94; 8:45 am]

BILLING CODE 4160–15–P–M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on Friday, August 26, 1994.

(Call Reports Clearance Officer on (410) 965–4142 for copies of package.)

1. Application for Benefits Under the Federal Mine Safety and Health Act of 1977—0960–0118. The information on forms SSA–47, 48, and 49 is used by the Social Security Administration to determine eligibility for benefits on a deceased coal mine worker's account. These three forms are used by widows, surviving children, or other dependents who may be entitled.

Number of Respondents: 2,700 (900 each form).

Frequency of Response: 1.

Average Burden Per Response: 11 minutes.

Estimated Annual Burden: 495 hours.

2. Railroad Employment Questionnaire—0960–0078. The information on form SSA–671 is used by the Social Security Administration to coordinate with the Railroad Retirement Board to process certain claims for Social Security benefits. The respondents are those claimants who allege employment in the railroad industry.

Number of Respondents: 125,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 10,417 hours.

3. Beneficiary Recontact Report—0960–NEW. Form SSA–1587 will be sent by the Social Security Administration to payees who are receiving Social Security benefits on behalf of an entitled child aged 15–17 in order to determine if that child has married. If so, he or she is no longer entitled. The respondents will be such representative payees.

Number of Respondents: 778,100.

Frequency of Response: 1.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 38,905.

4. Followup Questionnaire Re: Receipt of SIPEBES—0960–NEW. The information on form SSA–7005–95 Test will be used by the Social Security Administration to determine the respondent's opinion about receiving an SSA-Initiated Personal Earnings and Benefit Estimate each year. The respondents will be SSA number holders who were previously contacted in 1994.

Number of Respondents: 4,500.

Frequency of Response: 1.

Average Burden Per Response: 12 minutes.

Estimated Annual Burden: 900 hours.

OMB Desk Officer: Laura Oliven.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: Office of Management and Budget, OIRA, New Executive Office Building, Room 10230, Washington, D.C. 20503.

Dated: September 1, 1994.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 94–22105 Filed 9–8–94; 8:45 am]

BILLING CODE 4190–29–P

Substance Abuse and Mental Health Services Administration

Advisory Council Meetings in September

AGENCY: Substance Abuse and Mental Health Services Administration.

ACTION: Correction of Meeting Notices.

SUMMARY: Public notice was given in the **Federal Register** on August 5, 1994, Vol. 59, No. 150, page 40049, that the Substance Abuse and Mental Health Services Administration (SAMHSA) National Advisory Council meeting on September 19–20, 1994, would be open to the public. However, this meeting will now include a presentation and detailed discussion concerning the agency's procurement plans; therefore, a portion of the meeting, from 11:00 a.m. to adjournment on September 20, will be closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(3) and 5 U.S.C. app. 2 10(d).

In addition, public notices were also given in the **Federal Register** on August 9, 1994 (Vol. 59, No. 152, page 40599); on August 11, 1994 (Vol. 59, No. 154,

page 41331) and on August 15, 1994 (Vol. 59, No. 156, page 41779) that portions of the Center for Mental Health Services, the Center for Substance Abuse Treatment and the Center for Substance Abuse Prevention National Advisory Council meetings, respectively, would have a closed session to review applications for Federal assistance. These closed sessions, as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c) (3), (4) and (6) and 5 U.S.C. app. 2 10(d), will also now include the review of contract proposals and a presentation and detailed discussion concerning the Centers' procurement plans.

Dated: September 2, 1994.

Peggy W. Cockrill,

SAMHSA Committee Management Officer.

[FR Doc. 94–22232 Filed 9–8–94; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–94–1917; FR–3778–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: September 9, 1994.

ADDRESSES: For further information, contact David Pollack, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD 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: September 2, 1994.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 94–22059 Filed 9–8–94; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–040–4191–03, 46–92–0002; 4–00154]

Final Environmental Impact Statement for the Robinson Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act, notice is given that the Bureau of Land Management (BLM) has prepared, by a third party contractor, a Final Environmental Impact Statement (EIS) and Record of Decision (ROD) on the Robinson Mining Limited Partnership's Robinson Project in White Pine County, near Ely, Nevada.

ADDRESSES: Bureau of Land Management, HC 33, Box 33500, Ely, NV 89301.

FOR FURTHER INFORMATION CONTACT: Dan Netcher, EIS Team Leader, at the above BLM Ely District Office address or telephone (702) 289–4865.

SUPPLEMENTARY INFORMATION: The Final EIS analyzes the potential environmental impacts that would result from the reintroduction of copper mining in the Robinson Mining District. The project would consist of construction and operation of new ore crushing facilities, copper and molybdenum concentrator, mill tailings disposal facility, gold and copper heap leach pads and ponds, and a solvent extraction/electrowinning (SX/EW) plant. Alternatives analyzed were: (1) Proposed Action, (2) No Action, (3) Tailings and Waste Rock Disposal Methods, and (4) Reclamation Options.

The FEIS and ROD have been mailed to all interested individuals, agencies, interested groups and organizations who have participated in or have shown an interest in this environmental process.

Copies of the Final EIS and ROD can be obtained from the above BLM address.

Dated: September 1, 1994.

Ronald B. Wenker,

Acting State Director, Nevada.

[FR Doc. 94–22227 Filed 9–8–94; 8:45 am]

BILLING CODE 4310–HC–P

[OR–100–4210–07; G4–268; 4–00151]

Motor Vehicle Use Restrictions: Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure of public lands in Douglas County, Oregon.

SUMMARY: Notice is served that the public lands acquired through the Dunning Ranch Land Exchange, and designated as the North Bank Habitat Management Area of Critical Environmental Concern, are closed to use of off-highway vehicles (OHV's). OHV includes all types of motor vehicles. The area will remain open for hiking, picnicking, hunting during authorized seasons, wildlife watching, nature study, environmental education, and horseback riding. The purpose of this closure is to minimize wildlife disturbance and habitat degradation, and to protect soil and water resources pending the development of a management plan. The plan will address what uses are compatible with management of the Columbian White-tailed Deer, which is a federally listed endangered species.

Personnel that are exempt from the OHV closure include any Federal, State, or local officer, or member of any organized rescue or fire-fighting force in the performance of an official duty. Existing roads and trails may also be used under terms of existing easements of record. Additional persons authorized by the BLM, Mt. Scott Area Manager, may be allowed but must be approved in advance in writing. The legal land description for lands affected by this closure, include all or portions of the following:

Willamette Principal Meridian, Douglas County, Oregon

T. 25 S., R. 4 W., Secs. 31, 32, and 33.
T. 26 S., R. 4 W., Secs. 4, 5, 6, 7, 8, 17, and 18.
T. 25 S., R. 5 W., Secs. 35, SE¼NE¼, NE¼SE¼, and 36.
T. 26 S., R. 5 W., Sec. 1, 2, S½SE¼, 11, 12, 13, and 14.

Containing approximately 6,181 acres.

EFFECTIVE DATE: The closure will become effective September 15, 1994, and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: Gail Schaefer, Area Manager, Mt Scott

Resource Area, 777 NW Garden Valley Blvd., Roseburg, Oregon 97470, (503) 440–4930.

SUPPLEMENTARY INFORMATION: Maps showing the above described area are available at the BLM's Roseburg District Office for public review. The public lands and roads closed under this order will be posted with signs at points of access. This closure is consistent with the amended North Umpqua Management Framework Plan, which designated the area described as closed to OHV use.

The authority for closure of public land is found in 43 CFR part 8340, subpart 8341, 43 CFR part 8360, subpart 8364.1. Any person who violates or fails to comply with this closure is subject to arrest, conviction, and punishment pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than $1,000 or imprisonment for not longer than 12 months, or both.

Dated: September 1, 1994.

Glenn W. Lahti,

Acting Area Manager.

[FR Doc. 94–22322 Filed 9–8–94; 8:45 am]

BILLING CODE 4310–33–P

[OR 51166; OR–080–04–4212–05: G4–279]

Realty Action; Proposed Direct Sale

Date: August 31, 1994.

The following described public land has been examined and determined to be suitable for transfer out of Federal ownership by direct sale under the authority of Sections 203 and 209 of the Federal Land Policy and Management Act of 1976, as amended (90 Stat. 2750; 43 U.S.C. 1713 and 90 Stat. 2757; 43 U.S.C. 1719), at not less than the appraised fair market value:

Willamette Meridian, Oregon,

T. 4 S., R. 4 E.,
sec. 11, Lot 5.

The above-described parcel contains 0.43 acre in Clackamas County.

The parcel will not be offered for sale until at least 60 days after publication of this notice in the **Federal Register**. The fair market value of the parcel has not yet been determined. Anyone interested in knowing the values may request this information from the address shown below.

The above-described land is hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above-cited statute, for 270 days or until title transfer is completed or the segregation is terminated by publication in the **Federal Register**, whichever occurs first.

The parcel is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency. No significant resource values will be affected by this transfer. Because of the parcel's relatively small size and improvements inadvertently constructed on the parcel by the adjoining landowner, its best use is to merge it with the adjoining ownership. The sale is consistent with the Eastside Management Framework Plan and the public interest will be served by offering this parcel for sale.

The parcel is being offered only to Peter Boden (fee owner of Tax Lot 600, Map 4 4E 11). Use of the direct sale procedures authorized under 43 CFR 2711.3–3, will avoid an inappropriate land ownership pattern and would recognize equities of the individual involved.

The terms, conditions, and reservations applicable to the sale are as follows:

1. Peter Boden will be required to submit a deposit of either cash, bank draft, money order, or any combination thereof for not less than the appraised value of the parcel to be sold.

2. The mineral interests being offered for conveyance have no known mineral value. A bid will also constitute an application for conveyance of the mineral estate, in accordance with Section 209 of the Federal Land Policy and Management Act. Peter Boden must include with his bid a nonrefundable $50.00 filing fee for the conveyance of the mineral estate.

3. The conveyance document will be subject to:

a. Rights-of-way for ditches or canals will be reserved to the United States under 43 U.S.C. 945.

b. Right-of-Way OR 49209 Cascade Utilities buried telephone cable) and OR 50235 (Portland General Electric Company buried electric cable).

c. All valid existing rights and reservations of record.

Detailed information concerning the sale is available for review at the Salem District Office, 1717 Fabry Road SE, Salem, Oregon 97306.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Clackamas Area Manager, Salem District Office, at the above address. Any adverse comments will be reviewed by the Salem District Manager, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Paul Jeske,

Acting Clackamas Area Manager.

[FR Doc. 94–22324 Filed 9–8–94; 8:45 am]

BILLING CODE 4310–33–M

[UT–942–04–5700–11; UTU–69262]

Realty Action; Noncompetitive (Direct) Sale of Public Land in Grand County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, UTU–69262, Noncompetitive (Direct) Sale of public land in Grand County, Utah.

SUMMARY: Notice is given that the following described parcel of public land has been examined, and through the development of local land-use planning decisions, based upon public input, resource considerations, regulations, and Bureau policies, the parcel has been found suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA) (90 Stat. 2750; 43 U.S.C. 1713) using noncompetitive (direct) sale procedures (43 CFR 2711.3–3):

Salt Lake Meridian, Utah

T. 21 S., R. 20 E.,
Section 21, S1/2NE1/4NE1/4.

The above described land aggregates 20.00 acres more or less.

The parcel is difficult and uneconomic to manage as part of the public lands, is not needed for any resource programs, and is not suitable for management by the Bureau or any other Federal department or agency. The parcel (UTU–69262) is being offered as a noncompetitive (direct) sale in accordance with 43 CFR 2711.3–3 to the Grand County Solid Waste Management Special Service District No. 1 (GCSWMSSD#1) for a disposal site/drop box facility.

The land will not be offered for sale until at least sixty (60) days after publication of this notice in the **Federal Register**. The sale will be at no less than the appraised fair market value of $4,000.00.

Publication of this notice in the **Federal Register** constitutes notice to the grazing permittee's, The Nature Conservancy and J. Golden Bair, that their grazing leases are directly effected by this action. Specifically, the subject lands are presently used for livestock and sheep grazing, involving the Cisco Allotment—# 05885. The Nature Conservancy (Grazing Record #

436309—cattle) and J. Golden Bair (Grazing Record # 436302—sheep) both hold the grazing privileges for the 20.00 acre parcel. The estimated permitted grazing capacity of these lands is 1–2 AUMs, however, there would be no reduction in the grazing permittee's grazing preference as a result of this action. The land (acreage) will have to be excluded from the allotment effective upon issuance of the patent. There are no authorized range improvements on the subject lands.

Publication of this notice in the **Federal Register** segregates the public land from the operation of the public land laws and the mining laws. The segregative effect will end upon issuance of a patent, or two hundred seventy (270) days from the date of the publication, whichever occurs first.

The Terms and Conditions Applicable to the Sales Are:

1. All minerals, including oil and gas, shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

2. A right-of-way will be reserved for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 26 Stat, 391; 43 U.S.C. 945).

3. The sale of land will be subject to all valid existing rights, reservations, and privileges of record. Existing rights, reservations, and privileges of record include, but are not limited to: Federal Oil and Gas Lease, Serial Number UTU–55509, to Mr. Arch W. Deuel.

Sale Procedures: The buyer will be required to submit the fair market value of the property on the date of the sale. The land will be offered for sale at the Grand Resource Area Office. If the lands are not sold on the sale date, they will remain for sale over-the-counter until sold or withdrawn from the market. Over-the-counter bidder qualifications are noted below.

Bidder Qualifications: Bidder must be U.S. citizens 18 years of age or over, a State or State instrumentality authorized to hold property; a corporation authorized to hold property; or a corporation authorized to own real estate in the State of Utah.

Bid Standards: The BLM reserves the right to accept or reject any and all offers or withdraw the land from sale if, in the opinion of the Authorized Officer, consummation of the sale would not be fully consistent with Section 203(g) of FLPMA or other applicable laws.

Comments: On or before October 24, 1994, interested parties may submit comments to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532. Objections will be reviewed by the Utah State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: Additional information concerning the lands and the terms and conditions of the sale may be obtained from Mary von Koch, Area Realty Specialist, Grand Resource Area, 885 South Sand Flats Road, Moab, Utah 84532, (801) 259–8193, or from Brad Groesbeck, District Realty Specialist, Moab District Office, 82 East Dogwood Drive, P.O. Box 970, Moab, Utah 84532, (801) 259–6111.

Dated: August 30, 1994.

William C. Stringer,

Acting District Manager.

[FR Doc. 94–22325 Filed 9–8–94; 8:45 am]

BILLING CODE 4310–DQ–P

[WY–040–3110–04–10–K007]

Realty Action; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to evaluate an exchange proposal and possible amendment of the Salt Wells (Green River) Management Framework Plan; Sweetwater County, Wyoming.

SUMMARY: The Bureau of Land Management has received an exchange proposal from the State of Wyoming to exchange 1,280 acres of State of Wyoming mineral estate located inside the Devils Playground/Twin Buttes Wilderness Study Area and 640 acres of State of Wyoming mineral estate located outside the Devil's Playground/Twin Buttes Wilderness Study Area, for some portion of 3,200 acres of Federal land administered by the Bureau of Land Management. The following described public lands located in Sweetwater County, are being considered for exchange to the State of Wyoming under the authority of section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Selected Public Lands:

Sixth Principal Meridian

T. 14 N., R. 110 W.,
Sec. 15, all;
Sec. 17, all;
Sec. 20, all;
Sec. 21, all;
Sec. 22, all.

The above land contains 3,200 acres.

Some of the lands described above may be deleted from consideration to eliminate possible conflicts that could arise during processing or to achieve equal values between the offered and selected lands in the exchange.

In exchange, the United States proposes to acquire the following land from the State of Wyoming:

T. 13 N., R. 109 W., sec. 16, all.
T. 14 N., R. 109 W., sec. 16, all.
T. 14 N., R. 110 W., sec. 36, all.

The above land aggregates 1,920 acres.

FOR FURTHER INFORMATION CONTACT: Bill LeBarron, Area Manager, Green River Resource Area, 1993 Dewar Drive, Rock Springs, Wyoming 82901, 307–362–6422.

SUPPLEMENTARY INFORMATION: The exchange is proposed to facilitate more effective public land management by consolidating Federal ownership within the Devils Playground/Twin Buttes Wilderness Study Area in order to preserve the wilderness values. The proposed exchange would be on an equal value basis. Commercial development of the State inholdings in the Devils Playground/Twin Buttes Study Area would conflict with a wilderness designation and a wilderness designation would limit the commercial or economic utility of the State land inholdings to the State. Evaluation of this proposal may result in an amendment to the BLM Salt Wells (Green River) Management Framework Plan.

Information and scoping mail-out packets for the proposed exchange, Environmental Analysis (EA), and possible Amendment of the Salt Wells (Green River) Management Framework Plan, may be obtained by calling or writing the Green River Resource Area Office at the above address. Scoping comments should also be sent to this address.

The publication of this notice segregates the Federal land described above from settlement, sale, location, and entry under the public land laws, including the mining laws, but not from exchange pursuant to section 206(b) of the Federal Land Policy and Management Act of 1976. The segregative effect shall terminate upon issuance of patent, upon publication in the **Federal Register** of a termination of the segregation, or two (2) years from the date of this notice, whichever occurs first.

For a period of thirty (30) days from the date of issuance of this notice, interested parties may submit comments to the Bureau of Land Management, Rock Springs District Manager, Highway 191 North, Rock Springs, Wyoming 82902.

William W. LeBarron,

Area Manager.

[FR Doc. 94–22323 Filed 9–8–94; 8:45 am]

BILLING CODE 4310–22–M

[CO–942–94–4730–02]

Colorado: Filing of Plats of Survey

August 29, 1994.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 am., August 29, 1994.

The plat (in 5 sheets), representing the corrective dependent resurvey and dependent resurvey of a portion of the Eighth Standard Parallel North (south boundary), a portion of the east and west boundaries, and a portion of the subdivisional lines, and a portion of the subdivision of certain sections, T. 33 N., R. 12 W., New Mexico Principal Meridian, Colorado, Group No. 984, was accepted August 4, 1994.

This survey was executed to meet certain administrative needs of the Bureau of Reclamation and the Bureau of Indian Affairs.

The plat representing the dependent resurvey of the subdivisional line between sections 32 and 33, T. 5 S., R. 103 W., Sixth Principal Meridian, Colorado, Group No. 1028, was accepted August 2, 1994.

The supplemental plat, creating lot 96 in the SE¼NE¼ and lots 97 and 98 in the NE¼SE¼ of section 6, T. 1 No., R. 71 W., Sixth Principal Meridian, Colorado, was accepted August 4, 1994.

The supplemental plat, creating new lot 9 in the S½NE¼ of section 32, T. 1 S., R. 73 W., Sixth Principal Meridian, Colorado, was accepted August 4, 1994.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of portions of the west and north boundaries, subdivisional lines, and subdivision of section 6 and 7, and the subdivision of sections 6 and 7, T. 10 N., R. 76 W., Sixth Principal Meridian, Colorado, Group No. 1005, was accepted August 2, 1994.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Darryl A. Wilson,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 94–22326 Filed 9–8–94; 8:45 am]

BILLING CODE 4310–JB–M

Bureau of Mines

Information Collection submitted to the Office of Management and Budget for Review under the Paperwork Reduction Act

A request extending the collection of information listed below has been submitted to the office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1032–0024), Washington, D.C. 20503, telephone 202395–7340.

Title: Blast Furnace and Steel Furnace Report.

OMB approval number: 1032–0024.

Abstract: Respondents supply the Bureau of Mines with domestic production, shipments, and stocks of pig iron and agglomerates. This information will be published as an Annual Report and in Mineral Commodity Summaries for use by Government agencies, industry, and the general public.

Bureau form number: 6–1067–A.

Frequency: Annual.

Description of respondents: Operations that produce pig iron.

Annual Responses: 25.

Annual burden hours: 87.5.

Bureau clearance officer: Alice J. Wissman (202) 501–9569.

Dated: August 10, 1994.

Hermann Enzer,

Acting Director, Bureau of Mines.

[FR Doc. 94–22327 Filed 9–8–94; 8:45 am]

BILLING CODE 4310–53–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 332–356]

President's List of Articles Which May Be Designated or Modified as Eligible Articles for Purposes of the U.S. Generalized System of Preferences

AGENCY: International Trade Commission.

ACTION: Institution of investigation.

SUMMARY: Following receipt on August 16, 1994, of a request from the United States Trade Representative (USTR) for advice pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) and in accordance with section 504(c)(3) of the Trade Act of 1974 (19 U.S.C. 2464(c)(3)), the Commission instituted investigation No. 332–356 under section 332(g) of the Tariff Act of 1930 to provide advice on whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limits that are set forth in section 504(c)(1) of the Trade Act of 1974 (19 U.S.C. 2464(c)(1)) for Thailand with respect to the articles in subheadings 6702.90.65, 7113.11.20, 7113.19.50, and 9403.60.80 of the Harmonized Tariff Schedule of the United States (HTS).[1]

As requested by USTR, the Commission will seek to provide its advice not later than November 23, 1994.

EFFECTIVE DATE: September 2, 1994.

FOR FURTHER INFORMATION CONTACT: (1) For general information contact Ms. Josephine Spalding-Masgarha, Office of Industries, Minerals, Metals, and Miscellaneous Manufacturers Division, at (202) 205–3498.

(2) For information on legal aspects of the investigation contact Mr. William Gearhart, Office of the General Counsel, at (202) 205–3091.

BACKGROUND: The letter from the USTR provided the following by way of background:

In 1989, Thailand lost some benefits under the Generalized System of Preferences (GSP) after the President determined that Thailand does not provide adequate and effective intellectual property rights (IPR) protection. On August 12, 1994 the Trade Policy Staff Committee initiated a review process to consider whether any of the benefits lost by Thailand in 1989 should be restored because of Thai progress on IPR protection.

In order to restore certain of the lost GSP benefits to Thailand, the President would have to grant Thailand a waiver of the so-called competitive need limits under section 504(c)(3) of the Trade Act of 1974 (19 U.S.C. 2464(c)(3)). Section 504(c)(3) requires the President to receive economic advice from the International Trade Commission prior to granting a waiver of the competitive need limits.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on September 28, 1994. Commercial or financial information which a submitter desires

[1] See USTR **Federal Register** notice of August 12, 1994 (59 FR 41594) for article description.

the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, D.C. 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Issued: September 6, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–22393 Filed 9–8–94; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Salem Harbour Associates, et al.* Civil Action No. 92–0540 was lodged on August 26, 1994, with the United States District Court for the Eastern District of Pennsylvania. The consent decree settles an action brought for violations of the National Emission Standard for Hazardous Air Pollutants ("NESHAP") promulgated for asbestos pursuant to Sections 112 and 114 of the Clean Air Act (the "Act"), 42 U.S.C. 7412 and 7414. 41 CFR Part 61, Subpart M. The Amended Complaint alleges that the defendants removed friable asbestos roofing materials without complying with the asbestos NESHAP regulations, in violation of the Act. Pursuant to the consent decree, defendants have agreed to pay a civil penalty of $85,000.00 and to comply with the asbestos NESHAP, provide proper training for inspectors, supervisors, and workers, and provide access to EPA for inspections.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Salem Harbour Associates, et al.*, DOJ # 90–5–2–1–1715.

The proposed consent decree may be examined at the office of the United States Attorney, 633 U.S. Post Office and Courthouse, Pittsburgh, PA 15219; and at the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $8.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–22332 Filed 9–8–94; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 26, 1994, a proposed Consent Decree in *United States* v. *Elinco Associates, L.P.*, Civil No. 3:94CV1230, was lodged with the United States District Court for the District of Connecticut to resolve this matter. The proposed Consent Decree concerns the response to the existence of hazardous substances at the Kellogg Deering Well Field Site located in Norwalk, Connecticut pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended.

Under the terms of the Consent Decree, Elinco Associates and Cofat and Partners will reimburse the United States $255,000 for costs incurred for the first and second operable units at the Site up to October 12, 1993. In addition, if Elinco sells the portion of the Site property that it owns, it will pay to the United States a portion of proceeds remaining, if any, after payment of an existing mortgage. The settlers also will pay a civil penalty of $30,000 for their failure to comply with a Unilateral Administrative Order issued to them by the Environmental Protection Agency requiring them to undertake response actions at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States* v. *Elinco Associates, L.P.*, D.J. Ref. 90–11–2–582B.

The proposed Consent Decree may be examined at the Region 1 Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts. Copies of the Consent Decree may be examined at the Environmental Enforcement Section Document Center, 1120 G Street NW., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $8.75 (25 cents per page reproduction cost) made payable to Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–22330 Filed 9–8–94; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Amended Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed amended consent decree in *United States* v. *Reichhold Chemical Co., et al.*, Civil Action No. H–89–0010(W), was lodged on August 24, 1994 with the United States District Court for the Southern District of Mississippi, Hattiesburg Division. This amended consent decree addresses groundwater contamination at a certain portion of the Newsome Brothers Superfund Site that was discovered during remedial action being performed under the consent decree which was entered on July 25, 1990. This contamination either did not exist or was undetected when the consent decree was entered on July 25, 1990. Pursuant to the amendment, Reichhold will undertake the remedial investigation and feasibility study ("RI/FS") to determine the extent of the groundwater contamination and alternatives for remediation. After the RI/FS process is completed, Reichhold and EPA will negotiate a remedial design and remedial action ("RD/RA") plan for remediating the groundwater

contamination. The consent decree entered on July 25, 1990, except for changes to address the newly discovered groundwater contamination, remains essentially unchanged.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Reichhold Chemical Co., et al.* (Newsome Bros. Superfund Site), DOJ Ref. #90–11–3–378.

The proposed consent decree may be examined at the office of the United States Attorney, 701 Main Street, room 208, Hattiesburg, Mississippi 39401; the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365; and at the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 2005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW, 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Divison.

[FR Doc. 94–22331 Filed 9–8–94; 8:45 am]

BILLING CODE 4410–01–M

[AAG/A Order No. 93–94]

Privacy Act of 1974; Notice of New System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Justice Management Division, Department of Justice, proposes to establish a new system of records entitled "Office of General Counsel (OGC) Correspondence and Advice Tracking System (CATS)."

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be provided a 30-day period in which to comment on the routine uses of a system of records. The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires that it have 40-days in which to review the system.

Therefore, please submit any comments by October 11, 1994. The public, OMB, and the Congress are invited to send written comments to Richard P. Theis, Esq., Office of General Counsel, Justice Management Division, Department of Justice, Washington, D.C. 20530 (Room 6313, Main Building).

In accordance with 5 U.S.C. 552a(r), the Department of Justice has provided a report on the proposed system to OMB and the Congress.

Dated: August 18, 1994.

Stephen R. Colgate,

Assistant Attorney General for Administration.

Justice/JMD–011

SYSTEM NAME:

"Office of General Counsel (OGC) Correspondence and Advice Tracking System (CATS).

SYSTEM LOCATION:

United States Department of Justice (DOJ), Justice Management Division, Office of General Counsel (OGC), Main Building, Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual(s) who have written to OGC; litigants in actions involving the Justice Management Division; individuals requesting, through their congressional representatives, information about matters pertaining to JMD; contractors doing business with JMD; individuals corresponding with DOJ on matters related to the Newspaper Preservation Act; and individuals who are specifically identified in the subject matter heading of the correspondence/requests for advice received by OGC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Generally, OGC receives requests for legal assistance and provides legal advice. In addition, OGC conducts legal sufficiency reviews; responds to public and congressional inquiries; reviews financial disclosure forms; conducts administrative litigation; and prepares legal guidance on a variety of subjects and serves as clerk to the Assistant Attorney General for Administration on matters relating to the Newspaper Preservation Act. Also, OGC receives and reviews summonses and complaints and determines whether a suit names the Attorney General in an individual capacity.

Documents received that initiate, or respond, to requests for OGC assistance, become the subject of reports that OGC stores electronically in the system. Each report contains a number of identifiers, (i.e., fields of data), that, when queried by name or title (e.g., name of correspondent, control number, record date, name of staff assigned to a record, record type (e.g., letter, memorandum, pleading, etc.)), allows the user to search information stored in the system, and to determine the status of assignments within OGC. OGC creates a report for most correspondence received.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. § 301.

PURPOSE OF THE SYSTEM:

The Correspondence and Advice Tracking System provides OGC with the capability to control and track most of the correspondence and requests for assistance. The electronic programming allows OGC staff to search quickly through CATS and ascertain a variety of information about the records. For example, OGC staff can direct CATS to search a specific field of data maintained about a record, and identify the OGC staff member assigned to the matter, or ascertain the date upon which an OGC staff member must take an action with respect to the record matter. Similarly, a CATS search can reveal if a matter in the OGC assignment inventory has been completed, or has left the office for review by another Department of Justice component. OGC staff using CATS can insure timely responses to requests for legal advice; eliminate the need of duplicative efforts on similar issues; and use it as a management tool in allocating resources among OGC staff and evaluating the performance of individuals assigned to matters; and/or take any other action required. Information maintained that comes within the coverage of the Privacy Act, will be provided by the individual under most circumstances. For example, when a person files suit against the Attorney General, OGC will create a report in CATS to acknowledge the receipt of the suit, and include in the report the name of the plaintiff.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSE OF SUCH USES:

Use of CATS is limited to OGC staff, and DOJ officials who need access to perform official duties. OGC staff uses the records in CATS, primarily, for managing the flow of work within OGC; secondarily, for tracking the movement of documents between offices within DOJ; and, thirdly, to assist in the evaluation of OGC employee performance. OGC would not disclose relevant information when using the records in these ways because only those whose duties require access obtain disclosure. OGC may disclose relevant information from this system as follows:

(a) To other Federal agencies, or to State and local governments where the

record(s) concerns a matter which is also within the jurisdiction of such agency, or of which such agency may otherwise have a responsibility and only if such disclosure is appropriate to assure complete action on the matter.

(b) To individuals, information about the date and circumstances of service of process on the Attorney General where disclosure is deemed necessary to evidence the filing of such a suit.

(c) In a proceeding before a court or administrative body before which DOJ appears and when such records are determined by DOJ, or the adjudicator, to be arguably relevant to the proceeding.

(d) To a Member of Congress, or staff of a member acting upon the member's behalf, when the Member or staff requests the information on behalf of, and at the request of, an individual who is the subject of the record.

(e) To the National Archives and Records Administration and to the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(f) To the news media and the public pursuant to 28 C.F.R. § 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The system, a computerized data base, is stored on hard or floppy disks, and any printed copy(ies) of records in the system may be stored in binders, or folders that are maintained by OGC staff within the offices of OGC.

RETRIEVABILITY:

Data in the system are indexed by a number of identifiers (*i.e.*, fields of data), such as the date of the incoming correspondence; subject matter; name of transmitting office/individual; name of OGC staff person handling the matter; control numbers assigned to the record by OGC and/or the JMD Executive Secretariat; date of making the record; record type, (*e.g.*, request for legal assistance, contract review, ethics, etc.); response due date, if any; etc.

Use of one, or more, of these identifiers, including a field containing the name of an individual, permits a computerized search of the data base, and the retrieval of a particular record(s).

SAFEGUARDS:

OGC maintains on the system unclassified data only. Access to information stored in the automated data bases of the system requires the use of the proper passwords and user identification codes. Hard copies of records produced from the data base are maintained in the possession of the Systems Manager. Only those OGC personnel who require access to perform their official duties may access the information in the system.

RETENTION AND DISPOSAL:

Pursuant to the National Archives and Records Service, General Records Schedule 23, Item 8, OGC shall destroy or delete the computerized reports that make up the system when those reports are no longer needed.

SYSTEM MANAGER AND ADDRESS:

General Counsel, Justice Management Division, U.S. Department of Justice, Main Building, Room 6313, Washington, D.C. 20530.

NOTIFICATION PROCEDURES:

Address requests to the system manager identified immediately above. To obtain a specific record, provide the system manager with the name of the individual who corresponded with OGC and the date of the correspondence, and describe the subject matter of the correspondence.

RECORDS ACCESS PROCEDURES:

Address requests to the system manager identified above and clearly mark the request as a "Privacy Access Request."

CONTESTING RECORD PROCEDURES:

Address a contest to the information retained in the system, or a request to amend such record(s) to the system manager identified above, and provide a clear and concise statement of the information being contested, the reasons for making the contest, and state how the proposed amendment should amend the record(s).

RECORD SOURCE CATEGORIES:

OGC personnel enter into the system information obtained from staffs within the Justice Management Division, other components of DOJ, other Federal agencies, Congressional offices, the general public, parties to litigation in which DOJ or the Justice Management Division is involved.

SYSTEM EXCEPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 94–22333 Filed 9–8–94; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993, Halon Alternatives Research Corporation, Inc. (HARC)

Notice is hereby given that, on August 4, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Halon Alternatives Research Corporation, Inc. ("HARC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of 13 new members and the deletion of two members to HARC. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the new members to HARC are: AES–Ntron, Exton, PA; Control Fire Systems, Ltd., Toronto, Ontario CANADA; Defence Materiel Administration, Stockholm, SWEDEN; Fenwal Safety Systems, Marlborough, MA; JN Johnson Sales & Service, Minneapolis, MN; Magnavox Electronic Systems Company, Fort Wayne, IN; NAFED, Chicago, IL; New Mexico Engineering Research Inst., Albuquerque NM; Norsk Hydro, NORWAY; Pipeline Authority, Canberra Act, AUSTRALIA; Taylor/Wagner Inc., Willowdale, Ontario, CANADA; Union Camp Corporation, Savannah, GA; 3H Taiwan Industries Corporation, Hsi Chih, Taipei Hsien, TAIWAN. In addition, Amerex Corporation and Northern States Power resigned their memberships in 1993.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HARC intends to file additional written notification disclosing all changes in membership.

On February 7, 1990, Halon filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 7, 1990, 55 FR 8204. The last notification was filed with the Department on March 22, 1993. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 3, 1993, 58 FR 26350.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–22334 Filed 9–8–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Electric Actuation and Control System Technology Reinvestment Project

Notice is hereby given that, on July 13, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Rockwell International Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Caterpillar Inc., Peoria, IL; Moog, Inc., East Aurora, NY; and Rockwell International Corporation, Seal Beach, CA. The parties entered into an agreement dated May 4, 1994, to form a consortium to perform a coordinated research and development program under a contract awarded by the Advanced Research Project Agency to develop Electric Actuation and Control System (EACS) technology.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–22335 Filed 9–8–94; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 93–12]

Dennis E. McBride, M.D.; Grant of Restricted Registration

On October 15, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Dennis E. McBride, M.D. (Respondent), of Rhonert Park, California, proposing to revoke Respondent's DEA Certificate of Registration, BM0555182, and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f) and 824(a). The Order to Show Cause alleged that Respondent's continued registration is inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f) and 824(a)(4) and that Respondent was convicted of a felony under State law relating to controlled substances, as set forth in 21 U.S.C. 824(a)(2). Specifically, the Order to Show Cause alleged that between 1984 and 1985 Respondent was treated on two separate occasions for abuse of controlled substances; in June 1985 Respondent was granted a medical license by the Board of Medical Quality Assurance, State of California, (Medical Board) on a probationary basis for five years; between September and December 1989, Respondent issued seven prescriptions in order to obtain Vicodin, a Schedule III controlled substance, for his own drug addiction; between August and December 1989, Respondent purchased Talacen, a Schedule IV controlled substance, and Lortab, a Schedule III controlled substance, for his own drug addiction; on July 7, 1990, Respondent was convicted in the Superior Court of the State of California of one felony count of obtaining Vicodin by fraud, deceit or misrepresentation; and in March 1991, the Medical Board revoked Respondent's medical license but stayed such revocation and imposed probationary conditions for five years.

Respondent, through counsel, timely filed a request for a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held, beginning on September 14, 1993, in San Francisco, California.

On April 7, 1994, Judge Bittner issued her opinion and recommended ruling, findings of fact, conclusions of law and decision, recommending that Respondent's DEA Certificate of Registration be renewed but with certain restrictions: Respondent would only be allowed to write prescriptions and would not be allowed to dispense, possess or store any controlled substances, except that he could administer controlled substances in a hospital setting and could possess controlled substances obtained pursuant to valid prescriptions issued by another practitioner; Respondent would not be allowed to issue any prescriptions for his own use; and for at least two years, Respondent would be required to keep a log of all prescriptions for controlled substances he writes and to send a copy of the log on a quarterly basis to the Special Agent in Charge or his designee of the nearest DEA office. Neither party filed exceptions to Judge's Bittner opinion and recommended ruling.

On May 11, 1994, Judge Bittner transmitted the record of the proceedings to the Deputy Administrator. The Deputy Administrator has considered the record and adopts the opinion and recommended decision of the administrative law judge in its entirety. Pursuant to 21 CFR 1316.67, the Deputy Administrator hereby issues his final order in this matter.

The Deputy Administrator finds that, as a teenager, Respondent started to abuse various controlled substances and alcohol. The abuse continued while he was in medical school and included such substances as marijuana, amphetamines and cocaine.

After medical school, Respondent joined the Navy as a medical officer. Between July 27 and August 14, 1984, Respondent wrote 90 fictitious prescriptions, 82 for Demerol, seven for Nisentil and one for morphine, all Schedule II controlled substances, for his own use. Respondent was placed in a psychiatric ward for his own safety and thereafter entered an inpatient treatment center at the Naval Drug Rehabilitation Center at Miramar, California, that lasted approximately five weeks.

Respondent then worked part time in an administrative position at a San Francisco hospital while participating in drug abuse therapy and support groups. In July 1985, Respondent was tried by court martial and dismissed from the Navy for issuing fraudulent prescriptions. After his dismissal from the Navy, Respondent obtained a five year probationary medical license from the Medical Board, effective April 5, 1985. The terms of probation limited Respondent's use of Schedule II and III controlled substances to hospital settings only and required Respondent to submit to random drug testing and to abstain from the use of alcohol.

Respondent then completed his residency in obstetrics and gynecology, working an average of 90 to 100 hours per week. After completing his residency, Respondent opened up an office in Sonoma County. During this period, Respondent had no real recovery program; he attended meetings infrequently, he had no local sponsor and on one he worked with knew that he was an addict. Respondent's Medical Board compliance officer discovered that Respondent applied for hospital privileges at a hospital in August 1987. His application disclosed his past alcohol abuse but not his drug addiction problem.

In 1989, a physician opened a practice with Respondent, sharing his staff and equipment, but seeing her own patients. In the Fall of 1989, she discovered that the staff had been telephoning local pharmacies with oral prescriptions for Vicodin for Respondent using her name as the authorizing physician. Since she knew of Respondent's past history with drugs, she contacted the Medical Board.

In December 1989, when Respondent was confronted by his Medical Board

compliance officer about his use of Vicodin, Respondent explained that he had been prescribed the drug by his dentist. Respondent denied issuing any unauthorized prescriptions; however, when confronted with the seven Vicodin prescriptions, Respondent admitted to issuing the fraudulent prescriptions for his own abuse. During the course of the investigation, it was also discovered that Respondent had fraudulently ordered samples of Lortab and Talacen. Respondent also requested that one of his employees bring to the office Vicodin, left over from a prescription issued to her by her dentist. The employee complied and a week later the Vicodin disappeared.

On March 5, 1990, Respondent was arrested on felony charges and, on July 6, 1990, in the Superior Court of California, County of Sonoma, Respondent pled guilty to and was convicted of one count of obtaining controlled substances through fraud and deceit. Respondent was sentenced to four years probation, fined approximately $5,000, and ordered to serve 30 days in a work release program and complete 250 hours of volunteer work.

In May of 1990, the Medical Board filed an accusation against Respondent based on his relapse in 1989. The matter was resolved by a consent decree, placing Respondent's medical license on probation for another five year period. The same conditions were imposed that had been imposed pursuant to Respondent's first restricted medical license issued in 1985, except that there were no restrictions placed on Respondent's use of Schedule II and III substances.

In his testimony at the hearing, Respondent candidly admitted the conduct in question and the serious extent of his drug abuse problem. In March 1990, Respondent entered an inpatient substance abuse treatment facility and after he completed that program became very involved in Alcoholics Anonymous and its 12-step recovery program. Respondent is not only monitored for drug abuse by his probation officer but also by the Medical Board and the California Diversion Program for Impaired Physicians. Respondent participates in counseling and helping other professionals who are recovering addicts.

Personal as well as professional colleagues testified on Respondent's behalf. They all corroborated Respondent's testimony that Respondent has been more dedicated to recovery since his 1989 relapse and that he continues to be an excellent physician not allowing his work to dominate his life and interfere with his recovery.

In evaluating whether Respondent's continued registration by the Drug Enforcement Administration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 824(a)(4), the Deputy Administrator considers the factors enumerated in 21 U.S.C. 823(f). They are as follows:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

In determining whether a registrant's continued registration is inconsistent with the public interest, the Deputy Administrator is not required to make findings with respect to each of the factors listed above. Instead, the Deputy Administrator has the discretion to give each factor the weight he deems appropriate, depending upon the facts and circumstances of each case. See David E. Trawick, D.D.S., Docket No. 88–69, 53 FR 5326 (1988).

The Deputy Administrator concurs with the opinion and recommended ruling of the administrative law judge and finds that all of the factors apply. The record establishes, and Respondent does not dispute, that Respondent fraudulently obtained controlled substances for his own abuse. Respondent's medical license was placed on probation twice and he was convicted of a drug related felony. Clearly there are grounds to revoke Respondent's DEA registration.

Respondent, through his own testimony as well as testimony of colleagues, fellow recovering addicts and his wife, has not only acknowledged the seriousness of his addiction, but has also demonstrated a strong commitment to recovery, contrary to his behavior prior to his 1989 relapse. The Deputy Administrator agrees with the administrative law judge's conclusion that, on balance, Respondent has demonstrated that his continuing recovery and his value to the community outweigh any threat to the public interest posed by the possibility of another relapse. This conclusion is reinforced by the fact that not only are many people aware of Respondent's addiction problem, but they are actively involved in his recovery. Therefore, the Deputy Administrator concludes that Respondent's DEA registration should not be revoked at this time but that the restrictions on his registration recommended by the administrative law judge should be imposed.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104 (59 FR 23637), hereby orders that DEA Certificate of Registration, BM0555182, previously issued to Dennis McBride, M.D., be, and it hereby is, renewed, subject to the following conditions: Respondent shall only write controlled substance prescriptions and shall not dispense, possess or store any controlled substances, except that he may administer controlled substances in a hospital setting; Respondent may only possess controlled substances which are medically necessary for his own use and which he obtained pursuant to a valid prescription issued by another practitioner; Respondent shall not issue any controlled substance prescriptions for his own use; and for two years from the effective date of this final order, every calendar quarter, Respondent shall submit a log of all prescriptions for controlled substances he has written during the previous quarter to the Special Agent in charge of the nearest DEA office, or his designee. This order is effective September 9, 1994

Dated: September 2, 1994.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 94–22358 Filed 9–8–94; 8:45 am]

BILLING CODE 4410–09–M

Parole Commission

Elimination of the South Central Region, and the Transfer of States Formerly Included in the South Central Region to the North Central and Eastern Regions

AGENCY: United States Parole Commission, Justice.

ACTION: Notice of redefinition of regional boundaries.

SUMMARY: The U.S. Parole Commission is eliminating one of the regions which it has established for the purpose of delegating decision-making authority to Regional Commissioners under 18 U.S.C. 4203(c)(1). The Commission is eliminating the South Central Region, and assigning certain states formerly contained therein to the North Central Region, and the remaining states to the Eastern Region. The purpose of these

changes is to permit the Commission to manage its caseload more efficiently with its reduced resources, in view of the Commission's statutorily mandated abolition on November 1, 1997.

EFFECTIVE DATE: October 28, 1994.

FOR FURTHER INFORMATION, CONTACT: Richard Preston, Attorney, Telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: The U.S. Parole Commission has the authority, under 18 U.S.C. 4203(a)(2), to "* * *create such regions as are necessary" to carry out the provisions of the Parole Commission and Reorganization Act of 1976. Within each region, all cases not designated for the Commission's original jurisdiction are initially decided by Regional Commissioners pursuant to 18 U.S.C. 4203(c)(1).

Under the Sentencing Reform Act of 1984 (as amended), Public Law 98–473, the Parole Commission's jurisdiction is limited to federal prisoners and parolees who committed their crimes prior to November 1, 1987. The Commission is scheduled for abolition on November 1, 1997. Accordingly, the Commission's caseload is declining, and the Commission continues to implement an orderly reduction of its operations by consolidating regions and redefining the regional boundaries that determine the caseloads of the Regional Commissioners and their staff personnel.

The action taken herein will leave the U.S. Parole Commission with two regions, and two regional offices (the North Central and Eastern Regions).

Accordingly, the Commission has taken the following actions:

1. The South Central Region, created on July 1, 1974, is eliminated effective October 28, 1994.

2. The Eastern Region shall, effective October 28, 1994, consist of the following states: Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Puerto Rico, District of Columbia and the Virgin Islands.

3. The North Central Region shall, effective October 28, 1994, consist of the following states: Ohio, Kentucky, Indiana, Michigan, Illinois, Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, Nevada, California, Alaska, Hawaii and Guam.

Acting Regional Commissioners will continue to be designated by the Chairman on an as-needed basis to insure timely decision-making by the Commission, pursuant to 28 C.F R 0.125.

Dated: September 1, 1994.

Edward F. Reilly, Jr..

Chairman U.S. Parole Commission.

[FR Doc. 94–22370 Filed 9–8–94; 8:45 am]

BILLING CODE 4410–01–P

DEPARTMENT OF LABOR

Office of the Secretary

Glass Ceiling Commission; Open Meeting; Notice of Partially Closed Meeting

SUMMARY: Pursuant to Title II of the Civil Rights Act of 1991 (Pub. L. 102–166) and section 9 of the Federal Advisory Committee Act (FACA) (Pub. L. 92–462, 5 U.S.C. app. II) a Notice of establishment of the Glass Ceiling Commission was published in the **Federal Register** on March 30, 1992 (57 FR 10776). Pursuant to section 10(a) of FACA, this is to announce a meeting of the Commission which is to take place on Sunday, September 25, 1994. The purpose of the Commission is to, among other things, focus greater attention on the importance of eliminating artificial barriers to the advancement of minorities and women to management and decisionmaking positions in business. The Commission has the practical task of: (a) Conducting basic research into practices, policies, and manner in which management and decisionmaking positions in business are filled; (b) conducting comparative research of businesses and industries in which minorities and women are promoted or are not promoted; and (c) recommending measures to enhance opportunities for and the elimination of artificial barriers to the advancement of minorities and women to management and decisionmaking positions.

TIME AND PLACE: The meeting will be held on September 25, 1994. There will be a closed portion of the meeting from 3:30 p.m. to 4:00 p.m. The public meeting will be from 4:00 p.m. to 5:30 p.m. at the Paramount Hotel, 235 West 46th Street, New York, New York.

The Commission will meet in closed session in order to discuss commercial characteristics of applicants for the Frances Perkins-Elizabeth Hanford Dole Award. The closing of this portion of the meeting is authorized by section 10(d) of the Federal Advisory Committee Act and Section (c)(4) of the Government in the Sunshine Act. This closing allows the Commission to discuss matters which if disclosed in an open meeting would reveal information that would not customarily be released to the public by the applicants.

AGENDA: The agenda for the open session of the Commission meeting is as follows:

Review of New York Hearing Agenda
Discussion of Final Report

PUBLIC PARTICIPATION: The meeting from 4 to 5:30 p.m. will be open to the public. Seating will be available on a first-come, first-served basis. Seats will be reserved for the media. Disabled individuals should contact the Commission no later than Monday September 12, 1994, if special accommodations are needed. Individuals or organizations wishing to submit written statements should send twenty (20) copies to Ms. René Redwood, Executive Director, Glass Ceiling Commission, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room C–2313, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Ms. René Redwood, Executive Director, Glass Ceiling Commission, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room C–2313, Washington, D.C. 20210, (202) 219–7342.

Signed at Washington, D.C. this 6th day of September, 1994.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 94–22470 Filed 9–8–94; 8:45 am]

BILLING CODE 4510–23–M

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills (202) 219–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OAW/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 10102, Washington, DC 20503 (202) 395–7316).

Any member of the public who wants to comment on recordkeeping/ reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Extension

Employment Standards Administration
Health Insurance Claim Form; EOB Notification of Denial
1215–0055; OWCP 1500
On occasion
Individuals or households; State or local governments; businesses or other for-profit; Federal agencies or employees; non-profit institutions; small businesses or organizations

	No. of respondents	Minutes per response	Total hours
HCFA 1500 (FECA)	417,830	15	104,457
HCFA 1500 (FBLBA)	8,000	5	667
HCFA 1500 (FBLBA)	86,000	15	21,500
EOB Notification of Denial	244,340	5	20,362
Total hours			146,986

The OWCP 1500 is a standard form used by all medical providers (except pharmacies) to request payment for FECA and FBLBA claimants' treatment for industrial injury and disease.

Extension

Employment Standards Administration
Resubmission Turnaround Document
1215–0177; CM–1173
On occasion
Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
30,000 respondents; 5 mins. per response; 2,500 total hours; 1 form

The Resubmission Turnaround Document is a computer generated form that collects missing information from the OWCP 92 and OWCP 1500 for processing the medical treatment bills for payment.

Revision

Pension and Welfare Benefits Administration
Annual Report/Form 5500 Series
1210–0016; Form 5500
Businesses or other for-profit; non-profit institutions; small businesses or organizations
822,000 respondents; 1.234 hours per response; 1,014,000 total hours
Section 104(a) of the Employee Retirement Income Security Act (ERISA) requires plan administrators to file an annual report containing the information described in section 103 of ERISA. The form 5500 series provides a standard format for filing that requirement.

Signed at Washington, D.C. this 1st day of September, 1994.

Richard B. Baker,

Acting Departmental Clearance Officer.

[FR Doc. 94–22196 Filed 9–8–94; 8:45 am]

BILLING CODE 4510–27–P

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 supersedeas 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, N.W., Room S–3014, Washington, D.C. 20210.

Correction

Publication of Modification No. 3 to Wage Determination MD940034 occurred on August 26, 1994, and should have been included in the **Federal Register** notice of that date.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State:

Volume III

Tennessee
TN940057 (SEP. 09, 1994)
Tennessee
TN940058 (SEP. 09, 1994)

Modification to General Wage Determinations Decisions

The number of decisions listed in 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:

None

Volume II:

Maryland
MD940035 (FEB. 11, 1994)
Pennsylvania
PA940031 (FEB. 11, 1994)
Virginia
VA940054 (FEB. 11, 1994)
West Virginia
WV940002 (FEB. 11, 1994)
WV940003 (FEB. 11, 1994)
WV940006 (FEB. 11, 1994)

Volume III:

Alabama
AL940034 (MAR. 25, 1994)
AL940044 (MAR. 25, 1994)
Georgia
GA940003 (FEB. 11, 1994)
GA940022 (FEB. 11, 1994)
GA940031 (FEB. 11, 1994)
GA940032 (FEB. 11, 1994)
GA940033 (FEB. 11, 1994)
GA940065 (FEB. 11, 1994)
GA940073 (FEB. 11, 1994)
GA940083 (AUG. 12, 1994)
North Carolina
NC940050 (JUL. 29, 1994)
Tennessee
TN940001 (FEB. 11, 1994)
TN940005 (FEB. 11, 1994)
TN940007 (FEB. 11, 1994)
TN940008 (FEB. 11, 1994)
TN940032 (FEB. 11, 1994)
TN940033 (FEB. 11, 1994)
TN940045 (FEB. 11, 1994)

Volume IV:

Illinois
IL940001 (FEB. 11, 1994)
IL940002 (FEB. 11, 1994)
IL940003 (FEB. 11, 1994)
IL940005 (FEB. 11, 1994)
IL940006 (FEB. 11, 1994)
IL940008 (FEB. 11, 1994)
IL940009 (FEB. 11, 1994)
IL940010 (FEB. 11, 1994)
IL940011 (FEB. 11, 1994)
IL940012 (FEB. 11, 1994)
IL940014 (FEB. 11, 1994)
IL940015 (FEB. 11, 1994)
IL940016 (FEB. 11, 1994)
Michigan
MI940001 (FEB. 11, 1994)
MI940002 (FEB. 11, 1994)
MI940003 (FEB. 11, 1994)
MI940004 (FEB. 11, 1994)
MI940005 (FEB. 11, 1994)
MI940007 (FEB. 11, 1994)
MI940012 (FEB. 11, 1994)
MI940031 (FEB. 11, 1994)
MI940046 (FEB. 11, 1994)
MI940047 (FEB. 11, 1994)
Wisconsin
WI940003 (FEB. 11, 1994)

Volume V:

Iowa
IA940003 (FEB. 11, 1994)
IA940005 (FEB. 11, 1994)
IA940006 (FEB. 11, 1994)
Kansas
KS940003 (FEB. 11, 1994)
KS940011 (FEB. 11, 1994)
KS940012 (FEB. 11, 1994)
KS940013 (FEB. 11, 1994)
KS940015 (FEB. 11, 1994)
KS940016 (FEB. 11, 1994)
KS940018 (FEB. 11, 1994)
KS940019 (FEB. 11, 1994)
KS940020 (FEB. 11, 1994)
KS940021 (FEB. 11, 1994)
KS940022 (FEB. 11, 1994)
KS940023 (FEB. 11, 1994)
Nebraska
NE940001 (FEB. 11, 1994)
NE940003 (FEB. 11, 1994)
NE940009 (FEB. 11, 1994)
NE940011 (FEB. 11, 1994)
Oklahoma
OK940013 (FEB. 11, 1994)
OK940014 (AUG. 05, 1994)
OK940018 (FEB. 11, 1994)
OK940020 (FEB. 11, 1994)
OK940027 (JUL. 15, 1994)
Texas
TX940010 (FEB. 11, 1994)
TX940060 (FEB. 11, 1994)

Volume VI:

California
CA940002 (FEB. 11, 1994)
CA940004 (FEB. 11, 1994)
Montana
MT940001 (FEB. 11, 1994)
MT940002 (FEB. 11, 1994)
MT940004 (FEB. 11, 1994)
MT940005 (FEB. 11, 1994)
MT940006 (FEB. 11, 1994)
MT940007 (FEB. 11, 1994)
MT940008 (FEB. 11, 1994)
Nevada
NV940001 (FEB. 11, 1994)
NV940005 (FEB. 11, 1994)
NV940007 (FEB. 11, 1994)
NV940010 (FEB. 11, 1994)
North Dakota
ND940026 (APR. 01, 1994)
ND940049 (APR. 01, 1994)
ND940050 (APR. 01, 1994)
Utah
UT940001 (FEB. 11, 1994)
UT940004 (FEB. 11, 1994)
UT940007 (FEB. 11, 1994)
UT940008 (FEB. 11, 1994)
UT940009 (FEB. 11, 1994)
UT940011 (FEB. 11, 1994)
UT940012 (FEB. 11, 1994)
UT940013 (FEB. 11, 1994)
UT940015 (FEB. 11, 1994)
UT940023 (FEB. 11, 1994)
UT940024 (FEB. 11, 1994)
UT940025 (FEB. 11, 1994)
UT940026 (FEB. 11, 1994)
UT940028 (FEB. 11, 1994)
UT940029 (FEB. 11, 1994)
UT940031 (FEB. 11, 1994)
Washington
WA940001 (FEB. 11, 1994)
WA940002 (FEB. 11, 1994)
WA940003 (FEB. 11, 1994)
WA940007 (FEB. 11, 1994)

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 Davis-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. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which included all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, D.C. this 2nd day of September 1994.

Alan L. Moss,

Director, Division of Wage Determination.

[FR Doc. 94–22139 Filed 9–8–94; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

[TA–W–26,723, TA–W–26,723A, TA–W–26,723B, and TA–W–26,723C]

ARCO Oil and Gas Company; Headquarters, Dallas, Texas et al., Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on February 21, 1992. The notice was published in the **Federal Register** on March 4, 1992 (57 FR 7794). The notice was amended on April 27, 1992 and published in the **Federal Register** on May 5, 1992 (57 FR 19311).

At the request of the State Agency, the Department has reviewed the subject certification and is amending it by including those claimants whose wages were reported to ARCO Natural Gas Marketing. The findings show that ARCO Natural Gas Marketing functions as part of the production process for its parent company, ARCO Oil and Gas.

The intent of the Department's certification is to include all workers of ARCO Oil and Gas who were affected by increased imports of crude oil and natural gas.

The amended notice applicable to TA–W–26,723 is hereby issued as follows:

All workers of ARCO Oil and Gas Company, also known as Atlantic Richfield Company, Inc., Headquarters Dallas, Texas the Plano Technical Services Center, Plano, Texas, ARCO Natural Gas Marketing in Dallas and Houston, Texas who became totally or partially separated from employment on or after January 6, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of August, 1994.

Violet L. Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–22197 Filed 9–8–94; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–29,900]

Caddo Well Service, Incorporated Shreveport, LA; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 23, 1994 in response to a worker petition which was filed on behalf of workers and former workers at Caddo Well Service, Incorporated, Shreveport, Louisiana (TA–W–29,900).

The company has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 26th day of August 1994.

Violet L. Thompson

Deputy Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–22198 Filed 9–8–94; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–29,638 Mt. Vernon, GA TA–W–29,638A Hartwell, GA TA–W–29,638B Nahunta]

Eddie Haggar, Ltd.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification for Worker Adjustment Assistance on June 16, 1994, applicable to all workers of Eddie Haggar, Ltd., in Mt. Vernon, Georgia and Hartwell, Georgia. The notice will soon be published in the **Federal Register**.

The Department, on its own motion, is amending the subject certification. The investigation findings show that Nahunta's sales and production data were included with Mt. Vernon's and Hartwell's. Other findings show that the Nahunta plant will cease operations in August, 1994. Therefore, the Department is amending the subject certification to include the Nahunta, Georgia location of Eddie Haggar, Ltd.

The intent of the Department's certification is to include all workers of Eddie Haggar, Ltd. who were adversely affected by increased imports of ladies' garment bottoms and pants.

The amended notice applicable to TA–W–29,638 is hereby issued as follows:

All workers of the Eddie Haggar, Ltd., Mt. Vernon, Hartwell and Nahunta, Georgia engaged in employment related to the production of ladies' pants and garment bottoms who become totally or partially separated from employment on or after March 8, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of August, 1994.

Violet L. Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–22199 Filed 9–8–94; 8:45 am]

BILLING CODE 4510–30–M

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 6, 1992, applicable to all workers of Halliburton Logging Services, Inc., headquartered in Houston, Texas. The Certification notice was issued on March 6, 1992 and published in the **Federal Register** on March 25, 1992 (57 FR 10386). The Certification notice was amended on March 31, 1992 (57 FR 11971) and on May 14, 1992 (57 FR 21996).

At the request of the Texas State Agency, the Department reviewed the amended certification again for workers of Halliburton Logging Services. New findings show that the Halliburton Logging Services' claimants' wages are being reported under Halliburton Company and Halliburton Energy Services as well as under Halliburton Logging Services. Accordingly, the Department is amending the certification to properly reflect this fact.

The intent of the Department's certification is to include all workers of Halliburton Logging Services, Geodata and Halliburton Company, Inc., Vann Systems who were affected by increased imports of crude oil and natural gas.

The amended notice applicable to TA–W–26,727 through TA–W–26,732 is hereby issued as follows:

All workers of Halliburton Logging Services, Inc., also known as (a/k/a) Halliburton Company, Inc., and a/k/a Halliburton Energy Services headquartered in Houston, Texas and operating at various locations out of the below cited offices including the Austin, Texas Research Center, the Fort Worth Manufacturing Plant in Fort Worth, Texas and the Alvarado Special Tools Plant in Alvarado, Texas; Halliburton Logging Services Geodata a/k/a Halliburton Company, Inc., and a/k/a Halliburton Energy Services, headquartered in Houston, Texas and operating at various other sites in the below cited States; and Halliburton Company, Inc., Vann Systems a/k/a Halliburton Energy Services, headquartered in Houston, Texas and operating at various other sites in the below cited States who became totally or partially separated from employment on or after January 1, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TA–W–26,730; HALLIBURTON LOGGING SERVICES, INCORPORATED A/K/A HALLIBURTON COMPANY A/K/A HALLIBURTON ENERGY SERVICES HEADQUARTERED IN HOUSTON, TEXAS AND OPERATING AT VARIOUS LOCATIONS IN THE FOLLOWING DIVISIONS:

TA–W–26,728; GULF COAST DIVISION HEADQUARTERED IN NEW ORLEANS, LOUISIANA AND OPERATING AT VARIOUS SITES OUT OF THE FOLLOWING OFFICES:

TA–W–26,728A BOSSIER CITY, LA.
TA–W–26,728B HOUMA, LA.
TA–W–26,728C LAFAYETTE, LA.
TA–W–26,728D LAUREL, MS.
TA–W–26,728E TUSCALOOSA, AL.
TA–W–26,728F LAKE CHARLES, LA.
TA–W–26,728G VICTORIA, TX.
TA–W–26,728H BEAUMONT, TX.
TA–W–26,728I RICHMOND, TX.
TA–W–26,728J TYLER, TX.
TA–W–26,728K ALICE, TX.
TA–W–26,728L DALLAS, TX.
TA–W–26,728M CORPUS CHRISTI, TX.
TA–W–26,728N SONORA, TX.
TA–W–26,728O TERMINAL, TX.

TA–W–26,731; MID-CONTINENT DIVISION HEADQUARTERED IN OKLAHOMA CITY, OKLAHOMA AND OPERATING AT VARIOUS SITES OUT OF THE FOLLOWING OFFICES:

TA–W–26,731B PAMPA, TX.
TA–W–26,731C SAN ANGELO, TX.
TA–W–26,731D ODESSA, TX.
TA–W–26,731E WICHITA FALLS, TX.
TA–W–26,731F HOBBS, N.M.
TA–W–26,731G PAULS VALLEY, OK.
TA–W–26,731H SHAWNEE, OK.
TA–W–26,731I WOODWARD, OK.
TA–W–26,731J GREAT BEND, KS.
TA–W–26,731K LIBERAL, KS.
TA–W–26,731L FORT SMITH, AR.
TA–W–26,731M HOMER CITY, PA.
TA–W–26,731N MEADVILLE, PA.
TA–W–26,731O MT. PLEASANT, MI.
TA–W–26,731P GATE CITY, VA.
TA–W–26,731Q PARKERSBURG, W. VA.
TA–W–26,731R DUNCAN, OK.
TA–W–26,731S ENID, OK.
TA–W–26,731T INDIANA, PA.
TA–W–26,731U PITTSBURGH, PA.

TA–W–26,727; HALLIBURTON LOGGING SERVICES, GEODATA A/K/A HALLIBURTON COMPANY A/K/A HALLIBURTON ENERGY SERVICES HEADQUARTERED IN HOUSTON, TEXAS AND OPERATING AT VARIOUS OTHER SITES IN THE FOLLOWING STATES:

TA–W–26,727A TEXAS
TA–W–26,727B LOUISIANA
TA–W–26,727C COLORADO
TA–W–26,727D WYOMING
TA–W–26,727E CALIFORNIA
TA–W–26,727F ALASKA

TA–W–26,729; HALLIBURTON COMPANY, INC., VANN SYSTEMS A/K/A HALLIBURTON ENERGY SERVICES HEADQUARTERED IN HOUSTON, TEXAS AND OPERATING AT VARIOUS OTHER SITES IN THE FOLLOWING STATES:

TA–W–26,729A TEXAS
TA–W–26,729B ALASKA
TA–W–26,729C MISSISSIPPI
TA–W–26,729D NEW MEXICO
TA–W–26,729E CALIFORNIA
TA–W–26,729F LOUISIANA
TA–W–26,729G WYOMING
TA–W–26,729H OKLAHOMA

TA–W–26,732; HALLIBURTON LOGGING SERVICES, INC. A/K/A HALLIBURTON COMPANY, INC. A/K/A HALLIBURTON ENERGY SERVICES AUSTIN RESEARCH CENTER AUSTIN, TEXAS

TA–W–26,732A; HALLIBURTON LOGGING SERVICES, INC. A/K/A HALLIBURTON COMPANY, INC. A/K/A HALLIBURTON ENERGY SERVICES FORT WORTH MANUFACTURING PLANT FORT WORTH, TEXAS

TA–W–26,732B; HALLIBURTON LOGGING SERVICES, INCORPORATED A/K/A HALLIBURTON COMPANY A/K/A HALLIBURTON ENERGY SERVICES ALVARADO SPECIAL TOOLS PLANT ALVARADO, TEXAS

Signed at Washington, D.C., this 24th day of August, 1994.

Violet L. Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–22200 Filed 9–8–94; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–29,768]

Normandy Manufacturing Company, Paducah, KY; Affirmative Determination Regarding Application for Reconsideration

On August 15, 1994, the petitioners requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on August 5, 1994 and published in the **Federal Register** on August 25, 1994 (59 FR 43866).

The petitioners claim that the Department did not conduct a customer survey.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 30th of August, 1994.

James D. Van Erden,

Administrator, Office of Work-Based Learning.

[FR Doc. 94–22201 Filed 9–8–94; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,055]

Portac, Incorporated Tacoma, WA; Revised Determination on Reopening

On August 29, 1994, the Department own its own motion reopened its investigation for workers the subject firm. The notice has not been published in the **Federal Register**.

Investigation findings show that the subject firm produces softwood lumber.

Investigation findings show substantial worker separations in the first half of 1994.

New findings on reopening show a decline in sales in and production in 1993 compared with 1992 and January-June 1994 compared with the same period in 1993. Other findings on reopening show that a customer accounting for the preponderance of the subject firm's sales decline in January-June 1994 increased its import of softwood lumber while decreasing its purchases from the subject firm.

Conclusion

After careful consideration of the new facts obtained on reopening, it is concluded that workers and former workers of Portac, Incorporated, Tacoma, Washington were adversely affected by increased imports of articles that are like or directly competitive with the softwood lumber produced at the subject firm. In accordance with the provisions of the Act, I make the following revised determination for workers of Portac, Incorporated, Tacoma, Washington.

All workers of Portac, Incorporated, Tacoma, Washington who became totally or partially separated from employment on or after June 15, 1993 through two years from

the date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Sign in Washington, D.C. this 29th day of August, 1994.

Violet Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–22202 Filed 9–8–94; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–29,720]

Sola Optical, USA, Inc., Muskogee, OK; Revised Determination on Reconsideration

On August 22, 1994, the Department issued an Affirmative Determination Regarding Application for Reconsideration for former workers of the subject firm in Muskogee, Oklahoma. This notice will soon be published in the **Federal Register**.

Investigation findings show that the Muskogee plant produced glass lenses for eyeglasses. The plant ceased operations in October, 1993 when all production workers were laid off.

U.S. imports of lenses for eyeglasses increased absolutely in 1993 compared to 1992.

New findings on reconsideration show increased imports of plastic lenses from Mexico in 1993 compared to 1992. The new findings show that the imported plastic lenses are like or directly competitive with those formerly produced at Muskogee and are sold to the same customer base that purchased the glass lenses from Muskogee. The imported lenses accounted for a substantial portion of Muskogee's 1993 sales.

Conclusion

After careful review of the additional facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with the lenses formerly produced at the Sola Optical, USA, Inc., in Muskogee, Oklahoma contributed importantly to the decline in sales or production and to the total or partial separation of workers at the Muskogee, Oklahoma facility of Sola Optical, USA, Inc. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All former workers of Sola Optical, USA, Inc., in Muskogee, who became totally or partially separated from employment on or after March 29, 1993 and before August 25, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this August 26, 1994.

James D. Van Erden,

Administrator, Office of Work-Based Learning.

[FR Doc. 94–22203 Filed 9–8–94; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–29,766, USA Enterprises of Georgia, Conyers, GA. et al. TA–W–29,766A, TA–W–29,766B, TA–W–29,766C, and TA–W–29,766D]

USA Enterprises, Inc. & Slaks Fifth Avenue, Ltd. New York, New York; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification for Worker Adjustment Assistance on May 24, 1994, applicable to all workers of USA Enterprises of Georgia, Conyers Georgia. The notice was published in the **Federal Register** on June 14, 1994 (59 FR 30618). On May 26, 1994 the certification was amended to include the name USA Enterprises, Inc., since some of the claimants' wages were reported under an unemployment insurance (UI) tax account for USA Enterprises, Inc.

In response to the company's request to have its NAFTA certification amended to include its marketing arm, Slaks Fifth Avenue, the Department reviewed the subject trade adjustment assistance investigation.

New findings show that USA Enterprises, Inc., headquartered in New York, New York produced men's pants at its production facilities in Bamberg, South Carolina and in Spencer and Sparta, Tennessee. All facilities ceased production in February 1994 and all production workers were laid off at that time. Therefore, the Department is amending the subject certification to include the production facilities and the marketing arm.

The intent of the Department's certification is to include all workers of USA Enterprises, Inc., who were adversely affected by increased imports of men's pants.

The amended notice applicable to TA–W–29,766 is hereby issued as follows:

All workers of Slaks Fifth Avenue, New York, New York and USA Enterprises, Inc., New York, New York and USA Enterprises, Inc., Conyers, Georgia; USA Enterprises of South Carolina, Bamberg, South Carolina and USA Enterprises of Tennessee, Spencer and Sparta, Tennessee who became totally or partially separated from employment on or after March 24, 1993, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of August, 1994.

Violet L. Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–22204 Filed 9–8–94; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00063, NAFTA–00071, NAFTA–00072; NAFTA–00072A and NAFTA–00072B]

USA Enterprises, Inc., Conyers, Georgia et al.; Amended Certification Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on May 6, 1994, applicable to all workers engaged in employment related to the production of men's pants at USA Enterprises, Inc., in Conyers, Georgia, Bamberg, South Carolina and Spencer and Sparta, Tennessee. The notice was published in the **Federal Register** on May 20, 1994 (59 FR 26523).

In response to the subject firm's request to have its NAFTA certification amended to include its New York headquarters unit and its marketing arm, Slaks Fifth Avenue in New York, the Department reviewed the subject trade adjustment assistance investigation.

New findings show that USA Enterprises, Inc., and Slaks Fifth Avenue, New York, New York, operate jointly under the same management in the production and marketing of men's pants.

Therefore, the Department is amending the subject certification to include USA Enterprises, Inc., and Slaks Fifth Avenue, New York, New York.

The intent of the Department's certification is to include all workers of USA Enterprises, Inc., and Slaks Fifth Avenue, New York, New York, who were adversely affected by increased imports of men's pants.

The amended notice applicable to NAFTA–00063; NAFTA–00071 and NAFTA–00072 is hereby issued as follows:

All workers engaged in employment related to the production of men's pants at the following locations of USA Enterprises, Inc., and Slaks Fifth Avenue, Ltd. who become totally or partially separated from employment on or after December 8, 1993, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

USA Enterprises, Inc., Conyers, Georgia.	NAFTA–00063
USA Enterprises of South Carolina, Bamberg, South Carolina.	NAFTA–00071
USA Enterprises of Tennessee, Spencer, Tennessee.	NAFTA–00072
Sparta, Tennessee	NAFTA–00072A
USA Enterprises, Inc., & Slaks Fifth Avenue, Ltd., New York, New York.	NAFTA–00072B

Signed at Washington, D.C., this 29th day of August, 1994.

Violet L. Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–22205 Filed 9–8–94; 8:45 am]

BILLING CODE 4510–30–M

Trade Adjustment Assistance Program; Designation of Certifying Officers

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of designation of certifying officers.

SUMMARY: The trade adjustment assistance program operates under the Trade Act of 1974 to furnish program benefits to domestic workers adversely affected in their employment by imports of articles which are like or are directly competitive with articles produced by the firm employing the workers. Workers become eligible for program benefits only if they are certified under the Act as eligible to apply for adjustment assistance. From time to time the agency issues an Order designating officials of the agency authorized to act as certifying officers. Employment and Training Order No. 1–94 was issued to revise the listing of officials designated as certifying officers, superseding the previous order. Employment and Training Order No. 1–94 is published below.

Signed at Washington, D.C., on this 2nd day of September 1994.

Douglas Ross,

Assistant Secretary of Labor.

U.S. DEPARTMENT OF LABOR

Employment and Training Administration, Washington, D.C. 20210.

Classification: TAA.
Correspondence Symbol: TWT.
Date: August 29, 1994.
Directive: EMPLOYMENT AND TRAINING ORDER NO. 1–94.
To: NATIONAL AND REGIONAL OFFICES.
From: DOUG ROSS, Assistant Secretary of Labor for Employment and Training.
Subject: Trade Adjustment Assistance Program (Trade Act of 1974)—Designation of Certifying Officers.

1. *Purpose.* To designate certifying officers to carry out functions required for the worker adjustment assistance program under the Trade Act of 1974, the North American Free Trade Agreement Implementation Act and the certification regulation in the Code of Federal Regulations at Title 29, Part 90.

2. *Directives Affected.* Employment and Training Order No. 2–91, July 9, 1991 (56 FR 32449 (July 16, 1991)), is superseded.

3. *Background.* Persons designated as certifying officers are vested with certain authority and assigned responsibilities under the Trade Act of 1974, the North American Free Trade Agreement Implementation Act and 29 CFR Part 90. Such authority and responsibilities particularly include making determinations and issuing certifications with respect to the eligibility of groups of workers to apply for adjustment assistance under the Act and the program benefit regulations at 20 CFR Part 617. The Secretary of Labor's Order 3–81, June 1, 1981 (46 FR 31117 (June 12, 1981))—

delegated authority and assigned responsibility to the Assistant Secretary for Employment and Training for coordinating, monitoring, and insuring that the functions of the Secretary of Labor under the Trade Act of 1974, are carried out, including but not limited to * * * [d]eveloping and promulgating program performance standards relating to the conduct of certification investigations, public hearings, issuance of notice of certification decisions, delivery of program benefits, and other processes involved in the administration of the trade adjustment assistance program * * * [and] [d]etermining eligibility of groups of workers to apply for adjustment assistance * * *.

4. *Designation of Officials.* By virtue of the authority vested in me by the Secretary's Order 3–81, the following officials of the Employment and Training Administration, United States Department of Labor, are hereby designated as certifying officers for the trade adjustment assistance program:

a. Assistant Secretary for Employment and Training

b. Administrator, Office of Work-Based Learning (OWBL)

c. Director, Unemployment Insurance Service (UIS)

d. Director, Office of Legislation and Actuarial Services, UIS

e. Deputy Director, Office of Legislation and Actuarial Services, UIS

f. Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance (OTAA)

g. Program Manager, Investigations and Reports, Office of Trade Adjustment Assistance (OTAA)

h. Program Manager, Office of Worker Retraining and Adjustment Programs (OWRAP)

The foregoing designated certifying officers are delegated authority and assigned responsibility, subject to the general direction and control of the Assistant Secretary and Deputy Assistant Secretaries of the Employment and Training Administration and the Program Managers of the Office of Trade Adjustment Assistance, to carry out the duties and functions of certifying officers under the Trade Act of 1974 and 29 CFR Part 90.

5. *Effective Date.* This Order is effective on date of issuance.

[FR Doc. 94–22206 Filed 9–8–94; 8:45] am

BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Overview/Challenge Section) to the National Council on the Arts will be held on September 27–29, 1994. The panel will meet from 9:30 a.m. to 5:30 p.m. on September 27, 1994 and from 9:00 a.m. to 5:30 p.m. on September 28–29, 1994. This meeting will be held in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

Portions of this meeting will be open to the public from 9:30 a.m. to 10:30 a.m. for welcome, introductions, and an overview of the Challenge Program and from 5:00 p.m. to 5:30 p.m. for a policy discussion regarding the Challenge Program, on September 27, 1994 and from 9:00 a.m. to 5:30 p.m. on September 28–29, 1994 for a discussion of current and future directions of the Visual Arts Program and a discussion of Visual Arts FY 95 and 96 guidelines for organizations and individual categories.

The remaining portion of this meeting from 10:30 a.m. to 5:00 p.m. on September 27, 1994 is for the purpose of Panel review, discussion, evaluation, and recommendation on Visual Arts Challenge applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994 this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of

section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5439.

Dated: September 1, 1994.

Yvonne M. Sabine,

Director, Office of Panel Operations, National Endowment for the Arts.

[FR Doc. 94–22189 Filed 9–8–94; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act

SUMMARY: Notice is hereby given that the National Science Foundation (NSF) has received waste management permit applications from Adventure Network International (ANI) associated with touristic activities at several locations in Antarctica and from PolarFlite™ for use and transfer of aviation fuel in Antarctica, submitted to NSF pursuant to regulations issued under the Antarctic Conservation Act of 1978.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application on or before October 11, 1994. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Robert S. Cunningham or Peter R. Karasik at the above address or (703) 306–1031.

Application (1)—Adventure Network International

SUPPLEMENTARY INFORMATION: NSF's Antarctic Waste Regulation, 45 CFR Part 671, requires all U.S. citizens and entities to obtain a permit for the use or release of a designated pollutant and for the release of waste in Antarctica. NSF has received a permit application under this regulation which covers the waste management activities of U.S. citizens participating in antarctic tours managed by ANI. The permit applicant is: Ms. Anne Kershaw, Adventure Network International, Canon House, 27 London End, Beaconsfield, Bucks, HP9, 2HN, U.K.

ANI conducts tours to the South Pole, the Dawson-Lambert Glacier, the Transantarctic Mountains, Mount Vinson, and other antarctic locations. The permit application is limited to the waste management activities of U.S. citizens participating in the tours. The proposed duration of the permit is from October 17, 1994 through October 16, 1995.

Activity for Which Permit Requested

Adventure Network takes groups which include up to 15 U.S. citizens to locations of touristic interest in Antarctica. In some of the tours, unleaded kerosene (white gas), a designated pollutant under antarctic waste regulations, is used for cooking. Solid waste and unused supplies are packed out and returned to Punta Arenas, Chile. Conditions of the permit will include requirements to educate all participants with the requirements of the Antarctic Conservation Act (ACA), report on the removal of materials and any accidental releases and manage human waste in accordance with antarctic waste regulations.

Application (2)—PolarFlite™

SUPPLEMENTARY INFORMATION: NSF's Antarctic Waste Regulation, 45 CFR Part 671, requires all U.S. citizens and entities to obtain a permit for the use or release of a designated pollutant and for the release of waste in Antarctica. NSF has received a permit application under this regulation which addresses emissions from the combustion of Jet A type fuel and a single refueling event during a 24-hour airplane flight in the regions south of S60 degrees latitude. The permit applicants are:

Mr. James M. Conn, Pilot, PolarFlite™, 230 West Coleman Street, Rice Lake, WI 54868

Mr. Michael K. Egan, Captain, PolarFlite™, 5 Owens Court, Sterling, VA 20165

PolarFlite™ is flying around the world in a small plane by way of the North and South Pole and will land briefly in Antarctica for refueling. The proposed duration of the permit is from November 10, 1994 to December 15, 1994. The flight in Antarctica and refueling would occur during this time.

Activity for Which Permit Requested

PolarFlite™ intends to fly a small plane powered by a Pratt & Whitney PT6A–64 turbine engine in Antarctica. Up to 800 gallons of fuel will be used during flight. The anticipated waste releases consist of emissions from the combustion and transfer of fuel. The plane will land once at McMurdo Station on Ross Island for refueling. Fuel will be provided by a Canadian company, Adventure Network International. From 300 to 500 gallons of fuel will be transferred from 55-gallon drums by hand pump. Spill control measures including the placement of absorption pads and close inspection procedures will be required during the fuel transfer.

Robert S. Cunningham,

NEPA Compliance Manager, Office of Polar Programs, National Science Foundation.

[FR Doc. 94–22190 Filed 9–8–94; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Two Public Hearings in Aviation Special Investigation

In connection with the Special Investigation of Air Tour Operators Engaged in Sight Seeing Operations in the United States of America with Special Emphasis on Operations in the Vicinity of Grand Canyon, Arizona and in the State of Hawaii the National Transportation Safety Board will convene two public hearings—the first one will commence at 9:00 a.m. (mountain standard time) on October 11, 1994, in the Regency A-B Ballroom of the Hyatt Regency Phoenix Hotel, at Civic Plaza, located at 122 North Second Street, Phoenix, Arizona; the second one will commence at 9:00 a.m. (Hawaii daylight time) on October 13, 1994, in the Coral 4 Ballroom of the Hilton Hawaiian Village, in the Mid Pacific Conference Center on the Sixth Floor of the Parking Garage, located at 2005 Kalia Road, Honolulu, Hawaii. For more information, contact Richard V. Childress, Hearing Officer, National Transportation Safety Board, 490 L'Enfant Plaza, SW., Washington, D.C. 20594, telephone (202) 382–6714.

Dated: September 6, 1994.

Ray Smith,

Alternate Federal Register Liaison Officer.

[FR Doc. 94–22340 Filed 9–8–94; 8:45 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–001]

GE Nuclear Energy; Availability of Final Safety Evaluation Report for the Advanced Boiling Water Reactor Design

The U.S. Nuclear Regulatory Commission has published its Final Safety Evaluation Report for the Advanced Boiling Water Reactor Design and has issued the report as NUREG–1503.

Copies of NUREG–1503 have been placed in the NRC's Public Docket Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, telephone (202) 634–3273, for review by interested persons. Copies of NUREG–1503 may be purchased from the Superintendent of Documents, NRC Sales, Post Office Box 37082, Washington, DC 20013–7082, telephone (202) 512–2249. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, telephone (703) 487–4650.

Dated at Rockville, Maryland, this 25th day of August 1994.

For the Nuclear Regulatory Commission.

R. W. Borchardt,

Director, Standardization Project Directorate, Associate Directorate for Advanced Reactors and License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 94–22245 Filed 9–8–94; 8:45 am]

BILLING CODE 7590–01–M

[IA 94–020]

In the Matter of: Paul A. Bauman; Order Requiring Notification Prior To Involvement in NRC-Licensed Activities (Effective Immediately)

I

Paul A. Bauman has been employed in the field of industrial radiography since approximately 1981. In April 1987, Mr. Bauman was hired by the American Inspection Company, Inc., (Licensee or AMSPEC). AMSPEC held Materials License No. 12–24801–01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 34. This license authorized the conduct of industrial radiography activities in accordance with specified conditions. On April 30, 1992, the License was suspended as a result of significant safety violations and related safety concerns. Mr. Bauman was a Vice President and Radiation Protection Officer of AMSPEC when a majority of the violations discussed below occurred.

II

Between August 22, 1991 and November 12, 1992, the NRC Office of Investigations conducted an investigation of licensed activities at AMSPEC. During the course of this investigation, the License was suspended because a significant number of safety violations were uncovered. In addition, the investigation revealed that Mr. Bauman, in his capacity as a Vice President and Radiation Protection Officer of AMSPEC, deliberately:

(1) Falsified employee training records of numerous radiography employees of AMSPEC;

(2) Failed to train and certify numerous radiography employees of AMSPEC;

(3) Provided examinees answers to examination questions and personally aided and assisted employees in order to achieve required test scores;

(4) Provided, with co-conspirator Daniel McCool, false information to the Commission regarding the qualification of AMSPEC employees in an NRC license amendment application;

(5) Falsified records of quarterly personnel radiation safety audits; and

(6) Submitted false information regarding the training and qualification of two individuals to the Commission in an application for an NRC license renewal.

10 CFR 34.31(a) provides that a licensee shall not permit any individual to act as a radiographer until such individual:

(1) Has been instructed in the subjects outlined in Appendix A of 10 CFR Part 34;

(2) Has received copies of and instruction in NRC regulations contained in 10 CFR Part 34 and in the applicable sections of 10 CFR Parts 19 and 20, NRC license(s) under which the radiographer will perform radiography, and the licensee's operating and emergency procedures;

(3) Has demonstrated competence to use the licensee's radiographic exposure devices, sealed sources, related handling tools, and survey instruments; and

(4) Has demonstrated understanding of the instructions in this paragraph by successful completion of a written test and field examination on the subjects covered. AMSPEC submitted a Radiation Safety Manual as a part of its license application dated September 20, 1986. A part of this manual prescribes the licensee's employee training program to satisfy the requirements of Appendix A of 10 CFR Part 34. This manual was incorporated as a part of License Condition 17 of the AMSPEC license. In addition, 10 CFR 34.11(d)(1) requires, in part, that an applicant have an inspection program that includes the observation of the performance of each radiographer and radiographer's assistant during an actual radiographic operation at intervals not to exceed three months. AMSPEC had an approved audit program that was incorporated as part of License Condition 17 to meet the requirements of 10 CFR 34.11(d)(1). 10 CFR 30.9(a) requires, in part, that information provided to the Commission by a licensee, or information required by the Commission's regulations to be maintained by the licensee, shall be complete and accurate in all material respects. 10 CFR 30.10(a) requires, in part, that any licensee or any employee of a licensee may not:

(1) Engage in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, order, or term of any license, issued by the Commission, or

(2) Deliberately submit to the NRC information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

Between late 1989 and March 1, 1992, Mr. Bauman deliberately caused AMSPEC to violate 10 CFR 34.31 by failing to train and certify numerous radiography employees of AMSPEC as required and caused AMSPEC to violate 10 CFR 30.9 by deliberately falsifying training records to show that numerous employees of AMSPEC stationed at the Hess facility on St. Croix were properly trained in radiation safety. During 1990 and 1991, Mr. Bauman violated License Condition 17 by providing unauthorized and improper aid to AMSPEC employees taking radiation safety examinations in that Mr. Bauman:

(1) Allowed the use of reference material during closed-book examinations;

(2) Permitted examinees to complete examinations in an untimed, unmonitored setting; and

(3) Directly provided the examinees with answers to test questions. In June of 1990, Mr. Bauman caused AMSPEC to violate 10 CFR 30.9 by preparing an NRC license amendment letter to the NRC that deliberately contained false information regarding the qualification of three AMSPEC employees. In July and August of 1991, Mr. Bauman caused AMSPEC to violate 10 CFR 30.9 and 10 CFR 34.11 by deliberately falsifying records of quarterly personnel radiation safety audits. In November of 1991, Mr. Bauman caused AMSPEC to violate 10

CFR 30.9 by conspiring with and directing his secretary to physically write answers on a required radiation safety test by annotating on the test the name of an AMSPEC employee and placing it in that employee's radiation safety records. Mr. Bauman violated 10 CFR 30.10 by deliberately submitting false information regarding the training and qualification of two individuals to the Commission in a December 20, 1991 application for an NRC license renewal.

On December 17, 1992, Mr. Bauman pled guilty to two felony counts. The first count involved conspiracy to violate 42 U.S.C. 2273 (section 223 of the Atomic Energy Act). The second count consisted of deliberately providing false information to the NRC in violation of 42 U.S.C. 2273 and 42 U.S.C. 2201b (section 161b of the Atomic Energy Act) and 10 CFR 30.9 and 10 CFR 30.10(a)(2) of the Commission's regulations.

III

The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including the requirement to provide information and maintain records that are complete and accurate in all material respects. As a Vice President and Radiation Protection Officer (RPO) of AMSPEC, Mr. Bauman was responsible for ensuring that the Commission's regulations and License conditions were met and that records which were required to demonstrate compliance with the Commission's regulations and License conditions were true and accurate in all material aspects. Mr. Bauman's deliberate actions in causing the Licensee to violate 10 CFR 30.9, 34.11, and 34.31 and License Condition 17, and his deliberate misrepresentations to the NRC, are unacceptable and raise a question as to whether he can be relied on at this time to comply with NRC requirements and to provide complete and accurate information to the NRC.

Consequently, the NRC needs the capability to monitor his performance of licensed activities in order to be able to maintain the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Bauman is employed in NRC-licensed activities. Therefore, the public health, safety and interest require that for a period of three years from the date of this Order, Mr. Bauman shall notify the NRC of his employment by any person or entity engaged in NRC-licensed activities to ensure that the NRC can monitor the status of Mr. Bauman's compliance with the Commission's requirements and his understanding of his commitment to compliance. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the conduct described above is such that the public health, safety and interest require that this order be effective immediately.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, *it is hereby ordered*, effective immediately, that:

For a period of three years from the date of the Order, Paul A. Bauman shall: Within 20 days of his acceptance of each employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. NRC-licensed activities are those activities which are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. In the first notification Mr. Bauman shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Bauman of good cause.

V

In accordance with 10 CFR 2.202, Paul A. Bauman must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Bauman or any other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region II, 101 Marietta Street NW., Suite 2900, Atlanta, GA 30323, and to Paul A. Bauman if the answer or hearing request is by a person other than Paul A. Bauman. If a person other than Paul A. Bauman requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Paul A. Bauman or another person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Paul A. Bauman, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 20th day of August 1994.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 94–22246 Filed 9–8–94; 8:45 am]

BILLING CODE 7590–01–M

[IA 94–019]

In the Matter of: Larry S. Ladner; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Larry S. Ladner has been employed as a radiographer in the field of industrial radiography since approximately 1964.

In October, 1989, Mr. Ladner was hired by the American Inspection Company, Inc. (AMSPEC). AMSPEC held Materials License No. 12–24801–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 34. This license authorized the conduct of industrial radiography activities in accordance with certain specified conditions. On April 30, 1992, the license was suspended as a result of significant safety violations and related safety concerns. Mr. Ladner worked as both a radiographer and a supervisor until his dismissal by AMSPEC in the latter part of 1991.

II

Between August 22, 1991 and November 12, 1992, the NRC Office of Investigations (OI) conducted an investigation of licensed activities of AMSPEC. During the course of this investigation, the AMSPEC license was suspended when a significant number of safety violations were identified. In addition, the investigation revealed that Mr. Ladner, in his position as a supervisor (1) Deliberately allowed radiographers' assistants to work unsupervised on numerous occasions, (2) deliberately falsified in excess of 100 quarterly personnel audits, and (3) deliberately gave false information to NRC officials regarding the unauthorized use of licensed material.

10 CFR 34.44 requires that a radiographer's assistant shall be under the personal supervision of a radiographer whenever he uses radiographic exposure devices, sealed sources or related source handling tools, or conducts radiation surveys required by 10 CFR 34.43(b) to determine that the sealed source has returned to the shielded position after an exposure. The personal supervision shall include:

(a) The radiographer's personal presence at the site where the sealed sources are being used;

(b) The ability of the radiographer to give immediate assistance if required; and

(c) The radiographer watching the assistant's performance of the operations referred to in this section. In addition, 10 CFR 34.11(d)(1) requires, in part, that an applicant have an inspection program that requires the observation of the performance of each radiographer and radiographer's assistant during an actual radiographic operation at intervals not to exceed three months.

10 CFR 30.9(a) requires, in part, that information provided to the Commission by a licensee, and information required by the Commission's regulations to be maintained by the licensee, shall be complete and accurate in all material respects.

While functioning as a radiation protection officer, Mr. Ladner deliberately caused a violation of 10 CFR 34.44 in December 1990 and February through May 1991 by allowing three radiographers' assistants to work independently and without personal supervision. During this same period, Mr. Ladner also authorized others to use his name on check-out logs, in violation of 10 CFR 30.10. Moreover, Mr. Ladner's employer (AMSPEC) had an approved program that required the observation of radiographers and radiographers' assistants at the required interval as prescribed by 10 CFR 34.11(d); however, between September 1990 and November 1991, he deliberately disregarded the licensee's program in excess of 100 times by falsifying records of audits that were never performed, causing a violation of 10 CFR 30.9. During an NRC inspection conducted on July 22–23, 1991, Mr. Ladner deliberately provided inaccurate information to NRC inspectors when he claimed no knowledge of a reported unauthorized use of licensed material, when in fact he was aware of such use.

On January 15, 1993, Mr. Ladner pled guilty to one felony count involving deliberate violations of the Atomic Energy Act based on his violations of these requirements.

III

Based on the above, Mr. Ladner engaged in deliberate misconduct which caused AMSPEC to be in violation of 10 CFR 30.9 and 34.11(d). The NRC must be able to rely on licensees and their employees to comply with NRC requirements, including the requirements to supervise radiographer's assistants performing licensed activities and to maintain and compile records that are complete and accurate in all material respects. Mr. Ladner's deliberate actions in causing AMSPEC to be in violation of NRC requirements (e.g., 30.9 and 34.11(d)), and his deliberate submittal to AMSPEC of false audit records, which are violations of 10 CFR 30.10, have raised serious doubt as to whether he can be relied on to comply with NRC requirements and to provide complete and accurate information to the NRC. Mr. Ladner's deliberate misconduct, including his deliberate false statements to Commission officials, cannot and will not be tolerated.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected, if Mr. Ladner were permitted at this time to supervise or perform licensed activities in any area where the NRC maintains jurisdiction. Therefore, the public health, safety and interest require that Mr. Ladner be prohibited from engaging in NRC licensed activities (including supervising, training and auditing) for either an NRC licensee or an Agreement State licensee in areas of NRC jurisdiction in accordance with 10 CFR 150.20 for a period of three years from the date of this Order. In addition, for a period of two years commencing after completion of the three year period of prohibition, Mr. Ladner is required to notify the NRC of his employment by any person or entity engaged in NRC-licensed activities to ensure that the NRC can monitor the status of Mr. Ladner's compliance with the Commission's requirements and his understanding of his commitment to compliance. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the conduct described above is such that the public health, safety and interest require that this order be effective immediately.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, it is hereby ordered, effective immediately, that:

1. Larry S. Ladner is prohibited for three years from the date of this Order from engaging in NRC-licensed activities. NRC-licensed activities are those activities which are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. During this time period, Mr. Ladner must also provide a copy of this Order to prospective employers who engage in NRC-licensed activities, at the time he accepts employment.

2. For a period of two years after the three-year period of prohibition has expired, Larry S. Ladner shall within 20 days of his acceptance of an employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the

NRC-licensed activities. In the first notification Mr. Ladner shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may in writing, relax or rescind any of the above conditions upon demonstration by Mr. Ladner of good cause.

In accordance with 10 CFR 2.202, Larry S. Ladner must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Larry S. Ladner or any other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Hearings and Enforcement at the same address; to the Regional Administrator, NRC Region II, 101 Marietta Street, N.W., Suite 2900, Atlanta, Georgia 30323; and to Larry S. Ladner if the answer or hearing request is by a person other than Larry S. Ladner. If a person other than Larry S. Ladner requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Larry S. Ladner or another person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Larry S. Ladner, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or processing. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 26th day of August 1994.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 94–22249 Filed 9–8–94; 8:45 am]

BILLING CODE 7590–01–M

[IA 94–017]

In the Matter of: Daniel J. McCool; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Daniel J. McCool has been employed as a radiographer in the field of industrial radiography since approximately 1968. On approximately January 1, 1987, Mr. McCool initiated licensed activities at the American Inspection Company, Inc., (AMSPEC), in his capacity as President. AMSPEC held Materials License No. 12–24801–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 34. The license authorized the conduct of industrial radiography activities in accordance with specified conditions. On April 30, 1992, the license was suspended as a result of significant safety violations and related safety concerns. Mr. McCool was President of AMSPEC at the time of license suspension.

II

Between August 22, 1991 and November 12, 1992, the NRC Office of Investigations conducted an investigation of licensed activities at AMSPEC. During the course of this investigation, the AMSPEC license was suspended when a significant number of safety violations were identified. In addition, the investigation revealed that Mr. McCool, in his capacity as President of AMSPEC, conspired with other AMSPEC officials to deceive the Commission regarding training of employees and, in addition, deliberately provided false sworn testimony to NRC officials.

AMSPEC submitted a Radiation Safety Manual as a part of its license application dated September 20, 1986. A part of this manual refers to employee training to satisfy the requirements of Appendix A of 10 CFR Part 34. This manual was incorporated as a part of License Condition 17 of the AMSPEC license. In addition, 10 CFR 30.9(a) requires, in part, that information provided to the Commission by a licensee, and information required by the Commission's regulations to be maintained by the licensee, shall be complete and accurate in all material respects. 10 CFR 30.10(a) requires, in part, that any licensee or any employee of a licensee may not:

(1) Engage in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or limitation of any license, issued by the Commission, or

(2) Deliberately submit to the NRC information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

From 1990 through April 1992, Mr. McCool deliberately violated License Condition 17 by failing to train new Radiation Protection Officers (RPOs), and by allowing others to administer the RPO qualification process, including exams and certification, although this was contrary to the Radiation Safety Program established in the Radiation Safety Manual. For over two years, from late fall 1989 through April 1992, Mr. McCool failed to perform the radiation safety audit function required by the Radiation Safety Program. In addition to the above, Mr. McCool deliberately provided false information under oath to an investigator and an inspector on May 4, 1992, regarding training of an individual in order to qualify that individual for work as an RPO.

On September 22, 1993, Mr. McCool pled guilty to two felony violations of the Atomic Energy Act based on his violations of these requirements. The violations to which Mr. McCool pled were: (1) conspiracy to violate the Atomic Energy Act, and (2) providing false information to the NRC.

III

Based on the above, Mr. McCool engaged in deliberate misconduct which caused the licensee to be in violation of the training requirements of License Condition 17 and 10 CFR 30.9. The NRC must be able to rely on licensees and their employees to comply with NRC requirements, including the requirements to train and certify employees in radiation safety and procedures and the requirement to provide information that is complete and accurate in all material respects.

Mr. McCool's actions in deliberately causing AMSPEC to be in violation of NRC requirements regarding training and completeness and accuracy of information and his deliberate false statements to NRC officials in violation of 10 CFR 30.10 have raised serious doubt as to whether he can be relied on to comply with NRC requirements, including the requirement to provide complete and accurate information to the NRC. Mr. McCool's deliberate misconduct, including his false statement to Commission officials, cannot and will not be tolerated.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. McCool were permitted at this time to supervise or perform licensed activities in any area where the NRC maintains jurisdiction. Therefore, the public health, safety and interest require that Mr. McCool be prohibited from engaging in NRC-licensed activities (including any supervising, training or auditing) for either an NRC licensee or an Agreement State licensee performing licensed activities in areas of NRC jurisdiction in accordance with 10 CFR 150.20 for a period of five years commencing after completion of the five year period of prohibition, Mr. McCool is required to notify the NRC of his employment by any person or entity engaged in NRC-licensed activities to ensure that the NRC can monitor the status of Mr. McCool's compliance with the Commission's requirements and his understanding of his commitment to compliance. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the conduct described above is such that the public health, safety and interest require that this order be effective immediately.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, *it is hereby ordered*, effective immediately, that:

1. Daniel J. McCool is prohibited for five years from the date of this Order from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. During this time period, Mr. McCool must also provide a copy of this Order to prospective employers who engage in NRC-licensed activities, at the time he accepts employment.

2. For a period of five years after the five-year period of prohibition has expired, Daniel J. McCool shall, within 20 days of his acceptance of each employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the first notification Mr. McCool shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may in writing, relax or rescind any of the above conditions upon demonstration by Mr. McCool of good cause.

V

In accordance with 10 CFR 2.202, Daniel J. McCool must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order.

The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Daniel J. McCool or any other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region II, 101 Marietta Street, NW., Suite 2900, Atlanta, Georgia 30323, and to Daniel J. McCool if the answer or hearing request is by a person other than Daniel J. McCool. If a person other than Daniel J. McCool requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Daniel J. McCool or another person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at the hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Daniel J. McCool or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or processing. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 26th day of August 1994.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 94–22247 Filed 9–8–94; 8:45 am]

BILLING CODE 7590–01–M

[IA 94–018]

In the Matter of: Richard E. Odegard; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Richard E. Odegard has been employed as a radiographer in the field of industrial radiography since approximately 1978. On approximately June 20, 1989, Mr. Odegard was hired by the American Inspection Company, Inc. (AMSPEC). AMSPEC held Materials License No. 12–24801–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 34. This license authorized the conduct of industrial radiography activities in accordance with specified conditions. On April 30, 1992, the license was suspended as a result of significant safety violations and related safety concerns. Mr. Odegard was a Vice-President of AMSPEC at the time of license suspension.

II

Between August 22, 1991 and November 12, 1992, the NRC Office of Investigations conducted an investigation of licensed activities at AMSPEC. During the course of this investigation, the AMSPEC license was suspended when a significant number of safety violations were identified. In addition, the investigation revealed that Mr. Odegard, in his capacity as a Vice-President and Area Manager for AMSPEC, conspired with other AMSPEC officials to deceive the Commission regarding training of employees and, in addition, deliberately provided false sworn testimony to NRC officials.

AMSPEC submitted a Radiation Safety Manual as a part of its license application dated September 20, 1986. A part of this manual refers to employee training to satisfy the requirements of Appendix A of 10 CFR Part 34. This manual was incorporated as a part of License Condition 17 of the AMSPEC license. 10 CFR 30.9(a) requires, in part, that information provided to the Commission by a licensee, and information required by the Commission's regulations to be maintained by the licensee, shall be complete and accurate in all material respects. 10 CFR 30.10(a) requires, in part, that any licensee or any employee of a licensee may not:

(1) Engage in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or limitation of any license, issued by the Commission, or

(2) Deliberately submit to the NRC information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

Between late 1989 and March 1, 1992, Mr. Odegard deliberately created false documents concerning the training of AMSPEC employees (documents that were required by the Commission's regulation to be maintained by AMSPEC), causing a violation of 10 CFR 30.9 by AMSPEC. During 1990 and 1991, Mr. Odegard deliberately provided unauthorized and improper aid to AMSPEC employees taking radiation safety examinations, a violation of License Condition 17. Between late 1989 and the end of 1991, Mr. Odegard deliberately falsified records of quarterly personnel radiation safety audits, causing violations of 10 CFR 30.9 and 34.11(d). On April 13, 1993, Mr. Odegard deliberately provided false testimony under oath during the NRC investigation, a violation of 10 CFR 30.10.

On January 29, 1993, Mr. Odegard pled guilty to one felony count involving deliberate violations of the Atomic Energy Act based on his violations of these requirements.

III

Based on the above, Mr. Odegard engaged in deliberate misconduct which caused AMSPEC to be in violation of the training requirements of License Condition 17 and NRC regulations, including 10 CFR 30.9 and 34.11(d). The NRC must be able to rely on licensees and their employees to comply with NRC requirements, including the requirements to train and certify employees in radiation safety and procedures and the requirement to provide information that is complete and accurate in all material respects. Mr. Odegard's action in deliberately causing AMSPEC to be in violation of NRC requirements regarding training and completeness and accuracy of information and his deliberate misrepresentations to NRC officials in violation of 10 CFR 30.10 have raised serious doubt as to whether he can be relied on to comply with NRC requirements, specifically the requirement to provide complete and accurate information to the NRC. Mr. Odegard's deliberate misconduct, including his false statement to Commission officials, cannot and will not be tolerated.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Odegard were permitted at this time to supervise or perform licensed activities in any area where the NRC maintains jurisdiction. Therefore, the public health, safety and interest require that Mr. Odegard be prohibited from engaging in NRC licensed activities (including supervising, training or auditing) for either an NRC licensee or an Agreement State licensee performing licensed activities in areas of NRC jurisdiction in accordance with 10 CFR 150.20 for a period of five years from the date of this Order. In addition, for a period of five years commencing after completion of the five year period of probation, Mr. Odegard is required to notify the NRC of his employment by any person or entity engaged in NRC-licensed activities, to ensure that the NRC can monitor the status of Mr. Odegard's compliance with the Commission's requirements and his understanding of his commitment to compliance. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the conduct described above is such that the public health, safety and interest require that this order be effective immediately.

Accordingly, pursuant to sections 81, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, *it is hereby ordered,* effective immediately, that:

1. Richard E. Odegard is prohibited for five years from the date of this Order from engaging in NRC-licensed activities. NRC-licensed activities are those activities which are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. During this time period, Mr. Odegard must also provide a copy of this Order to prospective employers who engage in NRC-licensed activities, at the time he accepts employment.

2. For a period of five years after the five-year period of prohibition has expired, Richard E. Odegard shall, within 20 days of his acceptance of an employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the first notification Mr. Odegard shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may in writing, relax or rescind any of the above conditions upon demonstration by Mr. Odegard of good cause.

V

In accordance with 10 CFR 2.202, Richard E. Odegard must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order.

The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact

and law on which Richard E. Odegard or any other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region II, 101 Marietta Street, NW., Suite 2900, Atlanta, Georgia 30323, and to Richard E. Odegard if the answer or hearing request is by a person other than Richard E. Odegard. If a person other than Richard E. Odegard requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Richard E. Odegard or another person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Richard E. Odegard or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or processing. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 26th day of August 1994.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 94–22248 Filed 9–8–94; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34625; International Series No. 709, File No. S7–8–90]

Notice of Proposed Amendment to the Options Price Reporting Authority's National Market System Plan for the Purpose of Establishing a Fee to be Paid by Persons other than Vendors who Provide a Data Control Service to OPRA Subscribers

September 1, 1994.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on June 27, 1994, the Options Price Reporting Authority ("OPRA")[1] submitted to the Securities and Exchange Commission ("SEC" or "Commission") an amendment to its National Market System Plan for the purpose of establishing a Data Control Service Agreement and a Control Service Fee for persons other than vendors who provide a data control service to OPRA subscribers and exempting subscribers who receive the feed from OPRA's Subscriber Indirect Access Fee. On August 30, 1994, OPRA filed with the Commission a letter amendment revising the amendment to clarify that OPRA vendors who provide data control services to their data feed customers are not considered to be Control Service Providers required to enter into a Data Control Service Agreement or pay a Control Service Fee.[2] The Commission is publishing this notice to solicit comments from interested persons on the amendment.

I. Description and Purpose of the Amendment

The proposed amendment will establish a Control Service Fee to be paid by persons other than vendors who provide a data control service to OPRA subscribers. A Data Control Service Provider is a provider that controls the access and entitlement of subscribers' devices with respect to market information received in the form of a data feed transmission from a vendor. The Control Service Fee is intended to cover OPRA's additional administrative costs and to allocate a portion of OPRA's overall costs to those persons who utilize options market information for commercial purposes.

Persons wishing to offer a data control service will be required to enter into a Data Control Service Agreement. This agreement imposes requirements on Control Service Providers intended to assure the reliability and integrity of the services they provide. It will require Control Service Providers to provide OPRA with a complete description of the systems and procedures to be utilized by them in controlling subscribers' access to options information, as well as a current list of subscribers and their entitlements.

The amendment also provides that OPRA's Subscriber Indirect Access Fee, which is payable by subscribers who receive uncontrolled data feed transmissions of options information from vendors, will not apply to subscribers whose receipt of a data feed is under the control of a Control Service Provider.

Finally, the Indirect (Vendor Pass-Through) Circuit Connection Rider to OPRA's Subscriber Agreement is proposed to be amended to relieve controlled data feed subscribers of the obligation to report device counts to OPRA. Since vendors and Control Service Providers are or will be required to provide this information to OPRA, there is no need to obtain it from the subscribers.

These changes are intended to respond to new advances in computer and communications technology that have led an increasing number of OPRA subscribers to receive options market information by means of high-speed, data feed transmissions from vendors. Historically, OPRA vendors have provided a controlled and formatted transmission of options information to most subscribers, but have also provided an uncontrolled, bulk, data feed transmission to an increasing number of subscribers. Because subscribers now also have the option to receive data transmissions from a controlled service provider, OPRA has had to restructure its fees and contracts in the manner described above.

II. Implementation of the Plan

The Data Control Service Agreement and the related Control Service Fee, will be implemented upon their approval by

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[1] OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3–2. Securities Exchange Act Release No. 17638 (Mar. 18, 1981).

The plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the five member exchanges. The five exchanges which agreed to the OPRA Plan are the Philadelphia Stock Exchange ("PHLX"), the Chicago Board Options Exchange ("CBOE"), the American Stock Exchange ("AMEX"), the Pacific Stock Exchange ("PSE"), and the New York Stock Exchange ("NYSE").

The OPRA plan was agreed to in response to directives of the SEC that provision be made for the consolidated reporting of transactions in eligible options contracts listed and traded on national securities exchanges.

[2] See letter from Michael L. Meyer, Schiff Hardin & Waite, Attorney for OPRA, to Scott C. Kursman, Attorney, Division of Market Regulation, Commission (August 30, 1994).

the Commission pursuant to Rule 11Aa3–2(c)(2) by requiring every person other than a vendor who wishes to offer an authorized data control service to execute a Data Control Service Agreement and to pay the fee provided for therein. Concurrently with the effectiveness of the Agreement, the Subscriber Indirect Access Fee and the Indirect (Vendor Pass-Through) Circuit Connection Rider to the Subscriber Agreement will be amended as described above.

III. Solicitation of Comments

Interested Persons are invited to submit written data, views and arguments concerning the foregoing. Commentators are asked to address whether they believe the proposed amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of a national market system, or otherwise in furtherance of the purposes of the Act.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available at the offices of OPRA. All submissions should refer to File No. S7–8–90 and should be submitted by September 30, 1994.

For the Commission by the Division of Market Regulation, by delegated authority, 17 CFR 200.30–3(a)(29).

Jonathan G. Katz,

Secretary.

[FR Doc. 94–22244 Filed 9–8–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34629; File No. SR–NSCC–94–12]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Permanent Approval of the New York Window Service

September 1, 1994.

On July 15, 1994, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–NSCC–94–12) under Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] seeking permanent approval of the New York Window Service. Notice of the proposal was published in the **Federal Register** on August 1, 1994.[2] No comments were received. This order permanently approves the New York Window Service.

I. Description

On April 26, 1993, the Commission approved on a temporary basis a proposed rule change filed by NSCC to establish a pilot program relating to the receipt, delivery, and handling of physical securities for participants located in New York City ("New York Window Service" or "New York Window").[3] On January 31, 1994, the Commission approved a proposed rule change filed by NSCC expanding the New York Window Service to offer limited money settlement services to two New York Window Service participants and to extend the temporary approval of the New York Window Service until January 31, 1995.[4] On August 1, 1994, the Commission approved on a temporary basis a proposed rule change filed by NSCC expanding the limited money settlement service to an additional New York Window participant.[5] This order grants permanent approval of the New York Window Service including the limited money settlement service and supersedes the orders granting approval until January 31, 1995.

The New York Window Service provides for the processing and deliveries of physical securities. The New York Window Service also provides facilities for the custody of custodial related services for physical securities. NSCC designed this service at the request of several participants located in New York City. These participants have been experiencing a continual decline in their activity associated with the processing of physical securities primarily due to the increase in book-entry eligibility of securities that previously were not book-entry eligible and had to be settled physically. These participants no longer find it desirable to maintain their own window operations.

The services offered through the New York Window include: (i) Over-the-Window Service;[6] (ii) interfacing with NSCC's Envelope Settlement Service;[7] (iii) Funds Only Settlement Service;[8] (iv) Dividend Settlement Service;[9] (v) processing transfers of physical securities;[10] (vi) processing deposits to and withdrawals from The Depository Trust Company ("DTC");[11] and (vii) processing deliveries to designated agents in connection with reorganizations and other corporate actions.[12]

The limited money settlement service also will be offered as part of the permanent New York Window

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 34470 (August 1, 1994), 59 FR 40396.

[3] Securities Exchange Act Release No. 32221 (April 26, 1993), 58 FR 26570 [File No. SR–NSCC–93–03] (order approving pilot program until April 30, 1994).

[4] Securities Exchange Act Release No. 33558 (January 31, 1994) 59 FR 5807 [File No. SR–NSCC–93–14] (order approving proposed rule change until January 31, 1995).

[5] Securities Exchange Act Release No. 34476 (August 1, 1994) 59 FR 40634 [File No. SR–NSCC–94–14] (notice of proposed rule change and order granting accelerated approval until January 31, 1995).

[6] The Over-the-Window service receives securities, verifies negotiability, and makes appropriate turnaround deliveries. Deliveries are made according to participants' turnaround instructions or from inventory.

[7] The participants' Envelope Settlement service includes retrieving envelopes, verifying securities for negotiability, processing receive and deliver entries, packaging securities, preparing credit lists, and processing reclamations for New York Window participants and their correspondents.

[8] The Funds Only Settlement Service related activities including retrieving and delivering envelopes, preparing credit lists, verifying charges, and processing reclamations.

[9] The Dividend Settlement Service receives dividend settlement envelopes, accepts notices of intent, and verifies daily Dividend Settlement Service charges against participant instructions.

[10] Physical transfer processing includes accepting prepackaged items from participants or preparing inventory items for delivery to transfer agents. Also included in retrieval of securities or proceeds from transfer agents and effecting participant's instruction for completed transfers.

[11] Participants can have securities held in custody or received through the Over-the-Window or Envelope Settlement Services packaged and delivered to DTC for deposit. Participants also can deliver prepackaged securities for deposit at DTC. At the request of a participant, NSCC also will retrieve withdrawals and rejected securities deposits from DTC.

[12] Physical reorganization processing includes receiving corporate action instructions from participants, delivering securities from inventory to agents, retrieving securities or proceeds, and effecting participant instructions for completed reorganizations.

Service.[13] Under the limited money settlement service, to the extent that the New York Window processes a participant's New York Window "receives" that result in next-day funds debits for that participant, NSCC will issue a check in payment of such debits. NSCC will not issue a check until it has verified the receipt of same-day funds from the participant in an amount equal to the gross amount of the participant's payment obligation for that day. When the New York Window processes a participant's "deliveries" that result in next-day funds credits, NSCC will pay the participant the aggregate amount of all checks received and deposited by NSCC for the participant each day. If checks received for a participant are less than the next-day funds credits resulting from the processing of the participant's deliveries, NSCC will pay only the received amount. NSCC's payments to participants will be made in same-day funds on the day following receipt and deposit of checks by NSCC. To the extent that receives or deliveries processed by the New York Window result in same-day funds debits or credits, wire transfers payments will continue to be made directly between the New York Window participants and the other parties to the transactions. Same-day funds credits and debit result from the processing of instruments such as same-day funds payments will not be made using the limited money settlement service.

NSCC will offer the permanent New York Window Service under the same conditions as the pilot program was offered. First, NSCC acts as agent for the participants using the New York Window Service and not as principal for its own account. Third, each New York Window participant agrees that it will not be entitled to reimbursement from NSCC for any losses suffered or liabilities incurred as a result of New York Window services.[14] Second, all actions taken by NSCC in connection with the New York Window Service will be based on instruments from participants.

Under the pilot program, each New York Window participant provided NSCC with its individual system for processing and settling transactions in physical securities. NSCC personnel directly accessed the participants' systems to process instruments and to update the participants' individual systems.

NSCC's permanent New York Window Service is a NSCC proprietary system which replaces the New York Window participants' individual systems.[15] Under the permanent New York Window Service, participants transmit processing instructions to NSCC's proprietary system in either a batch mode or in an on-line real-time mode. Each participant sets up individualized instrument profiles which inform the New York Window how various transactions should be processed for that participant and automatically prompt the next step in the processing procedure. NSCC's personnel act upon the instructions and update NSCC's New York Window system. New York Window participants will be able to change instruments or add instruments throughout the day. NSCC will be able to interactively communicate with participants with respect to instruments being processed and each day will report to participants the results of that day's processing. NSCC also will provide each participant with an updated stock record indicating the items being held in custody for the participant under the New York Window Service.

II. Discussion

Section 17A(a)(1)(B) of the Act sets forth Congress' findings that inefficient procedures for clearance and settlement of securities transactions impose unnecessary costs on investors and persons facilitating transactions by and acting on behalf of investors.[16] Section 17A(a)(1)(D) states Congress's findings that linking of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors.[17]

The Commission believes that NSCC's permanent New York Window Service should help to minimize inefficient procedures employed by individual New York City participants by concentrating these operations in one centralized facility. As a result, the individual participants will be able to eliminate there own operations and the high fixed costs associated with them and will be able to rely upon NSCC's experience in providing these services.

Implementation of NSCC's proprietary New York Window Services system also should help minimize personnel errors because NSCC's personnel will have to operate only one system as compared to the pilot program where NSCC personnel had to be able to operate each individual participant's system. In addition, the participant instruction profile component of the New York Window system automatically prompts the next step in the processing procedure thereby eliminating certain clerical intervention which also should help reduce personnel errors.

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in its custody or control or for which it is responsible.[18] NSCC will continue to employ in the permanent New York Window Service the safeguards established in the New York Window pilot program to comply with this statutory mandate. NSCC will act only as agent for the New York Window participants and will act only upon the instructions of the participants. NSCC will limit its liability for losses resulting from NSCC's gross negligence or willful misconduct. NSCC will not make any payment on behalf of or to a limited money settlement service participant unit NSCC has received funds sufficient to cover the amount of NSCC's payment.

NSCC also will continue to take precautionary measures to help ensure the safety of the securities for which it has custody under the New York Window program. NSCC will continue to maintain separate vault space at DTC to hold only securities processed through the New York Window Service and access to that vault space will be restricted to NSCC personnel. NSCC will continue to be responsible for keeping the books and records for securities held under the New York Window program. Securities belonging to different participants will not be commingled, and NSCC will follow participants' instructions regarding the segregation of customer accounts. Securities in NSCC's custody will not be held in NSCC's nominee name. The Commission believes the measures taken by NSCC enable NSCC to meet its statutory responsibility regarding safeguarding the securities in its custody or control or for which it is

[13] For a complete description of the limited money settlement service, refer to Securities Exchange Act Release No. 33558 (January 31, 1994) 59 FR 5807 [File No. SR–NSCC–93–14], *supra* Note 4.

[14] In compliance with New York law, there is an exception for losses resulting from NSCC's gross negligence or willful misconduct. As with any NSCC operations, a participant's lack of entitlement to reimbursement for losses does not prevent NSCC from determining in its sole and absolute discretion to provide reimbursement in particular instances.

[15] On September 1, 1994, NSCC will begin to phase-in its proprietary system for current New York Window participants. NSCC will preplace one at a time each of the participant's systems with NSCC's proprietary system. However, the limited money settlement service will be available to all participants on September 1, 1994.

[16] 15 U.S.C. 78q–1(a)(1)(B) (1988).

[17] 15 U.S.C. 78q–1(a)(1)(D) (1988).

[18] 15 U.S.C. 78q–1(b)(3)(F) (1988).

responsible under the New York Window.

III. Conclusion

For the reasons stated above, the Commission finds that NSCC's proposal is consistent with Section 17A of the Act.[19]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (File No. SR–NSCC–94–12) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–22209 Filed 9–8–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34630; File No. SR–MSRB–94–14]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Rule G–37 on Political Contributions and Prohibitions on Municipal Securities Business, and Rule G–8 on Recordkeeping

September 1, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 18, 1994, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Board. 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 Board is proposing to amend rule G–37 on political contributions and prohibitions on municipal securities business, and rule G–8 concerning recordkeeping.[1]

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 text 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

On April 7, 1994, the Commission approved Board rule G–37, concerning political contributions and prohibitions on municipal securities business.[2] In response to numerous inquiries received by the Board concerning the application of the rule, on May 24, 1994, the Board filed with the Commission a Question and Answer ("Q&A") interpretation of the rule.[3] On June 3, 1994, the Commission approved amendments to the rule which (i) provide a procedure whereby dealers may seek relief from the rule's prohibition on business, in limited circumstances, and (ii) clarify certain definitions in the rule.[4] Notwithstanding these efforts, the Board is aware of continued industry concern over certain aspects of rule G–37. Thus, in an effort to ameliorate such concern, the Board has proposed to amend the proposed rule change, as described below. In addition, the Board has published a second Q&A notice.[5]

Primarily Engaged in Municipal Securities Representative Activities

Rule G–37(g)(iv) provides that the term *municipal finance professional* means:

(A) Any associated person primarily engaged in municipal securities representative activities, as defined in rule G–3(a)(i);

(B) Any associated person who solicits municipal securities business, as defined in paragraph (vii);

(C) Any associated person who is a direct supervisor of such persons up through and including, in the case of a broker, dealer or municipal securities dealer other than a bank dealer, the Chief Executive Officer or similarly situated official and, in the case of a bank dealer, the officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's municipal securities dealer activities, as required pursuant to rule G–1(a); or

(D) Any associated person who is a member of the broker, dealer or municipal securities dealer (or, in the case of a bank dealer, the separately identifiable department or division of the bank, as defined in rule G–1) executive or management committee or similarly situated officials, if any.

Each person listed by the broker, dealer or municipal securities dealer as a municipal finance professional pursuant to rule G–8(a)(xvi) is deemed to be a municipal finance professional.

A number of dealers have expressed confusion over which retail sales persons fall within the definition of "municipal finance professional" based upon the municipal securities representative activities of such persons.[6] Many of these dealers believe that such confusion arises from the fact that a retail sales person's product mix can vary significantly, depending on the economy and customers' investment objectives. For example, a retail sales person's production over a particular quarter may include a preponderance of municipal securities transactions, whereas, in the next quarter, that same sales person's production may involve a preponderance of equity transactions. Such fluctuations in patterns of sales activity make it difficult for dealers to determine which retail sales persons are "primarily engaged in municipal securities representative activities."

In addition, rule G–37 requires a record to be made of all contributions by municipal finance professionals for the past two years.[7] Prohibitions on municipal securities business may result from such contributions. Thus, there is industry concern that a dealer employing hundreds or thousands of individuals who might become municipal finance professionals based

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[19] 15 U.S.C. 78q–1 (1988).

[20] 15 U.S.C. 78s(b)(2) (1988).

[21] 17 CFR 200.30–3(a)(12) (1992).

[1] The Board plans to publish the text of the proposed rule change in the August 1994 MSRB Reports (Vol. 14, No. 4, pp.—). The text of the proposed rule change also is available for inspection and copying at the Commission's public reference room and at the Board.

[2] Securities Exchange Act Release No. 33868 (April 7, 1994), 59 FR 17621 (April 13, 1994) ("Approval order"). The rule applies to contributions made on and after April 25, 1994.

[3] See Securities Exchange Act Release No. 34161 (June 6, 1994), 59 FR 30379 (June 13, 1994). The interpretations were published in the June 1994, MSRB Reports.

[4] Securities Exchange Act Release No. 34160 (June 3, 1994); 59 FR 30376 (June 13, 1994).

[5] File No. SR–MSRB–94–15 (filed August 18, 1994). Securities Exchange Act Release No. 34603 (August 25, 1994). The Board plans to publish the interpretations in the August 1994 MSRB Reports (Vol. 14, No. 4, pp. 27–32). The interpretations also are available for inspection and copying at the Commission's public reference room and at the Board.

[6] See Letter from Heather L. Ruth, President, Public Securities Association to Diane G. Klinke, General Counsel, MSRB (July 25, 1994) ("PSA Letter"); Letter from Gordon Reis III, Seasongood & Mayer, to Christopher A. Taylor, Executive Director, MSRB (July 25, 1994) ("Seasongood & Mayer Letter").

[7] Pursuant to rule G–8(a)(xvi)(I), these recordkeeping requirements apply to contributions made on or after April 25, 1994.

on a percentage of sales of municipal securities during a certain period could find itself prospectively prohibited from engaging in certain municipal securities business, for up to two years, based on contributions from persons who were not municipal finance professionals when the contributions were made and who have little or no connection to the dealer's municipal securities business activities.

The Board noted in its initial filing of rule G–37 that the definition of municipal finance professional includes those individuals who have an economic interest in seeing that the dealer is awarded municipal securities business and thus may be in a position to make political contributions for the purpose of influencing the awarding of such business by issuer officials. Such persons would include those in the public finance department, as well as underwriters, traders and institutional and retail sales persons primarily engaged in municipal securities representative activities. The Board continues to believe that there may be limited instances in which retail sales persons make contributions for the purpose of influencing the awarding of municipal securities business. However, the Board is persuaded that, at this time, the rule currently imposes a compliance burden on dealers that is not outweighed by the benefit to be achieved by determining municipal finance professional status based upon the municipal securities representative activities of retail sales persons. Accordingly, the Board proposes to amend the definition of municipal finance professional in rule G–37(g)(iv)(A) by providing that sales activities with accounts, other than institutional accounts, shall not be considered to be municipal securities representative activities.[8] The proposed amendment to the definition of municipal finance professional still includes those persons in the public finance department, as well as underwriters, traders and institutional sales persons primarily engaged in municipal securities representative activities, but does not include retail sales persons. If, in the future, the Board learns of problems in connection with retail sales persons making contributions to influence the awarding of municipal securities business, then it will reconsider the propriety of exempting such persons from the definition of municipal finance professional.

The proposed amendment would continue to permit a retail sales person or any associated person to be designated a municipal finance professional under rule G–37(g)(iv)(B) if he or she solicits any municipal securities business. The Board notes that a dealer has an obligation to determine whether any of its associated person (including retail sales persons) have solicited municipal securities business and, if so, to designate those persons as municipal finance professionals subject to rule G–37.

Supervisors of Municipal Finance Professionals

As noted previously, the definition of municipal professional includes any direct supervisor of a municipal finance professional up through and including, in the case of a broker, dealer or municipal securities dealer other than a bank dealer, the Chief Executive Officer or similarly situated official and, in the case of a bank dealer, the officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's municipal securities dealer activities, as required pursuant to rule G–1(a). Some dealers have expressed concern that this part of the definition extends unnecessarily beyond the typical municipal department supervisors. For example, if a person from the corporate department assists the municipal department by soliciting work from a municipal issuer, such a person will become a municipal finance professional because of these activities. Under the current rule, all direct corporate department supervisors of that individual also would be defined as municipal finance professionals, even though the person's municipal securities activities are subject to the supervision of a principal in the municipal securities department.

In an effort to facilitate compliance with rule G–37, the Board proposes to further amend the definition of municipal finance professional by designating as a municipal finance professional any associated person who is both (i) A municipal securities principal or a municipal securities sales principal and (ii) a supervisor of any person primarily engaged in municipal securities representative activities or who solicits municipal securities business. Thus, in the example given above, the corporate department supervisors would not be included in the definition of municipal finance professional. The Board notes, however, that if a retail sales person solicits municipal business and thus becomes a municipal finance professional, then the municipal securities principal responsible for supervising that person's municipal securities activities (including any solicitation activities) would be designated a municipal finance professional. In most cases, this would include the sales person's branch manager (a municipal securities sales principal). The Board has determined to continue to include such supervisory personnel within the definition of municipal finance professional because it is concerned about situations in which retail sales persons are soliciting municipal securities business at the request of, or at least with the knowledge of, their supervisors. Thus, the Board wishes to ensure that, if retail sales persons are soliciting municipal securities business, the supervisors of such persons also are included within the definition of municipal finance professional.

Finally, the Board also proposes to revise the definition of municipal finance professional to clarify that the supervisors of the municipal securities principals and municipal securities sales principals included within the definition also are considered municipal finance professionals.

Designation as a Municipal Finance Professional Extends for Two Years

The Board has been asked whether a dealer can establish its own standards under which someone who solicits municipal securities business could relinquish municipal finance professional status upon completing the solicitation activity.[9] The Board proposes to further amend rule G–37(g)(iv) to provide that each person designated by a dealer as a municipal finance professional shall retain this designation for two years after the last activity or position which gave rise to the designation. For instance, if an associated person is designated a municipal finance professional as a result of solicitation activities, then that designation shall extend for two years from the date of the particular solicitation. Moreover, if this person continues to solicit municipal business, then each such solicitation triggers a new two-year period. Thus, if a municipal finance professional wants to divest himself of this designation, he must forego all soliciting of municipal business for two years (as well as avoid the other situations, set forth in rule G–

[8] The term "institutional account" is defined in rule G–8(a)(xi) to mean the account of: (i) A bank, savings and loan association, insurance company, or registered investment company; (ii) an investment adviser registered under Section 203 of the Investment Advisers Act of 1940; or (iii) any other entity (whether a natural person, corporation, partnership, trust, or otherwise) with total assets of at least $50 million.

[9] See PSA Letter, *supra* n. 6.

37(g)(iv), giving rise to the designation of municipal finance professional). So too, if an institutional sales person primarily engaged in municipal securities representative activities is transferred to the corporate department, such person's contributions to officials of issuers and payments to political parties must be recorded for two years after such transfer. The Board believes that this designation period extension will help to ensure that contributions and payments by municipal finance professionals are not being made to influence the awarding of municipal securities business. It also will allow dealers, after this two-year period, to remove these persons from their list of municipal finance professionals.

Contributions and Other Payments Made to Political Parties

Pursuant to rule G-37, contributions to political parties do not trigger the rule's prohibition on business. Such contributions, however, are subject to the rule's recordkeeping and reporting provisions, as set forth in rule G-8(a)(xvi). These disclosure requirements were adopted to help ensure that dealers are not circumventing the prohibition on business in the rule by indirect contributions to issuer officials through contributions to state or local political parties. For example, if a contribution to a political party is earmarked or known to be provided to an official or officials of a particular issuer, then the dealer would violate the rule's proscription against indirect violations, thereby triggering the two-year prohibition on business with that issuer.

In its rule G-37 filing with the Commission, the Board stated that it:

> Has adopted . . . [rule G-37] as a first step toward eliminating the problems associated with political contributions in connection with the awarding of municipal securities business. It believes the rule is targeted to the reported major problem areas and should be an effective deterrent to activities which have called into question the integrity of the market. Once the proposed rule is put into place, the Board will closely monitor its effectiveness. If it determines that compliance problems exist, or if dealers seek to circumvent the proposed rule's requirements, the Board will not hesitate to amend the . . . rule to make its prohibitions applicable to a broader range of entities and individuals or to include other prohibitions or disclosure requirements.[10]

The Board has been notified by dealers and other industry participants that certain political parties currently are engaging in fundraising practices which, according to these political parties, do not invoke application of rule G-37. For example, some of these entities currently are urging dealers to make payments to political parties earmarked for expenses other than political contributions (such as administrative expenses or voter registration drives). Since these payments would not constitute "contributions" under the rule, the recordkeeping and reporting provisions would not apply.

The purpose of those disclosure requirements in rule G-37 pertaining to political parties is to ensure that funds contributed to political parties by dealers, Political Action Committees ("PACs"), municipal finance professionals and executive officers do not represent attempts to make indirect contributions to issuer officials, in contravention of the letter and the spirit of the rule. The Board continues to believe that disclosure is an adequate means of addressing this matter. However, the Board is concerned, based upon information provided by dealers and others, that the same pay-to-play pressures that motivated the Board to adopt rule G-37 may be emerging in connection with the fundraising practices of certain political parties, as described above. Accordingly, the Board proposes to amend the recordkeeping and reporting provisions of rule G-37 (as set forth in rule G-8(a)(xvi)) to require dealers to record and disclose all payments made to political parties. The term "payment" is proposed to be defined as any gift, subscription, loan, advance or deposit of money or anything of value. This definition is derived from the definition of "contribution" in rule G-37(g)(i), but does not include the limits on the purposes for which such money is given, as currently set forth in the definition of contribution.

Thus, the proposed amendment would require dealers to record and report any payments (including contributions) to political parties by dealers. PACs, municipal finance professionals and executive officers. The Board believes that these disclosure requirements will help to sever any connection between the giving of payments (including contributions) to political parties and the awarding of municipal securities business.

Finally, the Board does not seek, through its proposed definition of payment, to restrict the personal volunteer work of municipal finance professionals for political parties.

Definition of Issuer

Under rule G-37, the term "issuer" is defined as any governmental issuer specified in Section 3(a)(29) of the Act (*i.e.*, a state or any political subdivision thereof, or any agency or instrumentality of a state or any political subdivision thereof, or any municipal corporate instrumentality of one or more states) and the issuer of any separate security, including a separate security as defined in Rule 3b-5 under the Act. This definition was taken from the SEC's definition of issuer in Rule 15c2-12. The Board has received a number of questions regarding the second portion of the definition—the issuer of a separate security. This portion of the definition was intended to include, for example, a municipality that signs a take-or-pay contact used as a guarantee of the underlying bonds. However, in most instances, the issuers of separate securities are corporate obligors of industrial revenue bonds and bank issuers of letters of credit.

Dealers have complained to the Board that the inclusion in the definition of the issuer of any separate security requires them to go through a "separate security" analysis to determine if a certain corporate obligor fits within this definition of issuer and then to determine if any personnel dealing with such issuers would be deemed municipal finance professionals. These determinations, however, do not result in any connection between the corporate issuers of separate securities and political contributions. In its May 1994 Q & A, the Board noted that, when filing Form G-37, dealers do not have to include corporate issuers in industrial development bond issues, since no contributions (as defined in rule G-37) would be made to such corporations.[11] As a result of these concerns, the Board proposes to amend the rule G-37 definition of issuer by omitting issuers of separate securities from the definition of issuer.

The Board believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which provides that the Board's rules shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions

[10] File No. SR-MSRB-94-2 at 17.

[11] Pursuant to rule G-37, a contribution is defined as "any gift, subscription, loan advance, or deposit of money or anything of value made: (A) For the purpose of influencing any election for federal, state or local office; (B) for payment of debt incurred in connection with any such election; or (C) for transition or inaugural expenses incurred by the successful candidate for state or local office." Thus, by definition, any funds given to corporate issuers would not constitute a "contribution" since such corporations are not the issuers or issuer officials contemplated by the rule.

in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

As discussed below, the Board received two comment letters. Seasongood & Mayer argues that, by not including all dealer employees within the definition of municipal finance professional, rule G–37 places regional firms at a disadvantage compared to the larger firms by allowing these firms to continue using political contributions to influence the awarding of municipal securities business. In its order approving rule G–37, the Commission addressed the impact of the rule on regional firms, and concluded that the rule "will not have a disproportionate effect on * * * small and regional firms."[12] The Board continues to believe, as stated in its initial rule G–37 filing, that the rule:

> Will ensure that "pay-to-pay" practices in the municipal market will be halted without impacting every employee of the dealer * * *. [The rule will] promote just and equitable principles of trade by ensuring that dealers compete for the awarding of municipal securities business on merit rather than political contributions. Such healthy competition * * * [will] remove artificial barriers to those dealers not willing or able to make such payments, thereby * * * fostering competition.[13]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Board did not publish or solicit comment on the proposed rule change. However, the Board has received two letters addressing some of the issues contained in the proposed rule change.[14] The PSA Letter expressed concerns about the inclusion of retail sales persons in the definition of municipal finance professional. This issue was addressed in Section II.A. *supra*. The Seasongood & Mayer Letter stated that a public official's decisions are influenced when that official receives funds from sales personnel affiliated with any firm, and therefore recommended that the Board expand the definition of municipal finance professional to include "any individual directly or indirectly affiliated with an organization that engages in the negotiated underwriting of tax-exempt municipal bonds." The Board continues to believe that it is not necessary or appropriate to include all such persons within the definition of municipal finance professional.

The PSA Letter also expressed concern about the "direct supervisors" category of municipal finance professional and asked that the Board clarify that this category of municipal finance professional does not include supervisors outside of the municipal securities department. As previously discussed, the proposed definition focuses on the municipal securities supervisors of those primarily engaged in municipal securities representative activities and solicitors of municipal securities business.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal office. All submissions should refer to File No. SR–MSRB–94–14 and should be submitted by September 30, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–22253 Filed 9–8–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20523; File No. 812–9092]

American Enterprise Life Insurance Company, et al.

September 1, 1994.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: American Enterprise Life Insurance Company ("American Enterprise Life"), American Enterprise Variable Annuity Account (the "Variable Account"), and IDS Financial Services Inc. (American Enterprise Life, Variable Account, and IDS Financial Services Inc. shall be referred to herein collectively as "Applicants.")

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) of the 1940 Act from Sections 22(d), 26(a)(2)(C), and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an order permitting: (i) The deduction of a mortality and expense risk charge from the assets of existing and future subaccounts of the Variable Account or any other subaccounts established in the future by American Enterprise Life to support individual deferred fixed/variable annuity contracts (the "Contracts"); and (ii) the application of the "Waiver of Withdrawal Charges" benefit under certain of these Contracts.

FILING DATE: The application was filed on July 1, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and by serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on September 26, 1994, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issue contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

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[12] Approval Order, *Supra* n. 2.

[13] File No. SR–MSRB–94–2 at 18 and 51.

[14] See *supra* n. 6.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Mary Ellyn Minenko, Counsel, American Enterprise Life Insurance Company, IDS Tower 10, Minneapolis, MN 55440.

FOR FURTHER INFORMATION CONTACT: Patrice M. Pitts, Attorney, Division of Investment Management, Office of Insurance Products, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. American Enterprise Life is a stock life insurance company organized in 1981 under the laws of Indiana. American Enterprise Life became a wholly owned subsidiary of IDS Life Insurance Company ("IDS Life") on September 30, 1986; previously, American Enterprise Life had been a wholly owned subsidiary of AMEX Life Assurance Company. IDS Life is a wholly owned subsidiary of IDS Financial Corporation which, in turn, is a wholly owned subsidiary of the American Express Company.

2. The Variable Account was established on July 15, 1987, as a separate account under Indiana law to fund variable contracts issued by American Enterprise Life. The Variable Account is registered as a unit investment trust under the 1940 Act. The Variable Account has filed a Form N–4 registration with the Commission in connection with the Contracts issued by American Enterprise Life (File No. 33–54471).

3. Each subaccount of the Variable Account will invest solely in the shares of one of the corresponding funds of a registered investment company (the "Funds"). Currently there are six subaccounts that will invest in the shares of registered investment companies managed by IDS Life. American Enterprise Life plans, at a later date, to create additional subaccounts to invest in additional Funds. All Funds are or will be registered with the Commission as diversified open-end management investment companies.

4. IDS Financial Services Inc., the principal underwriter of the Variable Account, is a subsidiary of IDS Financial Corporation. IDS Financial Services Inc. is registered as a broker-dealer under the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers.

5. The Contracts are designed to provide retirement and other benefits. Purchase payments may be accumulated before retirement on a variable and/or fixed basis.

6. Contract owners must make an initial lump sum purchase payment and may make additional purchase payments under the Contracts. The initial purchase payment must be at least $5,000 for nonqualified Contracts and $1,000 for qualified Contracts. After making the initial purchase payment, Contract owners may make additional payments of at least $500 for nonqualified and qualified Contracts. American Enterprise Life reserves the right to limit total purchase payments for the Contracts to $1,000,000 and to change the limits on purchase payment amount.

7. The Contracts provide for allocation of purchase payments to the subaccounts of the Variable Account and/or to a fixed account. The minimum value of a Contract owner's investment in a subaccount of the Variable Account or in a fixed account is $500.

8. Prior to the retirement date, the Contract owner may transfer all or part of the Contract value held in one or more of the subaccounts of the Variable Account to another one or more of the subaccounts. Within 30 days before or after a Contract anniversary, the owner may transfer values from a fixed account to one or more of the subaccounts, but no new transfers from a subaccount to a fixed account may be made for six months after such a transfer. There is no charge for these transfers.

9. Upon retirement, annuity payments will be made on a variable and/or a fixed basis. Retirement benefits may be made in a lump sum, under one of five annuity payment plans, or under any other arrangement acceptable to American Enterprise Life.

10. American Enterprise Life will deduct an annual Contract administrative charge of $30 from the Contract on each Contract anniversary or upon total withdrawal of the Contract. American Enterprise Life reserves the right to waive this Contract administrative charge for any Contract year where the Contract value on the current Contract anniversary is $50,000 or more. American Enterprise Life also will assess the subaccounts of the Variable Account a daily asset charge at an effective annual rate of 0.25 percent of net assets for administrative expenses.

11. These administrative charges reimburse American Enterprise Life for the administrative services attributable to the Contracts and the operations of the Variable Account. These administrative charges cannot be increased, and the annual Contract administrative charge does not apply after retirement payments begin. These administrative charges represent reimbursement for only the actual administrative costs expected to be incurred over the life of the Contracts.

12. To the extent such taxes are payable, American Enterprise Life will make a charge against the Contract value for any premium taxes. No charges currently are made for other federal, state, or local taxes. American Enterprise Life reserves the right to deduct such taxes from the Variable Account in the future.

13. American Enterprise Life will assess the subaccounts of the Variable Account a daily mortality and expense risk charge equal to 1.25 percent of the average daily net assets of the subaccounts on an annual basis. American Enterprise Life estimates that approximately two-thirds of this charge is for assumption of the mortality risk and one-third is for the assumption of the expense risk. This charge cannot be increased during the life of the Contracts.

14. American Enterprise Life assumes certain mortality risks by its contractual obligation to continue to make retirement payments for the entire life of the annuitant under annuity options which involve life contingencies.

15. American Enterprise Life assumes an expense risk because the administrative charges may be insufficient to cover actual administrative expenses. These include the costs and expenses of: Processing purchase payments, retirement payments, withdrawals and transfers; furnishing confirmation notices and periodic reports; calculating mortality and expense risk charges; preparing voting materials and tax reports; updating registration statements; and covering actuarial and other expenses.

16. American Enterprise Life assumes additional mortality and certain expense risks under the Contracts through its contractual obligation to pay a death benefit in a lump sum (or in the form of an annuity payment plan) upon the death of owner or annuitant prior to the retirement date. If the owner or the annuitant both were age 75 or younger on the date the Contract was issued, and all withdrawals made from the Contract have been without withdrawal charge, the beneficiary receives the greater of: (i) The Contract value; or (ii) the total purchase payments paid less any amounts withdrawn; or (iii) on or after the fifth Contract anniversary, the death benefit as of the most recent fifth Contract anniversary adjusted by adding any purchase payments made since that most recent fifth Contract anniversary

and by subtracting any amounts withdrawn since that most recent fifth Contract anniversary. If the owner or annuitant both were age 75 or younger on the date the Contract was issued, but withdrawals subject to a withdrawal charge have been made from the Contract, or if either the owner or annuitant were age 76 or older on the date the Contract was issued, the beneficiary receives the Contract value.

17. If the administrative charges and the mortality and expense risk charge are insufficient to cover the expenses and costs assumed, the loss will be borne by American Enterprise Life. Conversely, if the amount deducted proves more than sufficient, the excess will represent a profit to American Enterprise Life. American Enterprise Life does not expect to profit from the administrative charges. American Enterprise Life does expect to profit from the mortality and expense risk charge. Any profit would be available to American Enterprise Life for any proper corporate purpose including, among other things, payment of distribution expenses.

18. No sales charge is collected or deducted at the time purchase payments are applied under the Contracts. A contingent deferred sales charge ("withdrawal charge") will be assessed on certain full or partial withdrawals. The amounts obtained from the contingent deferred sales charge will be used to help defray expenses incurred in connection with the sale of the Contracts, including commissions and other promotional or distribution expenses associated with the printing and distribution of prospectuses and sales material.

19. A withdrawal charge applies if all or part of the Contract value is withdrawn from new payments. For the Contract year of the withdrawal, new payments are purchase payments received during the Contract year of withdrawal and during the six immediately preceding Contract years. Old payments are purchase payments received in any Contract year six or more years prior to the Contract year of withdrawal. American Enterprise Life determines the withdrawal charge by multiplying each of the new payments by the applicable withdrawal charge percentages, and then summing the total withdrawal charges.

20. The new payment withdrawal charge percentage depends on the number of Contract years since the payment was received by American Enterprise Life: The withdrawal charge begins at 7 percent in the first contract year from payment receipt and declines by 1 percent per Contract year to 0 percent after seven Contract years from payment receipt. The withdrawal charge cannot be increased during the life of the Contracts.

21. Each year Contract owners may withdraw up to 10 percent of their Contract value at their prior Contract anniversary and Contract earnings (current Contract value less purchase payments not previously withdrawn) in excess of the annual 10 percent free withdrawal amount without incurring a withdrawal charge. In addition, there is no withdrawal charge on retirement payments under an annuity payment plan, and payments made in the event of the death of the owner or annuitant. For purposes of determing the amount of any withdrawal charge, withdrawals will be deemed to be taken: first, from the 10 percent of Contract value at the prior Contract anniversary not previously withdrawn this Contract year; next, from Contract earnings, if any, in excess of the annual 10 percent free withdrawal amount; next, from old payments not previously withdrawn; and last, from new payments.

22. In some cases American Enterprise Life may expect to incur lower sales and administrative expenses or to perform fewer services. In those cases, American Enterprise Life may, in its discretion, reduce or eliminate certain administrative and withdrawal charges. American Enterprise Life expects this to occur infrequently, if at all.

23. To the extent permitted by state law, American Enterprise Life provides a "Waiver of Withdrawal Charges" benefit under the Contract when the Contract owner and the annuitant both are younger than age 76 on the date that the Contract is issued. This "Waiver of Withdrawal Charges" benefit provides that withdrawal charges will be waived if American Enterprise Life receives satisfactory proof that, as of the date the Contract owner requests the withdrawal, the owner or annuitant is confined to a hospital or a nursing home and has been for the prior 60 days. To qualify, the nursing home must meet the following criteria: be licensed by an appropriate licensing agency to provide nursing care; provide 24-hour-a-day nursing services; have a doctor available for emergency situations; have a nurse on duty or on call at all times; maintain clinical records; and have appropriate methods for administering drugs.

Applicants' Legal Analysis

1. Applicants request that the Commission, pursuant to Section 6(c) of the 1940 Act, grant exemptions from Sections 22(d), 26(a)(2)(C) and 27(c)(2) thereof to the extent necessary to permit: (i) The assessment of a mortality and expense risk charge with respect to the Contracts; and (ii) the application of the "Waiver of Withdrawal Charges" benefit with respect to certain Contracts.

2. Section 6(c) of the 1940 Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provisions of the 1940 Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the terms of the relief requested with respect to any future Contracts funded by the subaccounts of the Variable Account, and by new subaccounts established in the future, are consistent with the standards enumerated in Section 6(c) of the 1940 Act. Without the requested relief, American Enterprise Life would have to request and obtain exemptive relief for each new subaccount it establishes to fund any materially similar Contracts it issues in the future. Applicants assert that these additional requests for exemptive relief would present no issues under the 1940 Act that have not already been addressed in this application.

3. Applicants represent that the requested relief is appropriate in the public interest because it would promote competitiveness in the variable annuity market by eliminating the need for American Enterprise Life to file redundant exemptive applications, thereby reducing its administrative expenses and maximizing the efficient use of its resources. The delay and expense involved in having to seek exemptive relief repeatedly would impair American Enterprise Life's ability to effectively take advantage of business opportunities that arise.

4. Applicants also represent that, for the reasons enumerated in paragraph 3 of this section, the requested relief is consistent with the purposes of the 1940 Act and the protection of investors. If American Enterprise Life were required to seek exemptive relief repeatedly with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection thereby. Indeed, they might be disadvantaged as a result of American Enterprise Life's increased overhead expenses.

5. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from

selling periodic payment plan certificates unless the proceeds of all payments (except such amounts as are deducted for sales load) are deposited with a trustee or custodian having the qualifications prescribed by Section 26(a)(1) of the 1940 Act and are held under an agreement which provides that no payment to the depositor or principal underwriter shall be allowed except as a fee, not exceeding such reasonable amount as the Commission may prescribe, for bookkeeping and other administrative services.

6. American Enterprise Life states that it has reviewed publicly available information regarding products of other companies taking into consideration such factors as current charge levels, charge guarantees, sales loads, withdrawal charges, availability of funds, investment options available under annuity contracts, and market sector. Based upon this review, American Enterprise Life has concluded that the mortality and expense risk charge described herein is within the range of charges determined by industry practice. American Enterprise Life will maintain at its executive office, and make available on request of the Commission or its staff, a memorandum setting forth in detail the variable annuity products analyzed and the methodology, and results of, its comparative review.

7. Applicants acknowledge that the withdrawal charge may be insufficient to cover all distribution costs and that, if a profit is realized from the mortality and expense risk charge, all or a portion of that profit may be offset by distribution expense not reimbursed by the withdrawal charge. American Enterprise Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements made with respect to the Contracts will benefit the Variable Account and investors in the Contracts. The basis for such conclusion is set forth in a memorandum which will be maintained by American Enterprise Life at its executive office and will be available to the Commission or its staff on request.

8. American Enterprise Life represents that each Variable Account will invest only in an underlying mutual fund which, in the event it should adopt any plan under Rule 12b–1 to finance distribution expenses, would have such plan formulated and approved by a board of directors, a majority of the members of which are not "interested persons" of such fund within the meaning of Section 2(a)(19) of the 1940 Act.

9. Section 22(d) of the 1940 Act prohibits a registered investment company, its principal underwriter or a dealer in its securities from selling any redeemable security issued by such registered investment company to any person except at a public offering price described in the prospectus. Rule 6c–8 adopted under the 1940 Act permits variable annuity separate accounts to impose a deferred sales charge. Although Rule 6c–8, unlike proposed Rule 6c–10, does not impose any conditions on the ability of the investment company involved to provide for variations in the deferred sales charges, Rule 6c–8 (again unlike proposed Rule 6c–10) does not provide an exemption from Section 22(d). Applicants recognize that the proposed waiver of the withdrawal charge in connection with the "Waiver of Withdrawal Charges" benefit could be viewed as causing the Contracts to be sold at other than a uniform offering price. Rule 22d–1 is not directly applicable to Applicants' proposed waiver of the withdrawal charge because that Rule has been interpreted as granting relief only for scheduled variations in front-end loads, not deferred sales loads such as the withdrawal charge.

10. Rule 22d–2 under the 1940 Act exempts registered variable annuity accounts, their principal underwriters, dealers and their sponsoring insurance companies from Section 22(d) to the extent necessary to permit variations in the sales load or in any administrative charge or other deductions from the purchase payments, provided that such variations reflect differences in costs or services, are not unfairly discriminatory, and are adequately described in the prospectus. Applicants, however, do not represent that the "Waiver of Withdrawal Charges" benefit reflects differences in sales costs or services and, for that reason, Applicants do not rely on Rule 22d–2 for the requested relief, even assuming that Rule 22d–2 does apply to deferred sales loads.

11. Applicants submit that the proposed waiver is consistent with the policies of Section 22(d) and the rules promulgated thereunder. One of the purposes of Section 22(d) is to prevent an investment company from discriminating among investors by charging different prices to different investors. Applicants represent that, to the extent permitted by state law, the "Waiver of Withdrawal Charges" benefit will be available to any eligible Contract owner if the owner or the annuitant are confined to a hospital or a nursing home and have been for the 60 days prior to the request for withdrawal; therefore, the benefit will not unfairly discriminate among Contract owners. Applicants argue that the benefit is advantageous to Contract owners by permitting any such owner, upon a triggering of the "Waiver of Withdrawal Charges" benefit, to make withdrawals from the Contract without imposition of the withdrawal charge. Applicants further state that the "Waiver of Withdrawal Charges" benefit will not result in dilution of the interests of any other Contract owners. Finally, Applicants argue that waiving the withdrawal charge under such circumstances will not result in the occurrence of any of the abuses that Section 22(d) is designed to prevent.

12. Applicants represent that the "Waiver of Withdrawal Charges" benefit meets the substantive requirements of Rule 22d–1 in that Applicants specifically represent that the "Waiver of Withdrawal Charges" benefit will be uniformly available to all eligible Contract owners except where prohibited under state law, and that the "Waiver of Withdrawal Charges" benefit will be adequately described in the prospectus for the Contracts. Applicants also note that there are no existing Contract owners since the public offering of the Contracts has not yet commenced.

Conclusion

For the reasons stated above, Applicants believe that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicants assert that their exemptive requests therefore meet the standards set forth in Section 6(c), and that an order should be granted. Accordingly, Applicants request exemptions pursuant to Section 6(c) of the 1940 Act from the operation of the provisions of Sections 22(d), 26(a)(2)(C), and 27(c)(2) to the extent necessary to permit: (i) The assessment of the mortality and expense charge with respect to the Contracts; and (ii) the application of the "Waiver of Withdrawal Charges" benefit with respect to certain Contracts.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–22213 Filed 9–8–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20522; No. 812–9014]

Equitable Life Insurance Company of Iowa, et al.

August 31, 1994.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Equitable Life Insurance Company of Iowa ("Equitable"), Equitable Separate Account A ("Separate Account"), and Equitable of Iowa Securities Network, Inc. ("Equitable Securities") (collectively, "Applicants").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act granting exemptions from the provisions of Sections 22(d), 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting: (a) the deduction of mortality and expenses risk charges from the assets of the Separate Account in connection with the offering of individual deferred variable annuity contracts ("Contracts"); (b) the deduction of mortality and expense risk charges from the assets of any other separate account established by Equitable in the future to fund other variable annuity contracts ("Other Contracts") that will be similar to the Contracts; and (c) the waiver, under certain circumstances, of the contingent deferred withdrawal charge that would otherwise be imposed on certain variable annuity contracts.

FILING DATE: The application was filed on May 19, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving the Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 26, 1994, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, c/o John Merriman, Equitable Life Insurance Company of Iowa, 604 Locust Street, Des Moines, Iowa 50309.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Senior Counsel, or Michael Wible, Special Counsel, at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Equitable is a stock life insurance company and a wholly-owned subsidiary of Equitable of Iowa Companies, an Iowa corporation. Equitable currently is licensed to do business in the District of Columbia and all states except Hawaii, Maine, New Hampshire, New York and Vermont.

2. The Separate Account is a registered unit investment trust under the 1940 Act that currently is used to fund the Equitable Contracts. The Separate Account has filed a registration statement on Form N–4 to register the Contracts as securities under the Securities Act of 1933. The Separate Account currently consists of ten sub-accounts ("Subaccounts") which invest in shares of one of ten corresponding portfolios currently offered by the Equi-Select Series Trust ("Trust"). Additional Subaccounts may be created in the future to invest in any additional portfolios of the Trust which may be added in the future.

3. The Trust is a series fund consisting of the Money Market, Mortgage-Backed Securities, International Fixed Income, Advantage, Government Securities, International Stock, Short-Term Bond, OTC, Research, and Total Return Portfolios. The Trust is a registered open-end management investment company under the 1940 Act. Equitable Investment Services, Inc. is the investment adviser for the Trust.

4. Equitable Securities, a wholly-owned subsidiary of Equitable of Iowa Companies and an affiliate of Equitable, will distribute the Contracts. Equitable Securities is in the process of registering as a broker-dealer under the Securities Exchange Act of 1934 and is applying for membership in the National Association of Securities Dealers, Inc.

5. The Contracts are individual flexible purchase payment deferred variable and fixed annuity contracts that are available in connection with retirement plans which may or may not qualify for Federal income tax advantages under the Internal Revenue Code. The Contracts require certain minimum initial purchase payments and minimum subsequent payments. The Contracts provide for certain guaranteed death benefits equal to the greater of: (a) The sum of the Purchase Payments less any withdrawals including any applicable Withdrawal Charge and any applicable taxes not previously deducted; or (b) the Contract Value less any applicable taxes not previously deducted; or, if death occurs after the end of the eighth Contract Year, (c) the Contract Value at the end of the eighth Contract Year less any withdrawals including any applicable CDSC incurred since the end of the eighth Contract Year and any applicable taxes not previously deducted.

6. Various fees and expenses are deducted under the Contracts and the Variable Account. Premium taxes or other taxes payable to a state or other governmental entity will be advanced by Equitable at the time purchase payments are made and then deducted from Contract Value at annuitization, withdrawal, or death if Equitable is unable to obtain a refund. Equitable reserves the right to deduct premium taxes when incurred. Premium taxes range from 0% to 4%.

7. Administrative charges will be assessed to reimburse Equitable for expenses incurred in establishing and maintaining the Contracts and Separate Account. These charges include: (a) An Annual Contract Maintenance Charge of $30, which is deducted from Contract Value on each Contract Anniversary prior to the Maturity Date, or at the time of total withdrawal on other than the Contract Anniversary; and (b) an Administrative Charge equal on an annual basis to .15% of the average daily net asset value of the Separate Account, which is deducted on each Valuation Date. Equitable represents that the Administrative Charge will not exceed expenses and will not increase should it prove to be insufficient. Equitable relies on Rule 26a–1 with respect to these administrative charges assessed under the Contract. Equitable does not intend to profit from the administrative charges.

8. Contract owners may transfer all or part of their interest in a Subaccount or in the Fixed Account prior to the Maturity Date. A transfer charge of $25 or 2% of the amount transferred, if less, will be deducted for each transfer after 12 transfers in a Contract year, subject to certain limitations. For any Contract Year, a Contract owner may transfer only 10% of purchase payments and 10% of any earnings attributable to those purchase payments from the Fixed Account to a Subaccount. There is no limitation on the transfer of purchase payments received at least eight years prior to the request for transfer, and any earnings thereon.

9. No sales charges are deducted from premium payments under the Contracts. A contingent deferred sales charge ("CDSC") in the amount of up to 8% of total premiums paid is imposed on a declining basis over a nine-year period on withdrawals prior to the Maturity Date. No CDSC is assessed (a) upon withdrawal, once each Contract Year after the first Contract Year, of up to 10% of the total of all purchase payments made at the beginning of a Contract Year, less any purchase payments previously withdrawn, and (b) under the Waiver of Withdrawal Charge ("Waiver") benefit provided under the Contract for withdrawals under circumstances involving hospitalization and/or confinement to an eligible nursing home for 30 consecutive days. In the event that the CDSC is insufficient to cover distribution expenses, the deficiency will be met from Equitable's assets, which may include amounts derived from the charge for mortality and expenses risks.

10. Equitable will assume certain mortality and expense risks under the Contracts. A daily charge equal to an annual rate of 1.25% of the value of the average daily net asset value of the Separate Account will be deducted on each Valuation Date to compensate Equitable for assuming such risks. Of this amount, approximately .90% is attributable to mortality risks, and .35% is attributable to expense risks. The aggregate charge is guaranteed not to increase for the duration of the Contracts. This charge may be a source of profit for Equitable, which may be used for, among other things, the payment of distribution expenses. Equitable currently anticipates a profit from this charge.

11. The mortality risk assumed under the Contracts arises from Equitable's contractual obligation to make annuity payments after the Maturity Date for the life of the Annuitant and to waive the CDSC in the event of the Annuitant's death. The expense risk assumed is that all actual expenses involved in administering the Contracts may exceed the amount recovered by Equitable from the administrative charges, which are guaranteed not to increase for the life of the Contract.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Section 22(d)

2. Section 22(d) of the 1940 Act prohibits a registered investment company, its principal underwriter or a dealer in its securities from selling any redeemable security issued by such registered investment company to any person except at a public offering price described in the prospectus. Applicants recognize that the Waiver benefit could be viewed as causing the Contracts to be sold at other than a uniform offering price.

3. Rule 6c–8 adopted under the 1940 Act permits variable annuity separate accounts to impose a deferred sales charge, without imposing conditions on the ability of an investment company involved to provide for variations in the deferred sales charges. Rule 6c–8, however, does not provide an exemption from Section 22(d). Rule 22d–1 is not directly applicable to the proposed Waiver benefit because that Rule has been interpreted as granting relief only for scheduled variations in front-end loads, not deferred sales loads such as the CDSC. Rule 22d–2 under the 1940 Act exempts registered variable annuity accounts, their principal underwriters, dealers and their sponsoring insurance companies from Section 22(d) to the extent necessary to permit variations in the sales load or in any administrative charge or other deductions from the purchase payments, provided that such variations reflect differences in costs or services, are not unfairly discriminatory, and are adequately described in the prospectus. Applicants do not believe that the Waiver benefit reflects differences in sales costs or services and, consequently, do not rely on Rule 22d–2 for the requested relief, even assuming that the rule does apply to deferred sales loads.

4. Nonetheless, Applicants submit that the proposed Waiver benefit is consistent with the policies of Section 22(d) and the rules promulgated thereunder, including the policy of preventing an investment company from discriminating among investors by charging different prices to different investors. Applicants represent that, where the Waiver benefit is permitted by state law, the benefit will be uniformly available to any Contract owner if the annuitant under the Contract satisfies the relevant conditions and, therefore, the benefit will not unfairly discriminate among Contract owners. Moreover, Applicants assert that the benefit is advantageous to Contract owners by permitting any such owner, upon a triggering of the Waiver benefit, to surrender the Contract without imposition of the CDSC. Further, Applicants assert that the Waiver benefit will not result in dilution of the interests of any other Contract owner or result in the occurrence of any of the abuses that Section 22(d) is designed to prevent.

5. Applicants submit that the proposed Waiver benefit meets the substantive requirements of Rule 22d–1 in that Applicants specifically state that: (a) the benefit will be uniformly available to all eligible Contract owners except where prohibited by state law; and (b) the benefit will be adequately described in the Separate Account prospectus for the Contracts. Applicants also note that the public offering of the Contracts has not yet commenced and, thus, there are no existing Contract owners.

Sections 26(a)(2)(C) and 27(c)(2)

6. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act prohibit a registered unit investment trust and its depositor or underwriter from selling periodic payment plan certificates unless the proceeds of all payments, other than sales load, are deposited with a qualified bank as trustee or custodian. Further, the proceeds are required to be held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amounts as the Commission may prescribe, for performing bookkeeping and other administrative services normally performed by the bank itself.

7. Applicants request exemptions from Sections 26(a)(2) and 27(c)(2) to the extent necessary to permit the deduction of a maximum charge for assumption of mortality and expense risks from the assets of: (a) The Separate Account in connection with the ofering of the Contracts, and (b) any other separate account established by Equitable in the future to support any Other Contracts. Applicants believe that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act for the following reasons.

8. Applicants submit that Equitable is entitled to reasonable compensation for its assumption of mortality and expense risks. Applicants represent that the proposed mortality and expense risk charge is within the range of industry practice for comparable variable annuity contracts. This representation is based upon Applicants' analysis of the

mortality risks, taking into consideration such factors as guaranteed annuity purchase rates, current charge levels, benefits provided, and industry practice with respect to comparable variable annuity contracts. Equitable undertakes to maintain at its principal office, available to the Commission, a memorandum setting forth in detail the products analyzed and the methodology and results of this analysis.

9. Applicants acknowledge that, if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be available to pay distribution expenses not reimbursed by the CDSC. Equitable has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account and the Contract owners. The basis for that conclusion is set forth in a memorandum which will be maintained by Equitable at its principal office and will be available to the Commission.

10. Applicants submit that without the requested relief for future separate accounts issuing Other Contracts, they would have to repeatedly request and obtain exemptive relief which would present no issues under the 1940 Act that have not already been addressed in this Application. Eliminating redundant exemptive applications would reduce administrative expenses and maximize the efficient use of resources, thus, promoting competitiveness in the variable annuity market. Further, the delay and expense of repetitive exemptive applications would impair Equitable's ability to effectively take advantage of business opportunities as they arise and investors would not receive any benefit or additional protection.

11. Applicants also represents that the Separate Account will invest only in underlying mutual funds that undertake, in the event that they should adopt a plan under Rule 12b–1 to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not "interested persons" of the funds, formulate and approve any such plan.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–2242 Filed 8–8–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20524; 812–8966]

First Investors Cash Management Fund, Inc., et al.; Notice of Application

September 1, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: First Investors Cash Management Fund, Inc., First Investors Fund for Income, Inc., First Investors Global Fund, Inc., First Investors Government Fund, Inc., First Investors High Yield Fund, Inc., First Investors Insured Tax Exempt Fund, Inc., First Investors Life Series Fund, First Investors Multi-State Insured Tax Free Fund, First Investors New York Insured Tax Free Fund, First Investors Series Fund, First Investors Series Fund II, Inc., First Investors Special Bond Fund, Inc., First Investors Tax Exempt Money Market Fund, Inc., First Investors U.S. Government Plus Fund, and Executive Investors Trust (collectively, the "Funds"), First Investors Corporation ("FIC"), First Investors Management Company, Inc. ("FIMCO"), Executive Investors Corporation ("EIC"), and Executive Investors Management Company, Inc. ("EIMCO").

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) and rule 22c–1.

SUMMARY OF APPLICATION: Applicants request an order that would permit the Funds to issue multiple classes of shares representing interests in the same portfolio of securities and assets, and under certain circumstances waive, a contingent deferred sales charge ("CDSC") on redemptions of shares.

FILING DATES: The application was filed on May 3, 1994, and amended on July 1, 1994, and August 18, 1994. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 26, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 95 Wall Street, New York, N.Y. 10005.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. First Investors Life Series Fund, Multi-State Insured Tax Free Fund, Series Fund, U.S. Government Plus Fund, and Executive Investors Trust are organized as business trusts under the laws of Massachusetts and are registered under the Act as open-end management investment companies. First Investors Cash Management Fund, Fund for Income, Global Fund, Government Fund, High Yield Fund, Insured Tax Exempt, New York Insured Tax Free Fund, Series Fund II, Special Bond Fund, and Tax Exempt Money Market Fund are organized as corporations under the laws of Maryland and are also registered under the Act as open-end management investment companies. Only Series Fund II currently offers its shares in separate series.

2. FIMCO is the investment adviser to each existing Fund except for Executive Investors Trust, for which EIMCO serves as investment adviser. FIC serves as underwriter for each existing Fund except for Life Series Fund, Special Bond Fund, Executive Investors Trust, for which EIC serves as underwriter.

3. Shares of each existing Fund except for Cash Management Fund and Tax Exempt Money Market Fund are sold with a front-end sales charge. Certain of the existing Funds have adopted a rule 12b–1 distribution plan. Applicants request that relief extend to the funds and any other investment company, or series thereof, that (a) becomes a part of the same "group of investment companies" as that term is defined in rule 11a–3 under the Act, (b) is distributed, as principal underwriter, by FIC, EIC or a person controlling, controlled by, or under common control with FIC or EIC, and (c) issues and sells classes of shares on a basis identical in

all material respects to that described in this application.

A. Multiple Class System

1. Applicants propose to establish a multiple class distribution system that would authorize each Fund to sell separate classes of its shares. Applicants propose that the current shares of each existing Fund be redesignated as Class A shares. In addition, each existing Fund could create additional classes of shares.

2. Each class of shares would be identical in all respects, except that: (a) Each class of shares would have a different class designation; (b) certain classes of shares may have different sales charges; (c) each class with a rule 12b–1 plan and/or shareholder services plan would bear the expense of payments under the plans; (d) each class would bear certain other expenses that are directly attributable only to that class ("Class Expenses"), as set forth in condition 1; (e) classes will vote separately with respect to matters relating to 12b–1 or shareholder services plans, except as provided in condition 16; (f) certain classes will have a conversion feature; and (g) the exchange privileges could vary among the classes. Each Fund may enter into 12b–1 plan agreements and/or non-rule 12b–1 shareholder service plan agreements ("Plan Agreements") with FIMCO, EIMCO, FIC, EIC and/or other organizations to provide distribution services and/or maintenance services to their customers who own shares of that Fund.

3. The expenses of a Trust or a Fund that has established more than one series that cannot be attributed directly to any one series ("Trust Expenses") generally will be allocated to each series based on the relative net assets of those series.[1] Certain expenses may be attributable to a particular Fund, but not a particular class ("Fund Expenses"). All such Fund Expenses incurred by a Fund will be allocated to each class of its shares based upon the relative daily net assets of the class. Finally, 12b–1 plan payments and Class Expenses may be attributable to a particular class of shares of a Fund. All such Class Expenses will be charged directly to the net assets of the particular class and will be borne on a *pro rata* basis by the outstanding shares of such class. Therefore, the net income and net asset value per share of each class may be different than the net income and net asset value per share of other classes of shares in the same Fund.

4. Shares in different classes within a Fund also will have different exchange privileges. Shares may be exchanged at net asset value for shares of the corresponding class of certain other Funds. The applicable exchange privileges will comply with rule 11a–3 under the Act. In addition, shares of one or more classes ("Purchase Class Shares") may automatically convert to shares of another class ("Target Class Shares") after a prescribed period of time. Target Class Shares will in all cases be subject to lower aggregate 12b–1 plan payments, if any, and other ongoing Class Expenses than Purchase Class Shares. The conversion will be on the basis of the relative net asset values of the two classes, without the imposition of any sales or other charge except that any asset-based sales or other charge applicable to the Target Class Shares would thereafter be applied to the converted shares. Purchase Class Shares in a shareholder's account that were purchased through the reinvestment of dividends and other distributions paid in respect of Purchase Class Shares will be considered to be held in a separate sub-account. Each time any Purchase Class Shares in the shareholder's account convert to Target Class Shares, a *pro rata* portion of the Purchase Class Shares then in the sub-account also will convert to Target Class Shares.

B. The CDSC

1. Applicants also request an exemption to allow the Funds to impose a CDSC on redemptions of certain shares of the Funds ("CDSC Shares"), and to waive or reduce the CDSC under certain circumstances. The sum of any front-end sales charge, asset-based sales charge, and CDSC would comply with the requirements of section 26(d) of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. ("NASD").

2. The amount of the CDSC would be calculated as the lesser of the amount that represents a specified percentage of the net asset value of the CDSC Shares at the time of purchase, or the amount that represents such percentage of the net asset value of the CDSC Shares at the time of redemption. No CDSC would be imposed on an amount which represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for the CDSC Shares purchased. In determining the applicability and rate of any CDSC, it would be assumed that a redemption is made first of shares representing capital appreciation, secondly, of shares representing reinvestment of dividends and capital gain distributions, next of shares held by the shareholder for a period equal to or greater than the CDSC period, and finally of other shares held by the shareholder for the longest period of time. This would result in a charge, if any, being imposed at the lowest possible rate.

3. Applicants request relief to permit each Fund to waive or reduce the CDSC in certain circumstances. Any waiver or reduction will comply with the conditions in paragraphs (a) through (d) of rule 22d–1.

4. Each Fund may adopt a policy whereby it would provide a *pro rata* credit for any CDSC paid in connection with a redemption of CDSC Shares followed by a reinvestment effected within 30 days, or such other period as the board of trustees or directors may determine, in shares of the same class of the same or a different Fund, of all or part of the redemption proceeds. Such credit would be distributed by the principal underwriter of the Fund from its house account.

Applicants' Legal Analysis

1. Applicants request an exemption under section 6(c) of the Act from sections 18(f)(1), 18(g), and 18(i) of the Act, to issue multiple classes of shares representing interests in the same portfolio of securities. Applicants believe that the proposed allocation of expenses and voting rights is equitable and would not discriminate against any group of shareholders. The proposal does not involve borrowings and does not affect the Fund's existing assets or reserves.

2. Applicants also request an exemption under section 6(c) from sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act, and rule 22c–1 thereunder, to assess and, under certain circumstances, waive or reduce a CDSC with respect to certain redemptions of shares. Applicants believe that the imposition of the CDSC on a class of shares is fair and in the best interests of their shareholders.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each class of shares of a Fund will represent interests in the same portfolio of investments, and be identical in all respects, except as set forth below. The only differences between the classes of shares of a Fund will relate solely to one or more of the following: (a) Expenses assessed to a class pursuant to a 12b–1 plan and/or shareholder services plan,

[1] From time to time, a Fund may allocate Trust Expenses among series using an alternative method, including allocation based on the number of shareholders of each series or the number of series in a Fund, as may be appropriate.

if any, with respect to such class; (b) the impact of Class Expenses, which are limited to any or all of the following (i) transfer agent fees identified as being attributable to a specific class of shares, (ii) stationery, printing, postage, and delivery expenses related to preparing and distributing materials such as shareholder reports, prospectuses, and proxy statements to current shareholder of a specific class, (iii) Blue Sky registration fees incurred by a class of shares, (iv) SEC registration fees incurred by a class of shares, (v) expenses of administrative personnel and services as required to support the shareholders of a specific class, (vi) trustees'/directors' fees or expenses incurred as a result of issues relating to one class of shares, (vii) account expenses relating solely to one class of shares, (viii) auditors fees, litigation expenses, and legal fees and expenses relating to a class of shares, (ix) expenses incurred in connection with shareholders meetings as a result of issues relating to one class of shares, and (x) any other incremental expenses subsequently identified which should be properly allocated to a particular class of shares and which, as such are approved by the SEC pursuant to an amended order; (c) the fact that the classes will vote separately with respect to matters relating to the Fund's 12b–1 plan or shareholder services plan, if any, except as provided in condition 16 below; (d) the different exchange privileges of the classes of shares, if any; (e) certain classes will have a conversion feature; and (f) the designation of each class of shares of a Fund.

2. The board of trustees or the board of directors of the applicable Fund, including a majority of the trustees or directors who are not interested persons of the Fund ("independent trustees or directors"), will have approved the multiple class system with respect to a particular Fund prior to the implementation of the system by that Fund. The minutes of the meetings of the board of the Fund regarding the deliberations of the trustees or directors with respect to the approvals necessary to implement the multiple class system will reflect in detail the reasons for the determination by the board that the proposed multiple class system is in the best interests of each Fund and its shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the board of the applicable Fund, including a majority of the independent trustees or directors. Any person authorized to direct the allocation and disposition of monies paid or payable by a Fund to meet Class Expenses shall provide to the applicable board, and the trustees or directors shall review, at least quarterly, a written report of the amounts so expended and the purpose for which such expenditures were made.

4. If any class will be subject to a share services plan, the plan(s) will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders need not enjoy the voting rights specified in rule 12b–1.

5. On an ongoing basis, the board of each Fund, pursuant to its fiduciary responsibilities under the Act and otherwise, will monitor each Fund, as applicable, for the existence of any material conflicts among the interests of the classes of its shares, if there is more than one class. The board, including a majority of the independent trustees or directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. Each Fund's principal underwriter and investment adviser will be responsible for reporting any potential or existing conflicts to the appropriate board. If such a conflict arises, the Fund's principal underwriter and investment adviser, at their own expense, will take such actions as are necessary to remedy such conflict, including establishing a new registered management investment company, if necessary.

6. The principal underwriter of each Fund implementing a multiple class system will adopt compliance standards with respect to when each class of shares may be appropriately sold to particular investors. Applicants will require all persons selling shares of the Funds to agree to conform to such standards.

7. The board of each Fund will receive quarterly and annual statements concerning distribution and shareholder servicing expenditures complying with paragraph (B)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any fee for distribution or maintenance services charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the board to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent trustees or directors in the exercise of their fiduciary duties.

8. Dividends and other distributions paid by a Fund with respect to each class of its shares, to the extent any dividends and other distributions are paid, will be declared and paid on the same day and at the same time, and will be determined in the same manner and will be in the same amount, except that the amount of the dividends and other distributions declared and paid by a particular class may be different from that of another class because payments made by a class under a 12b–1 plan and Class Expenses will be borne exclusively by that class.

9. The methodology and procedures for calculating the net asset value and dividends and other distributions of the classes and the proper allocation of expenses between the classes have been reviewed by an expert (the "Expert") who has rendered a report to the applicants, which has been provided to the staff of the SEC, stating that such methodology and procedures are adequate to ensure that such calculations and allocations would be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Expert will be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by the Funds (which the Funds agree to provide), will be available for inspection by the SEC staff upon written request to the Funds for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Independent Expert is a "Special Purpose" report on "policies and procedures placed in operation" in accordance with Statement on Auditing Standards ("SAS") No. 70, "Reports on the Processing of Transactions by Service Organizations," of the American Institute of Certified Public Accountants ("AICPA"). Ongoing reports will be "policies and procedures placed in operation and tests of operating effectiveness" prepared in accordance with SAS No. 70 of AICPA, as it may be

amended from time to time, or in similar auditing standards as may be adopted by the AICPA.

10. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and other distributions of the classes of shares and the proper allocation of expenses among the classes of shares, and this representation has been concurred with by the Expert in the initial report referred to in condition (9) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (9) above. Applicants will take immediate corrective action if the Expert, or appropriate substitute Expert, does not so concur in the ongoing reports.

11. The prospectuses of each class of shares will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing shares may receive different compensation with respect to one particular class of shares over another in the Funds.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the board of each Fund with respect to the multiple class system will be set forth in guidelines which will be furnished to the trustees or directors.

13. Each Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of its shares in every prospectus, regardless of whether all classes of its shares are offered pursuant to each prospectus. Each Fund will disclose the respective expenses and performance data applicable to all classes of its shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not on a per class basis. Each Fund's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Fund. To the extent that any advertisement or sales literature describes the expenses or performance data applicable to any class of its shares, each Fund will also disclose the respective expenses and/or performance data applicable to all classes of that Fund's shares. The information provided by an applicant for publication in any newspaper or similar listing of a Fund's net asset value or public offering price will present each class of that Fund's shares separately.

14. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval of, authorization of, or acquiescence in any particular level of payments that any Fund may make pursuant to its rule 12b–1 plan or shareholder services plan in reliance on the exemptive order.

15. Any class of shares with a conversion feature will convert into another class of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee or other charge. After conversion, the converted shares will be subject to an asset-based sales charge or service fee (as those terms are defined in Article III, Section 26 of the NASD's Rule of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

16. If a Fund implements any amendment to a 12b–1 plan (or, if presented to shareholders, adopts or implements any amendment of a non-rule 12b–1 shareholder services plan) that would increase materially the amount that may be borne by the Target Class Shares under the plan, then existing Purchase Class Shares will stop converting into the Target Class Shares unless the holders of a majority of Purchase Class Shares, voting separately as a class, approve the amendment. The directors shall take such action as is necessary to ensure that existing Purchase Class Shares are exchanged or converted into a new class of shares ("New Target Class Shares"), identical in all material respects of Target Class Shares as they existed prior to implementation of the amendment, no later than the date such shares previously were schedules to convert into Target Class Shares. If deemed advisable by the directors to implement the foregoing, such action may include the exchange of all existing Purchase Class Shares for a new class ("New Purchase Class Shares") of shares, identical to existing Purchase Class Shares in all material respects except that the New Purchase Class Shares will convert into the New Target Class Shares. The New Target Class Shares and New Purchase Class Shares may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the directors reasonably believe will not be subject to federal taxation. Any additional cost associated with the creation, exchange, or conversion of the New Target Class Shares or New Purchase Class Shares will be borne solely by the adviser or underwriter. Purchase Class Shares sold after the implementation of this proposed arrangement may convert into Target Class Shares subject to the highest maximum payment, provided that the material features of the Target Class Shares plan and the relationship of such plan to the Purchase Class Shares are disclosed in an effective registration statement.

17. The applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted or amended.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–22211 Filed 9–8–94; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 20525; 811–6586]

Mutual Funds for Credit Unions, Inc.; Notice of Application

September 1, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Mutual Funds For Credit Unions, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on July 29, 1994 and amended on August 29, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving 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 September 26, 1994, 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 3570 Hunters Sound, San Antonio, Texas 78230.

FOR FURTHER INFORMATION CONTACT: Deepak Pai, Attorney, at (202) 942–0574, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is registered as an open-end management investment company under the Act and organized as a corporation under the laws of the State of Maryland. On March 10, 1992, applicant filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on June 16, 1992, and an initial public offering commenced on September 15, 1992. All shares of the portfolios were sold to credit unions and are considered institutional shares.

2. Applicant's board of directors determined that the liquidation of applicant's portfolios, Money Market Portfolio and Government Securities Portfolio, was in the best interests of applicant. On February 17, 1994, the board of directors approved the terms of the liquidation. On February 24, 1994, applicant sent a letter to its eight (8) shareholders explaining the resignation of applicant's investment adviser, distributor and administrator. As a result of the letters mailed to shareholders, shareholders redeemed their shares at net asset value. On March 15, 1994, applicant's sole shareholder, AIM Advisors, Inc., approved the liquidation and dissolution.

3. On March 15, 1994, the Money Market Portfolio had 100,000 shares outstanding at a net asset value of $1.00 per share. The Government Securities Portfolio had 25,035.534 shares outstanding at a net asset value of $9.93 per share. At such date, aggregate net assets of applicant were $99,913 and $248,632, respectively.

4. All expenses incurred in connection with the liquidation have been assumed and paid by AIM Advisors, Inc., applicant's investment adviser.

5. As of the date of this application, applicant has no debts or liabilities and is not a party to any litigation or administrative proceeding. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding-up of its affairs.

6. Applicant is current with respect to all filings required under the Act, including N–SAR filings for each semiannual period for which such filing is required.

7. Applicant intends to file all documents required to terminate its existence as a Maryland corporation.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–22210 Filed 9–8–94; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

MidMark Capital, L.P. (Application No. 99000079); Filing of an Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1994)) by MidMark Capital, L.P., 466 Southern Boulevard, Chatham, New Jersey, for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

MidMark Capital, L.P. is a Delaware limited partnership. The Partnership will be managed by its General Partner, MidMark Associates, Inc. located at the same addresss as the applicant. The directors, officers and owners of the General Partner, MidMark Associates Inc., are:

Name	Title
Denis Newman	President.
Wayne L. Clevenger	Secretary.
Joseph R. Robinson	Treasurer.

The sole limited partner of MidMark Capital will be MidMark Equity Partners, L.P. Wayne L. Clevenger, Denis Newman, and Joseph R. Robinson are the directors and owners of the General Partner, MidMark Advisors Inc., and are the principals who will manage the parent partnership. At this time, no individual investors own more than ten percent of the parent limited partnership.

The applicant will begin operations with capitalization of approximately $10 million and will be a source of debt and equity financing for qualified small business concerns. The applicant will concentrate on investments on the East Coast.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in the Chatham, New Jersey Area.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: September 1, 1994.

Darryl K. Hairston,

Deputy Associate Administrator for Investment.

[FR Doc. 94–22314 Filed 9–8–94; 8:45 am]

BILLING CODE 8025–01–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980, As Amended by Public Law 99–591; Information Collection Under Review by the Office of Management and Budget (OMB)

AGENCY: Tennessee Valley Authority.

ACTION: Information Collections Under Review by the Office of Management and Budget (OMB).

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), as amended by Public Law 99–591.

Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be made within 30 days directly to the Agency Clearance Officer and also to the Desk Officer for the Tennessee Valley Authority, Office of Information and Regulatory Affairs, Office of

Management and Budget, Washington, DC 20503; Telephone: (202) 395–3084.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 1101 Market Street (BR 6B), Chattanooga, TN 37402–2801; (615) 751–2523.

Type of Request: Regular submission.

Title of Information Collection: Forest Industries Survey.

Frequency of Use: On occasion.

Type of Affected Public: Businesses or other for-profit, small businesses or organizations.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 452.

Estimated Number of Annual Responses: 5,500.

Estimated Total Annual Burden Hours: 3,667.

Estimated Average Burden Hours Per Response: .66.

Need For and Use of Information: This information collection is needed to measure trends in industrial wood use, employment, and number and kinds of forest industries. These data will be used for program planning and to evaluate progress in forest industrial development.

William S. Moore,

Acting General Manager, Facilities Services.

[FR Doc. 94–22336 Filed 9–8–94; 8:45 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Rule on Application To Use the Revenue From, a Passenger Facility Charge (PFC) at Alexander Hamilton Airport, St. Croix, VI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at the Alexander Hamilton Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 11, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gordon Finch, Executive Director of the Virgin Islands Port Authority at the following address: Administrative Offices, c/o Cyril E. King Airport, Virgin Islands Port Authority, St. Thomas, Virgin Islands 00802.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Virgin Islands Port Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mrs. Ilia A. Quinones, Airports Plans and Programs Manager, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397, telephone (407) 648–6583. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at the Alexander Hamilton Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation regulations (14 CFR Part 158).

On August 30, 1994, the FAA determined that the application to use the revenue from, a PFC submitted by the Virgin Islands Port Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 2, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: March 1, 1993

Proposed charge expiration date: February 1, 1995

Total approved PFC revenue: $2,280,465

Estimated PFC revenues to be used on projects in this application: $2,280,465

Brief description of proposed projects: Passenger Terminal Improvements; Master Plan Update; Airport Security System; Airfield Improvements (Apron Expansion); Real Property Acquisition.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Cyril E. King Airport, Virgin Islands Port Authority, Administrative Offices, St. Thomas, Virgin Islands.

Issued in Orlando, Florida, on August 31, 1994.

Charles E. Blair,

Manager, Orlando Airports District Office Southern Region.

[FR Doc. 94–22362 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From, a Passenger Facility Charge (PFC) at Cyril E. King Airport, St. Thomas, VI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at the Cyril E. King Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 11, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gordon Finch, Executive Director of the Virgin Islands Ports Authority at the following address: Administrative Offices, c/o Cyril E. King Airport, Virgin Islands Port Authority, St. Thomas, Virgin Islands 00802.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Virgin Islands Port Authority under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mrs. Ilia A. Quinones, Airports Plans and Programs Manager, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397, telephone (407) 648–6583. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public

comment on the application to use the revenue from a PFC at the Cyril E. King Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation regulations (14 CFR Part 158).

On August 30, 1994, the FAA determined that the application to use the revenue from, a PFC submitted by the Virgin Islands Port Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 2, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: March 1, 1993

Proposd charge expiration date: February 1, 1995

Total approved PFC revenue: $2,280,465

Estimated PFC revenues to be used on projects in this application: $2,280,465

Brief description of proposed projects: Passenger Terminal Improvements; Master Plan Update; Airport Security System; Airfield Improvements (Apron Expansion); Real Property Acquisition.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Cyril E. King Airport, Virgin Islands Port Authority, Administrative Offices, St. Thomas, Virgin Islands.

Issued in Orlando, Florida, on August 31, 1994.

Charles E. Blair,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 94–22361 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–13–M

Federal Aviation Administration

Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Tampa International Airport, Tampa, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Tampa International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 11, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Orlando Airports District Office, 9766 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. George J. Bean, Executive Director of the Hillsborough County Aviation Authority at the following address: Hillsborough County Aviation Authority, Terminal Building, 3rd. level, Blue Side, Tampa International Airport, Tampa, Florida 33622–2287.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Hillsborough County Aviation Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. C. Ed Howard, Plans and Program Manager, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397, (407) 648–6582. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Tampa International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation regulations (14 CFR Part 158).

On September 2, 1994, the FAA determined that the application to use the revenue from a PFC submitted by Hillsborough County Aviation Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 15, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Actual charge effective date: October 1, 1993.

Estimated charge expiration date: August 31, 1999.

Total approved PFC revenue: $17,500,000.

Estimated PFC revenue to be used on project in this application: $17,500,000.

Brief description of proposed project(s): Acquisiton of Land and Property in Drew Park.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On-demand air taxi-commercial operators that (1) do not enplane or deplane passengers at the Authority's main passenger terminal buildings and (2) enplane fewer than 500 passengers per year at Tampa International Airport.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Hillsborough County Aviation Authority.

Issued in Orlando, Florida, on September 2, 1994.

Charles E. Blair,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 94–22363 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Bradford County, FL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in Bradford County, Florida.

FOR FURTHER INFORMATION CONTACT: Ms. Melisa L. Ridenour, Supervisory Transportation Engineer, Federal Highway Administration, 227 N. Bronough Street, Room 2015, Tallahassee, Florida 32301–2015, Telephone; (904) 942–9598.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation will prepare an EIS for a proposal to improve US 301 (SR 200) in Bradford County, Florida. The proposed improvement would involve US 301 through the City of Starke. The study corridor is 14.5 km (9.0 miles) long. The proposed

improvement is considered necessary to provide for existing and projected traffic demands.

Alternatives under consideration include: (1) Taking no action; (2) providing highway improvements utilizing an urban corridor within the Town of Starke; (3) utilizing a rural corridor on a new alignment which would serve as a by-pass around the Town of Starke.

Coordination with appropriate Federal, State, and local agencies and private citizens who have expressed interest in this proposal has been undertaken and will continue. A series of public meetings have been held and additional meetings are planned for the future in Bradford County. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The Draft EIS will be made available for public and agency review and comment. A formal scoping meeting is planned during the fall of 1994.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: August 31, 1994.

Melisa Ridenour,

Supervisory Transportation Engineer, Tallahassee, Florida.

[FR Doc. 94–22337 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Racine County, WI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway bypass around the City of Burlington in Racine County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Ms. Jaclyn Lawton, P.E., Federal Highway Administration, 4502 Vernon Boulevard, Madison, WI, 53705–4905. Telephone: (608) 264–5967. You may also contact Ms. Carol Cutshall, Director, Office of Environmental Analysis, Wisconsin Department of Transportation, 4802 Sheboygan Avenue, Madison, WI, 53705: Telephone (608) 266–9626.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Wisconsin Department of Transportation, will prepare an EIS on a proposal to provide a highway bypass around the City of Burlington in Racine County, Wisconsin. Bypass routes north and south of the City will be investigated. A northern bypass route would connect STH 11 east of the City to STH 36 west of the City. A southern bypass route would connect STH 36 east of the City to STH 11 west of the City. Depending on proximity to the City, and a north or south location, bypass routes could vary in length from 2 Km to 18 Km.

The bypass study is being undertaken in accordance with the Southeastern Wisconsin Regional Planning Commission's (SEWRPC) recommendation in the adopted Racine County Jurisdictional Highway System Plan—2000, 1990 (as amended).

A bypass route is being considered to address congestion and safety problems in the City of Burlington, and to reduce STH 36, STH 11 and STH 83 traffic on existing arterial streets that carry traffic volumes approaching or exceeding design capacity.

In addition to the Highway Bypass Alternative, the No Build Alternative, Transportation System Management and Transportation Demand Management techniques, and Other Transportation Modes will be evaluated.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed, or are known to have interest in the proposal. Public information meetings will be held in the project corridor throughout data gathering and development of alternatives. A series of workshops will be held with Federal, State, and local agencies, private organizations, and citizen representatives during development and refinement of alternatives. Input from the workshop group will assist in addressing the relationship between the transportation alternatives and area land use, including secondary impact issues. A public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing.

Agencies having an interest in, or jurisdiction regarding the proposed action, will be contacted throughout the development and refinement of alternatives. A formal scoping meeting may be held. To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action and the Draft EIS should be directed to FHWA or the Wisconsin Department of Transportation at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. This document is being prepared in conformance with 40 CFR, Part 1500 and the FHWA regulations. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Issued on: August 31, 1994.

James R. Zavoral,

Urban Projects Engineer, Madison, Wisconsin.

[FR Doc. 94–22338 Filed 9–8–94; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Fiscal Service

U.S. Savings Bonds; Revised Issuing Agent Fee Schedule

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces a revised schedule of fees payable to eligible United States Savings Bond issuing agents. The revised fee schedule covers issue records transmitted to the Bureau of the Public Debt, and over-the-counter purchase orders, or electronic purchase order records, received by Federal Reserve Banks. Such fees will be paid on a monthly basis, instead of quarterly. The purpose of the change is to pay issuing agents more frequently and to bring greater consistency to the timing and method of paying fees.

EFFECTIVE DATE: October 1, 1994.

FOR FURTHER INFORMATION CONTACT: Dean A. Adams, Assistant Chief Counsel, Bureau of the Public Debt, Parkersburg, WV 26106–1328, (304) 480–5192.

SUPPLEMENTARY INFORMATION: Title 31 CFR Part 317 (also known as Department of the Treasury Circular, Public Debt Series No. 4–67, as revised and amended), at § 317.6(b), provides that savings bond issuing agents, other

than Federal agencies, will be paid fees, in accordance with a schedule published in the **Federal Register.**

Under the Regional Delivery System (RDS), agents qualified to sell bonds over-the-counter accept purchase orders and sales proceeds, i.e., the purchase price, from purchasers and transmit such orders and proceeds to designated Federal Reserve Offices that then inscribe and issue bonds through automated processing. No changes have been made to the schedule of fees paid to RDS agents.

Issuing agents authorized to inscribe bonds sold over-the-counter and to report such sales on magnetic tape will continue to receive a fee of $.85 for each bond. However, effective October 1, 1994, such fee will be paid monthly by a designated Federal Reserve Office within forty-five days after the close of the month instead of, as heretofore, within fifty (50) days after the close of each calendar quarter. In addition, all such fees will be paid by credit to accounts with Federal Reserve Banks or by the Automated Clearing House (ACH) method.

Fees paid to these agents will be based upon issue records transferred to the Bureau of the Public Debt in a calendar month based on transfer dates assigned to transmittals by a designated Federal Reserve Office. Fees paid to agents for issuing bonds through payroll savings plans will also be paid monthly by a designated Federal Reserve Office within forty-five days after the close of the month by credit to accounts with Federal Reserve Banks or by the Automated Clearing House (ACH) method. Such fees will no longer be based upon quarterly volumes. The new scale will be based upon monthly volumes, as follows: The first 500 bonds @ $.32 each, the next 3,000 bonds @ $.11 each, and all bonds over 3,500 @ $.06 each.

The fee schedule is included by reference in all issuing agent agreements and referred to in 31 CFR Part 317, as well as the Issuing Agent Fee Statement (PD F 4982), distributed to issuing agents. The purpose of the change in fee schedule is to provide for a more frequent payment of fees and for greater consistency in the timing and method of paying fees to issuing agents.

Dated: August 31, 1994.

Gerald Murphy,

Fiscal Assistant Secretary.

Schedule of Fees

The schedule of fees for the issue of Series EE savings bonds are hereby set forth below:

Eligible organizations, other than Federal agencies, qualified as issuing agents by Federal Reserve Banks and Branches under 31 CFR Part 317 (also known as Department of the Treasury Circular, Public Debt Series No. 4–67, as revised and amended) will receive a fee for each savings bond issued or, in the case of agents authorized to participate in the Regional Delivery System (RDS), for each over-the-counter purchase order or electronic purchase order record submitted by an RDS agent to a Federal Reserve Office. Such fees are specifically authorized in 31 CFR § 317.6(b). Federal agencies, including wholly-owned government corporations and independent establishments, are not eligible to receive fees. Categories of organizations and institutions eligible for qualification as issuing agents, in accordance with 31 CFR § 317.3, are identified in 31 CFR § 317.2. These categories include banks, trust companies, certain savings institutions, Federal credit unions, and employers operating certain payroll savings plans for their employees.

Fee Schedule—Over-the-Counter Issues

Qualified issuing agents, other than Federal agencies, will be paid a fee for each over-the-counter savings bond order transaction, based on the method used to transmit the purchase information and remittance to a Federal Reserve Office or the Bureau of the Public Debt as set forth below.

(a) *Class 1 Fees:* Each issuing agent, authorized under a special arrangement to inscribe bonds sold over-the-counter and report sales (original issues) on magnetic tape, will be paid a fee of $.85 for each Series EE bond issue record transmitted to the Bureau of the Public Debt during a calendar month, based on transfer dates assigned to the transmittals by a designated Federal Reserve Office. Class 1 fees will be paid to each such issuing agent by a designated Federal Reserve Office within forty-five (45) days after the close of the month by a credit to an account with a Federal Reserve Bank or by the Automated Clearing House (ACH) method.

(b) *Class 2 Fees:* Each issuing agent, authorized to participate in the Regional Delivery System, will be paid a fee of $.50 for each paper Series EE purchase order received by a Federal Reserve Office from the agent during a calendar month. Class 2 fees will be paid to each such agent by a designated Federal Reserve Office within forty-five (45) days after the close of the month by a credit to an account with a Federal Reserve Bank.

(c) *Class 3 Fees:* Each issuing agent, i.e., a depository financial institution, authorized to participate in the Regional Delivery System, will be paid a fee of $.85 for each purchase order record submitted to the Federal Reserve Office during a calendar month, if the agent elects to prepare electronic records of Series EE purchase order information and to transmit such information to a designated Federal Reserve Office for inscription of the bonds. Class 3 fees will be paid to each such agent by a designated Federal Reserve Office within forty-five (45) days after the close of the month by a credit to the institution's account with a Federal Reserve Bank.

Coverage of Over-the-Counter Fees

Class 1 fees are intended to recompense issuing agents that are authorized to inscribe bonds sold over-the-counter for costs associated with obtaining and controlling unissued bond stock, accepting and reviewing purchase orders, and inscribing and delivering bonds. Postage costs for mailing bonds are excluded. Class 2 fees are intended to recompense authorized RDS participants for costs associated with accepting and reviewing purchase orders and preparing transmittals to a Federal Reserve Office. Class 3 fees are intended to recompense authorized RDS participants for costs associated with accepting and reviewing purchase orders, generating electronic records of purchase orders, and transmitting such information to a Federal Reserve Office.

Fee Schedule—Payroll and Other Issues

Qualified issuing agents, other than Federal agencies, will be paid a fee for each Series EE savings bond issued through deductions under a payroll savings plan on the following scale:

(a) For the first 500 bonds issued in a month, $.32 per bond.

(b) For the next 3,000 bonds issued in a month, $.11 per bond.

(c) For all Series EE bonds over 3,500 issued in a month, $.06 per bond.

Payroll fee payments will be based on the number of individual bond issue records transmitted by an issuing agent to the Bureau of the Public Debt during a calendar month in accordance with transfer dates assigned to the transmittals by a designated Federal Reserve Office. Payroll fees will be paid to such agent by a designated Federal Reserve Office within forty-five (45) days after the close of the month by a credit to an account with a Federal Reserve Bank or by the Automated Clearing House (ACH) method.

Coverage of Payroll Fees

In establishing and paying a fee for savings bonds issued under payroll savings plans, the Department of the Treasury is recompensing issuing agents for costs associated with obtaining and controlling bond stock and in inscribing and delivering the bonds. The fee does not include postage costs for mailing bonds. The amount of the fee is generally based on the cost to the Department of employing alternative methods to obtain or to provide this issuing service.

Charge to Customers

Any individual who purchases Series EE savings bonds over-the-counter, through a Bond-a-Month plan, through deductions under a payroll savings plan, or through any other authorized means, may not be charged any fee whatsoever by an issuing agent, an employer, or any other organization or individual for issuing Series EE savings bonds or conducting any related activities. A financial institution that accepts fees from the Department of the Treasury for issuing savings bonds or accepting over-the counter purchase orders shall not make any charge to customers for the same service. Customers in this context include employers that provide a payroll savings plan for their employees and have arranged for a financial institution to issue the bonds.

[FR Doc. 94–22231 Filed 9–8–94; 8:45 am]

BILLING CODE 4810–39–W

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported For Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "The Peaceful Liberators: Jain Art India" (See list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Los Angeles County Museum of Art from on or about November 3, 1994 through January 22, 1995; Kimbell Art Museum of Fort Worth, Texas from on or about March 4, 1995 to on or about May 1995; New Orleans Museum of Art, New Orleans Louisiana, from on or about July 15, 1995 to on or about September 17, 1995, is in the national interest. Public Notice of this determination is ordered to be published in the **Federal Register**.

Dated: September 2, 1994.

Les Jin,

General Counsel.

[FR Doc. 94–22224 Filed 9–8–94; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Lorie J. Nierenberg, Assistant General Counsel, at 619–6084, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, S.W., Washington, D.C. 20547.

Sunshine Act Meetings

Federal Register
Vol. 59, No. 174
Friday, September 9, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

ENRICHMENT CORPORATION BOARD OF DIRECTORS.

TIME AND DATE: 8:00 AM, Tuesday, September 13, 1994.

PLACE: USEC Corporate Headquarters, 6903 Rockledge Drive, Bethesda, Maryland 20817.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

- Review of commercial, financial and internal personnel issues of the Corporation

CONTACT PERSON FOR MORE INFORMATION: Barbara Arnold, 301–564–3354.

Dated: September 6, 1994.

William H. Timbers, Jr.,

President and Chief Executive Officer.

[FR Doc. 94–22448 Filed 9–7–94; 12:18 pm]

BILLING CODE 8720–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, September 14, 1994.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 7, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–22419 Filed 9–7–94; 10:53 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD:

TIME AND DATE: 9:00 a.m., September 19, 1994.

PLACE: 4th Floor, Conference Room, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the August 15, 1994, Board meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Review of FY 1994 expenditures and approval of FY 1995 budget.
4. Semiannual audit recommendation review.
5. Review of KPMG Peat Marwick audit report: "Pension and Welfare Benefits Administration Follow-up Review of ADP Hardware Operations Management of the Thrift Savings Plan at the United States Department of Agriculture, Office of Finance and Management, National Finance Center."

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 942–1640.

DATED: September 7, 1994.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 94–22471 Filed 9–7–94; 2:17 pm]

BILLING CODE 6760–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION USITC

[SE–94–30]

TIME AND DATE: September 14, 1994 at 10:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Inv. No. 731–TA–668 (Final) (Phthalic Anhydride from Venezuela)—briefing and vote
5. Outstanding action jackets: None

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

CONTACT PERSON FOR MORE INFORMATION: Donna R. Koehnke, Secretary (202) 205–2000.

Issued: September 7, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–22490 Filed 9–7–94; 2:18 pm]

BILLING CODE 7020–02–P

POSTAL RATE COMMISSION

TIME AND DATE: 9:30 a.m.—Wesdnesday, September 14, 1994.

PLACE: Conference Room, 1333 H Street, NW, Suite 300, Washington, DC 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: To discuss issues in the R90–1 Remand.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Suite 300, 1333 H Street, NW, Washington, DC 20268–0001, Telephone (202) 789–6840.

Charles L. Clapp,

Secretary.

[FR Doc. 94–22544 Filed 9–7–94; 3:42 pm]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of September 12, 1994.

A closed meeting will be held on Monday, September 12, 1994, at 2:00 p.m. An open meeting will be held on Wednesday, September 14, 1994, at 2:30 p.m., in Room 1C30.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Monday, September 12, 1994, at 2:00 p.m., will be:

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Settlement of administrative proceedings of an enforcement nature.

Opinions.

The subject matter of the open meeting scheduled for Wednesday, September 14, 1994, at 2:30 p.m., will be:

The Commission is considering the adoption of amendments to the proxy rules applicable to registered investment companies under the Investment Company Act of 1940 and the Securities Exchange Act of 1934. The amendments would revise the information required in investment company proxy statements. For further information, please contact Kathleen K. Clarke at (202) 942–0724.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: September 7, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–22466 Filed 9–7–94; 1:04 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 59, No. 174
Friday, September 9, 1994

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 TRANSPORTATION

Office of the Secretary

49 CFR Parts 37 and 38

[Docket No. 48463]
RIN 2105-AB53

Transportation for Individuals with Disabilities

Correction

In rule document 93-29257 beginning on page 63092, in the issue of Tuesday, November 30, 1993, make the following corrections:

1.On page 63092, in the first column, the CFR part heading should read as set forth above.

§ 37.9 [Corrected]

2.On page 63102, in the first column, in § 37.9 (ii), paragraph "(ii)" should read "(B)".

3.On the same page, in the second column, in § 37.9 (B), paragraph "(B)" should read "(ii)".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 217 and 220

[FRA Docket No. RSOR–12, Notice No. 3]

Railroad Operating Rules and Radio Standards and Procedures

Correction

In rule document 93-20457 beginning on page 43064 in the issue of Monday, August 22, 1994 make the following corrections:

1. On page 43064, in the third column, in the **FOR FURTHER INFORMATION CONTACT** section, in the last line the telephone number should read "366–0504".

2. On page 43067, in the second column, under item 2, in the second paragraph, eleventh line, "November 21, 1994" is corrected to read "December 21, 1994".

BILLING CODE 1505-01-D

federal register

Friday
September 9, 1994

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 67
Medical Standards and Certification; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 67

[Docket No. 27890; Amendment No. 67–15]

RIN 2120–AF42

Medical Standards and Certification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This final rule restates the general medical condition standards for first-, second-, and third-class airman medical certificates. In determining an applicant's eligibility for medical certification, the FAA's long-standing policy and practice have been to consider an applicant's medication and other treatment under the general medical conditions standards. In a recent decision by the U.S. Court of Appeals for the Seventh Circuit, however, the court found that the general medical condition standards cannot be interpreted to provide a basis for disqualification due to medication alone. This emergency final rule is, therefore, necessary to restate the general medical condition standards for an individual whose medication or other treatment makes or is expected to make that individual unable to safely perform the duties or exercise the privileges of an airman certificate.

DATES: Effective September 9, 1994. Comments must be received by November 8, 1994.

ADDRESSES: Comments on this rule should be mailed or delivered, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 27890, 800 Independence Avenue, SW., Washington, DC 20591. Comments mailed or delivered must be marked Docket No. 27890. Comments may be examined in Room 915G weekdays, except on Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Dennis P. McEachen, Manager, Aeromedical Standards and Substance Abuse Branch (AAM–210), Office of Aviation Medicine, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 493–4075; telefax (202) 267–5399.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this final rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting this amendment are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the specified closing date for comments will be considered by the Administrator. This rule may be amended in consideration of comments received.

Background

Part 67 of Title 14 of the Code of Federal Regulations (14 CFR part 67) details the standards for the three classes of airman medical certificates. A first-class medical certificate is required to exercise the privileges of an airline transport pilot certificate, while second- and third-class medical certificates are required to exercise the privileges of commercial and private pilot certificates, respectively. An applicant who is found to meet the appropriate medical standards, based on medical examination and evaluation of the applicant's history and condition, is entitled to a medical certificate without restrictions other than the limit of its duration prescribed in the regulations.

Paragraph (f)(2) of §§ 67.13, 67.15, and 67.17 is the standard for determining an applicant's eligibility for first-, second-, and third-class medical certification based on general medical conditions. Specifically, under paragraph (f)(2), an applicant is ineligible for unrestricted medical certification if he or she has an organic, functional, or structural disease, defect, or limitation that the Federal Air Surgeon finds: (1) Makes the applicant unable to safely perform the duties or exercise the privileges of the airman certificate the applicant holds or for which the applicant is applying or (2) may reasonably be expected within 2 years of the Federal Air Surgeon's finding to make the applicant unable to safely perform those duties or exercise those privileges. The Federal Air Surgeon's finding must be based on the applicant's case history and appropriate, qualified, medical judgment relating to the condition involved.

Paragraph (f)(2) long has been the basis for denying medical certification in cases where the Federal Air Surgeon has determined that an applicant's medication or other treatment (including prescription, over-the-counter, and nontraditional medication or other treatment remedies) interfere with the applicant's ability to safely perform the duties or exercise the privileges of the airman certificate for which the airman is applying or holds. The medication or other treatment may or may not be associated with an underlying medical condition that would be disqualifying for medical certification. For example, a hypnotic medication, such as a benzodiazepine, may be prescribed to treat a condition such as recurrent insomnia. Recurrent insomnia, depending on the circumstances, may not preclude eligibility for medical certification. The medication used to treat the condition, however, has potential adverse effects, such as dizziness, drowsiness, ataxia, and "hangover." Exposure to such a medication could unpredictably interfere with the applicant's ability to safely perform the duties or exercise the privileges of the airman certificate held or applied for, posing a hazard to the applicant and to public safety.

Other medications have potential adverse effects that can occur with unpredictable frequency, duration, or severity. These adverse effects can be numerous and can include such conditions as cardiac arrhythmia, hypotension, over-sedation, and akathesia. Each of these effects may be inconsistent with aviation safety. In addition, some forms of treatment (e.g., surgery, radiation therapy, chemotherapy, and hemodialysis) have adverse effects that can interfere with an airman's ability to safely perform the duties or exercise the privileges of an airman certificate. The Federal Air Surgeon considers relevant factors on a case-by-case basis, including potential adverse effects, to determine whether the medication or other treatment received by an airman is inconsistent with medical certification.

Notwithstanding the FAA's long-standing medical certification policy and practice under paragraph (f)(2) regarding medication and other treatment, the U.S. Court of Appeals for the Seventh Circuit recently determined that paragraph (f)(2) does not provide a basis for denial of medical certification based on medication alone. *Bullwinkel* v. *Fed. Aviation Admin.*, No. 93–1803 (7th Cir., Apr. 27, 1994), *reh'g. denied*, 1994 U.S. App. LEXIS 15779 (June 23, 1994) The *Bullwinkel* case involved the use of lithium. The focus of the Seventh Circuit's decision was not on the safety concerns that lithium use poses;

instead, the court centered its attention on interpreting the specific language of the regulation. Although the court's decision concerned the airman's use of a medication, its rationale could apply to other forms of treatment as well.

The FAA disagrees with the Seventh Circuit's narrow reading of paragraph (f)(2) in the *Bullwinkel* case. However, regardless of the merits of the respective positions on how to interpret paragraph (f)(2), the Seventh Circuit's decision raises serious safety concerns that require the immediate adoption of an amendment that expressly states the FAA's authority to disqualify an individual who holds or is applying for an airman medical certificate in cases where medication or other treatment may interfere with that individual's ability to safely perform airman duties.

This final rule amends paragraph (f) of §§ 67.13, 67.15, and 67.17 by adding new paragraph (f)(3). New paragraph (f)(3) sets out the standard for certification where medication or other treatment is involved. Paragraph (f)(3) makes ineligible for unrestricted medical certification any applicant whose medication or other treatment the Federal Air Surgeon finds makes, or may reasonably be expected to make within 2 years after the finding, that applicant is unable to safely perform the duties or exercise the privileges of an airman certificate. This final rule does not change the FAA's current and long-standing application of the certification standards. Rather its sole purpose is to expressly state the agency's practice in light of the *Bullwinkel* decision.

Also, for continuation of the current administration of medical certification procedures, reference to this emergency final rule is added by revising section 67.25, Delegation of authority, and section 67.27, Denial of medical certificate.

Good Cause Justification for Immediate Adoption

This amendment is being adopted without notice and a prior public comment period because delay in adoption could have a significant adverse effect on aviation safety, and because the amendment effects no change in well established agency application of the medical certification standards.

Therefore, the FAA finds that: (1) An emergency situation exists requiring the immediate adoption of this amendment; (2) the publication of a notice of proposed rulemaking with its opportunity for public comment is impracticable; and, (3) good cause exists for amendment in less than 30 days.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96.511), there are no requirements for information collection associated with this rule.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, provides threshold cost and small entity size standards for complying with RFA review requirements in FAA rulemaking actions. After reviewing the projected effects of the rule in light of these standards, the FAA finds that the rule would not have significant economic impact on a substantial number of small entities.

International Trade Impact Statement

The rule would have little or no impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the United States.

Federalism Implications

The rule adopted herein will not have substantial direct effects on the states, on the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12866, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

International Civil Aviation Organization (ICAO) and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that this rule does not conflict with any international agreement of the United States.

Conclusion

The FAA has determined that this final rule is an emergency rule that must be issued immediately to correct an unsafe condition. Based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this final rule 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. This final rule is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 67

Airman medical certification, Airman medical standards, Air safety, Air transportation, Aviation safety.

The Amendment

In consideration of the foregoing, the FAA amends part 67 of Title 14 of the Code of Federal Regulations as follows:

PART 67—MEDICAL STANDARDS AND CERTIFICATION

1. The authority citation for part 67 continues to read as follows:

Authority: 49 U.S.C. app. 1354, 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g).

2. Section 67.13 is amended by adding paragraph (f)(3) to read as follows:

§ 67.13 First-class medical certificate.

* * * * *

(f) * * *

(3) No medication or other treatment that the Federal Air Surgeon finds—

(i) Makes the applicant unable to safely perform the duties or exercise the privileges of the airman certificate that the applicant holds or for which the applicant is applying; or

(ii) May reasonably be expected, within 2 years after the finding, to make the applicant unable to perform those duties or exercise those privileges;

and the findings are based on the case history and appropriate, qualified, medical judgment relating to the medication or other treatment involved.

* * * * *

3. Section 67.15 is amended by adding paragraph (f)(3) to read as follows:

§ 67.15 Second-class medical certificate.

* * * * *

(f) * * *

(3) No medication or other treatment that the Federal Air Surgeon finds—

(i) Makes the applicant unable to safely perform the duties or exercise the privileges of the airman certificate that the applicant holds or for which the applicant is applying; or

(ii) May reasonably be expected, within 2 years after the finding, to make

the applicant unable to perform those duties or exercise those privileges; and the findings are based on the case history and appropriate, qualified, medical judgment relating to the medication or other treatment involved.

* * * * *

4. Section 67.17 is amended by adding paragraph (f)(3) to read as follows:

§ 67.17 Third-class medical certificate.

* * * * *

(f) * * *

(3) No medication or other treatment that the Federal Air Surgeon finds—

(i) Makes the applicant unable to safely perform the duties or exercise the privileges of the airman certificate that the applicant holds or for which the applicant is applying; or

(ii) May reasonably be expected, within 2 years after the finding, to make the applicant unable to perform those duties or exercise those privileges; and the findings are based on the case history and appropriate, qualified, medical judgment relating to the medication or other treatment involved.

5. The first sentence of paragraph (b) of § 67.25 is revised to read as follows:

§ 67.25 Delegation of authority.

(a) * * *

(b) The authority of the Administrator, under subsection 314(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1355(b)), to reconsider the action of an aviation medical examiner is delegated to the Federal Air Surgeon, the Chief, Aeromedical Certification Division, an each Regional Flight Surgeon. Where the applicant does not meet the standards of § 67.13(d)(1)(ii), (d)(2)(ii), (f)(2), or (f)(3), § 67.15(d)(1)(ii), (d)(2)(ii), (f)(2), or (f)(3), or § 67.17(d)(1)(ii), (d)(2)(ii), (f)(2), or (f)(3), any action taken under this paragraph other than by the Federal Air Surgeon is subject to reconsideration by the Federal Air Surgeon. * * *

* * * * *

6. Paragraph (b)(3) of § 67.27 is revised to read as follows:

§ 67.27 Denial of medial certificate.

(b) * * *

(3) By the Manager, Aeromedical Certification Division, AAM–300, or a Regional Flight Surgeon is considered to be a denial by the Administrator under the Act except where the applicant does not meet the standards of § 67.13(d)(1)(ii), (d)(2)(ii), (f)(2), or (f)(3), § 67.15(d)(1)(ii), (d)(2)(ii), (f)(2), or (f)(3), § 67.17(d)(1)(ii), (d)(2)(ii), (f)(2), or (f)(3).

* * * * *

Issued in Washington, DC on September 1, 1994.

David R. Hinson,

Administrator.

[FR Doc. 94–22207 Filed 9–2–94; 4:38 pm]

BILLING CODE 4910–13–M

federal register

Friday
September 9, 1994

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Puerto Rican Broad-Winged Hawk and Sharp-Shinned Hawk and for Three Puerto Rican Plants; Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC12

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Puerto Rican Broad-Winged Hawk and the Puerto Rican Sharp-Shinned Hawk

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Puerto Rican broad-winged hawk *(Buteo platypterus brunnescens)* and the Puerto Rican sharp-shinned hawk *(Accipiter striatus venator)* to be endangered pursuant to the Endangered Species Act (Act) of 1973, as amended. These uncommon woodland raptors are restricted to montane, primarily government-owned forests along the Cordillera Central, Sierra de Cayey and Sierra de Luquillo. There are approximately 155 sharp-shinned hawks and 124 broad-winged hawks island-wide. Both species are currently threatened by timber harvest and management practices in the forests; road construction in relation to timbering and recreational activities; increase in numbers of recreational facilities, and the disturbance associated with public use; mortality and habitat destruction from hurricanes; the lack of comprehensive management plans for the Commonwealth forests; and possible loss of genetic variation due to low population levels. The Puerto Rican sharp-shinned hawk is also affected by warble fly parasitism. This final rule will implement the Federal protection and recovery provisions afforded by the Act for the Puerto Rican broad-winged hawk and the Puerto Rican sharp-shinned hawk.

EFFECTIVE DATE: October 11, 1994.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622, and at the Service's Southeast Regional Office, 1875 Century Boulevard, Atlanta, Georgia 30345.

FOR FURTHER INFORMATION CONTACT: Ms. Marelisa Rivera at the Caribbean Field Office address (809/851–7297), or Mr. Dave Flemming at the Atlanta Regional Office address (404/679–7096).

SUPPLEMENTARY INFORMATION:

Background

The broad-winged hawk *(Buteo platypterus)* was first reported in Puerto Rico by Gundlach (1878). He reported this species as "common" in the "interior" of Puerto Rico. Stahl (1883) reported the species as "transient". In the first half of the 20th century, the species was not reported by other naturalists that visited the island (Bowdish 1902, Wetmore 1914, and Danforth 1931). Wetmore (1927) believed the species extinct. Danforth and Smyth (1935) collected a specimen in Luquillo (Caribbean National Forest) and described it as a distinct resident subspecies, the Puerto Rican broad-winged hawk *(Buteo platypterus brunnescens)*. Danforth (1936) reported sightings of broad-winged hawks from Utuado. Leopold (1963) reported the species from Luquillo, Utuado and Maricao forests.

The Puerto Rican broad-winged hawk is a dark chocolate brown, small-size hawk that measures approximately 39 centimeters (15.5 inches). It is smaller than the *Buteo platypterus platypterus* but larger than the Lesser Antillean subspecies. This is the darkest subspecies of the broad-winged hawk. In adults, the tail, broadly banded with black and white, and the rufous breast are characteristic. Immature birds have dark bars on the breast and lack the distinctive tail bands of the adult. Broadwings flap more than the similar but larger red-tailed hawk (Raffaele 1989). Knowledge of the biology of the Puerto Rican broad-winged hawk is limited. Snyder et al. (1987) conducted food-habit studies on one of the three nests found in the Caribbean National Forest in 1976 and one nest found in Río Abajo in 1978. The prey types taken included centipedes, frogs, lizards, mice, rats and birds (as large as 200 grams). Studies of breeding biology, habitat requirements and other aspects of this species' biology are not available in the literature.

The Puerto Rican broad-winged hawk is an uncommon and extremely local resident. Extant populations are restricted to montane habitats of three forests: Río Abajo Commonwealth Forest, Carite Commonwealth Forest and Caribbean National Forest. Breeding has not been documented in the Carite forest (Hernández 1980, Snyder et al. 1987). In the mid 1980's, the population in the Caribbean National Forest was estimated to be 40–60 individuals and 15–20 breeding pairs (Santana and Temple 1984, Snyder et al. 1987). The broad-winged hawks were more often seen in the eastern side of the Caribbean National Forest, and the tabonuco and palo colorado forest types were reported to be the preferred habitats for the species (Wiley and Bauer 1985). In 1992, 12 broad-winged hawks were sighted in the Caribbean National Forest and the population was estimated at 22 individuals (Delannoy 1992). These individuals were observed to be clustered in the north-central part of the forest within the subtropical wet forest and subtropical rain forest life zones, where the tabonuco is the dominant forest type. Information received from the Service's Puerto Rican Parrot Field Office (*in litt.* 1994) states that broad-winged hawks have been sighted in several watersheds throughout the forest (e.g. Mameyes, Sonadora, Espiritu Santo, and Quebrada Grande) besides the north-central ridge. The field office also mentioned that estimates for the Caribbean National Forest may be underestimated due to limited access to the interior regions of the Forest.

Very little is known about the Río Abajo and Carite forest populations. However, it appears that the existence of the Río Abajo population was known by Danforth (1936) and Leopold (1963) since they both reported sightings of broad-winged hawks from Utuado. Snyder et al. (1987) believed that the Río Abajo forest sustains not more than 50 individuals. Delannoy (1992) reported 26 broad-winged hawks, or an estimated population of 52 individuals, in the Río Abajo forest. The Puerto Rican broad-winged hawk was unknown from the Carite forest until 1980, when the existence of a resident population present year-round was reported (Hernández 1980). In 1992, 20 broad-winged hawks were censused in the Carite forest and a population of 22 individuals was estimated (Delannoy 1992). In the Carite forest the species has been reported from the elfin, caimitillo, granadillo, tabonuco, and slope forest types (Hernández 1980, Delannoy 1992).

The 206.4 square kilometers (80 square miles) censused in three forests (Río Abajo, Carite and Caribbean National Forest) in 1992 yielded 58 broad-winged hawks or an estimated population of 124 individuals (Delannoy 1992). Sightings of the broad-winged hawk have been reported from other areas, such as Cayey (next to the Carite forest), Utuado, Jayuya, Adjuntas, Villalba, and the Maricao and Toro Negro forests (Leopold 1963, Pérez-Rivera and Cotte-Santana 1977). Nevertheless, Delannoy (1991) established that the Maricao and Toro Negro forests do not have resident populations. Broad-winged hawks have been searched for, but not sighted, in

upland forested habitats in Utuado, Jayuya, Adjuntas, Orocovis, and Barranquitas (Delannoy 1992).

The sharp-shinned hawk (*Accipiter striatus*) is a polytypic species with nine subspecies distributed in the western hemisphere, from Alaska to Canada south to Argentina and to the West Indies (Cuba, Hispaniola and Puerto Rico) (Wattel 1973). The Puerto Rican sharp-shinned hawk was first discovered in 1912 in the Maricao Commonwealth Forest, and described as a distinct subspecies, *Accipiter striatus venator* (Wetmore 1914).

The Puerto Rican sharp-shinned hawk is a small hawk measuring approximately 28–33 centimeters (11–13 inches). The dark slate gray upper parts and heavily barred rufous underparts of the adults are distinctive. Immatures are brown above and heavily streaked below. It has short, squared tail, often appearing notched when folded, and small head and neck. In flight, the short, rounded wings and long, narrow tail are characteristic (Raffaele 1989).

Extant breeding populations of the Puerto Rican sharp-shinned hawk were located in the mountain forest of the Maricao Commonwealth Forest, Toro Negro Commonwealth Forest, Guilarte Commonwealth Forest, Carite Commonwealth Forest and Caribbean National Forest (Cruz and Delannoy 1986). Sixty individuals were counted in island-wide surveys conducted in 1983 and a breeding density of .73 hawks/km2 was estimated (Cruz and Delannoy 1986). In 1985, 72 individuals were counted and a breeding population of .76 hawk/km2 (230–250 island-wide) were estimated in island-wide surveys (Cruz and Delannoy 1986). In 1992, 285.6 square kilometers (110 square miles) censused yielded 82 sharp-shinned hawks; 40 in Maricao, 30 in Toro Negro, 10 in Carite and 2 in Caribbean National Forest. An overall population of 129 individuals has been estimated for these forests (Delannoy 1992). Although the Guilarte Forest population was not censused in 1992, a population of 25 individuals was estimated for the forest in 1985 (Cruz and Delannoy 1986).

Studies on breeding and nesting habitat of this species, conducted by Cruz and Delannoy (1986) showed that the sharp-shinned hawk population in Maricao nests in both natural and modified (*Calophyllum* plantation) habitats. Plantation nest sites tended to have large canopy trees and fewer understory than natural forest nest sites. Sharp-shinned hawks appear to select plantation and natural forest nest sites with similar vegetative structure and topography. Results suggested that vegetation structural requirements (closed canopies and dense stands) are sought by the Puerto Rican sharp-shinned hawks in the selection of nest sites in Maricao and apparently in other parts of its range in Puerto Rico (Cruz and Delannoy 1986). Furthermore, these authors reported low reproductive success, high desertion of eggs, and high nestling mortality due to parasitism by the warble fly *Philornis* spp.

The center of sharp-shinned hawk courtship and territorial activities in Maricao forest was located in the north-central and eastern parts, within the subtropical lower montane wet forest and subtropical wet forest life zones. In the Carite Forest, territorial and courtship activities occurred in the northeastern and north-central parts, within the caimitillo-granadillo forest types (Delannoy 1992). In Toro Negro, these activities took place in the elfin woodland, sierra palm, caimitillo-granadillo and tabonuco forest types. In the Caribbean National Forest, the only two sharp-shinned hawks sighted (a solitary territorial pair) were detected in the south-central part of the forest, confined to the palo colorado forest type of the lower montane forest life zone (Delannoy 1992).

Although the sharp-shinned hawk was previously known from the karst region of Río Abajo and Guajataca Commonwealth Forests, Cruz and Delannoy (1986) did not find any evidence of its presence in these areas. Fossil evidence indicates that the species was once more widespread in the karst region (Wetmore 1922). Cruz and Delannoy (1986) reported that sharp-shinned hawks have been searched for and not sighted in Cambalache, Vega, Susua, and Guánica forests. More recent observations indicate the hawk does occur in and around the Susua Forest (*in litt.* 1994).

Previous Federal Action

On November 24, 1980, the Service received a petition from Dr. Warren B. King from the International Council for Bird Preservation requesting that the Puerto Rican broad-winged hawk and the Puerto Rican sharp-shinned hawk be added to the List of Endangered and Threatened Wildlife. On May 12, 1981, the Service published a notice of petition acceptance and status review in the **Federal Register** (46 FR 26464).

In the case of any petition accepted by the Service as containing substantial information, Section 4(b)(3) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*), as amended in 1982, requires that a subsequent finding be made within 12 months as to whether the measure is warranted, not warranted, or warranted but precluded by higher priority listing actions. In regard to the Puerto Rican broad-winged hawk, the Service made petition findings of "warranted but precluded" each year, beginning in October of 1983, as required by the Act. A final petition finding of "not warranted", based on a change in Service policy for certain previous "warranted but precluded" findings, was published in the **Federal Register** on December 9, 1993 (58 FR 6828). In the case of the Puerto Rican sharp-shinned hawk, a status survey completed in 1986 resulted in a final petition finding of "not warranted" that was announced in the **Federal Register** of April 25, 1990 (55 FR 17475).

In the Service's notice of review for vertebrate candidates published in the **Federal Register** of December 30, 1982 (47 FR 58454) and September 18, 1985 (50 FR 37958), both hawks were included as category 2 species, i.e., taxa for which there is information to indicate that listing may be appropriate, but for which there is insufficient data to support a listing proposal. In the animal notice of review published January 6, 1989 (54 FR 554), the Puerto Rican sharp-shinned hawk was moved to category 3C based on status information gathered in 1986. Category 3C taxa are those that do not presently qualify for the Act's protection due to absence of significant threat. The Puerto Rican broad-winged hawk was retained in category 2 for the 1989 notice of review and for the subsequent notice published November 21, 1991 (56 FR 58804).

Status surveys conducted in 1991 and 1992 indicated that both species have experienced recent population declines, exist in low numbers, have restricted distribution and currently face significant threats. Based on this information, the Service recently elevated both hawks to category 1. A proposed rule to list these hawk species as endangered was published on January 3, 1994 (59 FR 48).

Summary of Comments and Recommendations

In the proposed rule and associated notifications, all interested parties were requested to submit factual reports of information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations, and other interested parties were requested to comment. A newspaper notice inviting general public comment was published in "The San Juan Star" on January 22, 1994. Seven comment letters were received

and are discussed below. Comments supplying supplemental data have been incorporated into the Background section of this rule, as appropriate. A public hearing was neither requested nor held.

The U.S. Forest Service (USFS), Southern Region, supported the proposal to list both species as endangered. The USFS indicated that several protective measures had been taken to reduce the probability of adverse effects to these species from forest management activities and development. These measures included the designation of both hawk species as "Sensitive Species" and the broad-winged hawk as a "Management Indicator Species", the development of "Standards and Guidelines" to protect all raptor nests and roost sites by directing management activities outside of sensitive raptor areas and raptor breeding time periods, the planning of recreational developments away from primary forest areas and near existing recreational facilities.

The Puerto Rico Department of Natural and Environmental Resources (PRDNER), Natural Heritage Division, supported the listing of the Puerto Rican broad-winged hawk and the Puerto Rican sharp-shinned hawk. The Department recognized that formal comprehensive management plans for all Commonwealth forest reserves are lacking. However, the PRDNER mentioned that it is their intention to formalize management plans for all forest reserves, and management plans for Río Abajo, Piñones, Carite, and Guánica Forest Reserves have been drafted.

Letters supporting the listing and providing comments were also received from Mr. José L. Chabert, Wildlife Coordinator for the PRDNER, Mr. Enrique Hernández-Prieto from the Biology Department of the University of Puerto Rico, the Service's Puerto Rican Parrot Field Office, and the Caribbean Islands National Wildlife Refuge.

The U.S. Department of the Army, Jacksonville District Corps of Engineers, Antilles Office, provided comments, but did not indicate either support or objection to listing the species.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Puerto Rican broad-winged hawk and the Puerto Rican sharp-shinned hawk should be classified as endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the Puerto Rican broad-winged hawk *(Buteo platypterus brunnescens)* and the Puerto Rican sharp-shinned hawk *(Accipiter striatus venator)* are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Puerto Rican broad-winged hawk and the Puerto Rican sharp-shinned hawk are uncommon and extremely local residents. Extant populations of the broad-winged hawk and the sharp-shinned hawk are restricted to three and five montane forests, respectively. The destruction and modification of forested habitats in Puerto Rico may be one of the most significant factors affecting the numbers and distribution of these hawk species. The patchy distribution of both species may have resulted from the fragmentation of forested habitats. During the first half of the 20th century forested areas were drastically reduced for intensive agricultural uses. Only small areas in the montane forests remained. In the last half of this century early secondary forests have developed in areas that are no longer under intensive cultivation and these secondary forests connect patches of more mature forests that were previously isolated. Nevertheless, both hawk species are restricted to the mature montane forests and have not been observed in these secondary forests (Delannoy, pers. com.). Both species were searched for, but not sighted, in other upland forested habitats in central parts of Puerto Rico.

Extant populations of these species occur in low numbers. The total population estimate of 124 broad-winged hawks island-wide is very low. Broad-winged hawks have experienced a local population decline of approximately 50 percent in the Caribbean National Forest (Delannoy 1992). Total population numbers are significantly low in both the Carite and Río Abajo forests. The sharp-shinned hawk has experienced a 60 percent decline in the Carite forest and 93 percent decline in the Caribbean National Forest (Delannoy 1992).

Timber harvest and management practices that would result in a reduction in numbers or in the diminishing of habitat quality of species already limited in their abundance and distribution could be detrimental. Cruz and Delannoy (1986) found that 50 percent of the nesting areas in the Maricao forest were in plantations of maría *(Calophyllum brasiliense)*. They established that timber harvest and management practices could have negative effects on sharp-shinned hawks if vegetation structural features such as high stem density and canopy closure were not maintained. Adequate nest site habitat in the Maricao forest was considered to be in limited supply. Any activities that modify required structural features of vegetation in sharp-shinned hawk nesting areas could result in the reduction of the effective population size. Sharp-shinned hawks showed a strong nest site tenacity and returned year after year to the same nesting areas (Cruz and Delannoy 1986).

Road construction in the forests (related to timber programs and/or recreational activities) could result in substantial habitat alteration and fragmentation. Also, roads could provide a chronic source of human disturbance, reducing habitat effectiveness for species with a strong need for isolation. Roads could increase animal harvest and the introduction of exotic fauna. Road construction and/or road repair have been proposed in the Caribbean National Forest. In the Río Abajo forest, the construction of highway P.R. 10 from Arecibo to Ponce, which has been under way for several years, could affect the broad-winged hawk population. Delannoy (1992) documented, from the Puerto Rico Highway and Transportation Authority files, that approximately 2.5 kilometers (1.6 miles) of the P.R. 10 will enter and cut through forest land in the northeastern corner, where high densities of broad-winged hawks were detected. Bulldozer activities were reported less than 500 meters from lookout sites in the forest. He estimated that approximately 3.79 ha. (9.5 acres) of apparently prime broad-winged hawk habitat will be destroyed by the road.

Construction of recreational facilities has been proposed for the western and northern sides of the Caribbean National Forest, areas where both species occur Such recreation facilities could potentially eliminate habitat or bring human activities too close to preferred nesting areas. Raptors are particularly sensitive to disturbance near their nesting territories. In the Carite forest increasing pressure for new recreation facilities has been identified (Delannoy 1992). In the Maricao forest, Cruz and Delannoy (1986) found that nest failures related to direct human harassment ranked third in importance. Five nesting areas in Maricao forest are in, or less than 100 meters (328 feet) from, the camping and picnic areas. Some of the

traditional nesting areas for the Puerto Rican sharp-shinned hawk in the Toro Negro forest lie near recreation facilities (Cruz and Delannoy 1986). Increased pressure for recreation from a growing human population could bring about frequent and regular human disturbance near nest sites.

Increased pressure for new right-of-way access to farms through the Carite forest land and the establishment of new communication facilities could also destroy prime habitat or bring human activities too close to broad-winged hawks. Delannoy (1992) documented that destruction of substantial caimitillo-granadillo habitat occurred in the right-of-way-access through Camino El Seis in the north-central part of the Carite forest. Delannoy also reported the establishment of new communication facilities along an access road through sector Farallón in the northwestern part of the forest where the highest broad-winged hawk densities have been reported.

In the Maricao forest, the Puerto Rico Energy Power Authority has a power substation located in the lower montane wet forest life zone, the center of sharp-shinned hawk nesting habitat. Many kilometers of aerial power lines run through forest lands. The access road for the substation is located adjacent to sharp-shinned hawk habitat in the subtropical wet forest life zone (Delannoy 1992). The construction of this access road resulted in the destruction of approximately 2.6 ha (6.4 acres) of sharp-shinned hawk habitat (Delannoy 1992). The construction of new or the enlargement of the existing communication infrastructure could potentially eliminate important sharp-shinned hawk habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Taking for these purposes has not been a documented factor in the decline of these species. Nevertheless, the size and the appearance of these birds make them potentially attractive for some hunters.

C. *Disease or predation.* The mortality of sharp-shinned hawk nestlings due to parasitism by the warble fly *Philornis* spp. has been documented. Studies conducted in Maricao forest attributed 61 percent of nestling mortality to *Philornis* parasitism (Cruz and Delannoy 1986).

D. *The inadequacy of existing regulatory mechanisms.* The Puerto Rican sharp-shinned hawk was designated by the Commonwealth Department of Natural Resources as a threatened species in 1985. Existing Commonwealth regulations for the protection of threatened and endangered species have not been effective at preventing habitat destruction or alteration. The Puerto Rico broad-winged hawk is not protected by Commonwealth regulations.

E. *Other natural or manmade factors affecting its continued existence.* Two of the most important factors affecting these species in Puerto Rico are their limited distribution and low numbers. The Puerto Rican broad-winged hawk experienced a local population decline of approximately 50 percent in the Caribbean National Forest (from 50 individuals in 1984 to 22 in 1992). The Puerto Rican sharp-shinned hawk experienced a 40 percent population decline in a period of seven years (from 250 individuals in 1985 to 150 in 1992). Locally, the Carite population experienced a 60 percent decline and the Caribbean National Forest population a 93 percent decline. Decline of both species have been attributed to possible direct and indirect effects of hurricane Hugo in 1989.

The extensive devastation from hurricanes may be particularly detrimental to species with small population size and long generation time, such as the broad-winged hawk and sharp-shinned hawk. Additionally, there may also be a long-term reduction in effective population size if the hawks prove to require habitat characteristics not presently available in the storm-damaged forest.

The lack of comprehensive management plans for the Commonwealth forests could be considered a serious threat for these species. In absence of such plans, policy makers and managers lack basic information on which to base decisions related to the best use and management of forest resources.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these two species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Puerto Rican broad-winged hawk and the Puerto Rican sharp-shinned hawk as endangered.

The Puerto Rican broad-winged hawk populations are extremely small and limited to only three montane forests. Significant adverse effects to this species or its habitat could drive it to extinction. The potential for illegal shooting, increased human disturbance and loss of prime habitat in the forests constitute serious threats to the continued survival of the species. The Puerto Rican sharp-shinned hawk has experienced a 40 percent decline in a period of 7 years. The potential for alteration of the species' habitat, human disturbance, illegal shooting, and nestling parasitism by warble flies constitute serious threats to the continued survival of the species. A decision to determine only threatened status would not adequately reflect the evident rarity and threats confronting these species. A decision to take no action would exclude these species from benefits provided by the Endangered Species Act. Endangered status is therefore appropriate.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time a species is proposed to be endangered or threatened. The Service's regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species or (2) such designation of critical habitat would not be beneficial to the species. The Service finds that, in the case of the latter situation, designation of critical habitat is not prudent for these species due to lack of benefit.

Section 7(a)(2) and regulations codified at 50 CFR part 402 require Federal agencies to ensure, in consultation with and with the assistance of the Service, that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or destroy or adversely modify their critical habitat, if designated. (See "Available Conservation Measures" section for a further discussion of Section 7.) As part of the development of this final rule, the USFS and the PRDNER were provided with available information on the distribution and threats to the two hawks. Should any future projects be proposed in areas inhabited by these hawks, the two agencies will already have the information needed to determine if the species may be impacted by the proposed action.

Regulations promulgated for implementing Section 7 provide for both a jeopardy standard, based on listing alone, and for a destruction or adverse modification standard, in cases where critical habitat has been designated. The Puerto Rican broad-winged and the Puerto Rican sharp-shinned hawks occupy restricted areas within the borders of the Caribbean National Forest and several Commonwealth forests. Any significant

adverse modification or destruction of their habitat would likely jeopardize their continued existence. Under these conditions, the standards for jeopardy and adverse modification are essentially equivalent. Therefore, no additional protection for the species would accrue from critical habitat designation that would not also accrue from listing these species. Once listed, the Service believes that protection of their habitat can be accomplished through the Section 7 jeopardy standard, and through Section 9 prohibitions against take. It is more likely, however, that any federally related action of concern will receive early review and any problems will be resolved informally.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

In the case of the two hawks, Federal involvement relates to activities to be conducted or permitted by the U.S. Forest Service in the Caribbean National Forest, or by other federal agencies in the Commonwealth forests. Federal funds or permits could be involved in the construction, maintenance or enlargement of facilities such as power substations, communication towers, and roads and trails in the Commonwealth forests. Federal funds could be utilized by the Department of Natural Resources in the management of Commonwealth forests.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer it for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and Commonwealth conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. Requests for copies of the regulations on listed species and inquiries regarding prohibitions and permits should be addressed to the U.S. Fish and Wildlife Service, Ecological Services (TE), 1875 Century Boulevard, Atlanta, Georgia 30345–3301 (phone 404/679–7096, facsimile 404/679–7081).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Ms. Marelisa Rivera, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851–7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations is amended as set forth below:

Part 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "BIRDS," to the List of Endangered and Threatened Wildlife, to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
Birds:							
*	*	*	*	*	*		*
Hawk, Puerto Rican broad-winged.	*Buteo platypterus brunnescens.*	U.S.A. (PR)	Entire	E	550	NA	NA
Hawk, Puerto Rican sharp-shinned.	*Accipiter striatus venator.*	U.S.A. (PR)	Entire	E	550	NA	NA
*	*	*	*	*	*		*

Dated: August 26, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–22369 Filed 9–8–94; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Three Puerto Rican Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Mitracarpus maxwelliae* (no common name), *Mitracarpus polycladus* (no common name), and Eugenia woodburyana (no common name) to be endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. *M. maxwelliae,* a small shrub, and *E. woodburyana,* a small evergreen tree, are endemic to southwestern Puerto Rico. *M. polycladus* is a small shrub found in the same general area of Puerto Rico as the other two species, but it also has been reported from one other island, Saba, in the Lesser Antilles. These species are variously threatened by road construction, recreational activities, wildfires, and land clearing associated with development for agriculture and other purposes. This final rule provides *M. maxwelliae, M. polycladus* and *E. woodburyana* with the Federal protection and recovery provisions afforded by the Act for listed species.

EFFECTIVE DATE: October 11, 1994.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours, at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622; and at the Service's Southeast Regional Office, 1875 Century Boulevard, Atlanta, Georgia 30345.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Silander at the Caribbean Field Office address (809/851–7297) or Mr. Dave Flemming at the Atlanta Regional Office address (404/679–7096).

SUPPLEMENTARY INFORMATION:

Background

Mitracarpus maxwelliae was discovered on March 8, 1925, by Nathaniel L. Britton on a limestone hill in the municipality of Guánica, Puerto Rico. The site was later rediscovered by Alain Liogier in 1982 and again by George R. Proctor and Miguel Canals in 1987. The species has never been found at any other location but the type locality. At this locality, it is found along an unpaved road, growing on dry exposed gravel. Approximately 1,443 plants, including mature flowering individuals and seedlings, were counted within an area of about 7,500 square meters (697 square feet) (Proctor 1991a).

Mitracarpus maxwelliae is a low, densely-branching, moundlike shrub which may reach approximately 20 centimeters (8 inches (in)) in height. The somewhat woody branches are striate and sharply 4-angled. The leaves are opposite, sessile, linear or linear-lanceolate, densely scabrous, and from 1 to 3 centimeters (.4 to 1 in) long and 2 to 5 millimeters (.01 to .2 in) wide. The flower heads are terminal, dense, subglobose, and from .8 to 1.3 centimeters (.3 to .5 in) in diameter. The corolla is white, narrowly funnelform, minutely glandular-papillose, 5 to 6 millimeters (.20 to .23 in) long. The capsule is about 1.5 millimeters (.06 in) in diameter, opening by a transverse circular split at about the middle. The seeds are ellipsoid, brownish-black, and 1.2 millimeters (.05 in) long and .8 millimeter (.03 in) wide.

Mitracarpus polycladus was first discovered growing on coastal rocks near Caña Gorda, Guánica, Puerto Rico,

in 1886 by Paul Sintenis. It was also located on the island of Saba in the lesser Antilles by the Dutch botanist Boldingh (note: the table entry for the proposed rule did not include Saba in the historic range; the table is corrected for this final rule). Today it continues to be known from only these two locations, where it grows in crevices and soil pockets of coastal rocks in arid areas. Exact numbers of individuals have been difficult to estimate due to extreme drought conditions in recent years (Proctor 1991b).

Mitracarpus polycladus is a suffrutescent perennial. It is branched near the base, and the erect or spreading stems may reach up to 45 centimeters (18 in) in height. The branches are 4-angled and glabrous. Leaves are opposite, linear to linear-lanceolate, 2 to 4.5 centimeters (.9 to 1.8 in) long, .3 to .5 centimeters (.12 to .20 in) wide, glabrous and often with an inrolled margin and decurrent base. The inflorescence is terminal and capitate, 8 to 13 millimeters (.31 to .51 in) in diameter, many flowered and subtended by 3 bracht-like leaves. The corolla is white, about 5 millimeters (.20 in) long, with ovate leaves. The seed capsule is 1.5 millimeter (.06 in) in diameter, splitting open transversely below the middle, and contains black seeds.

Eugenia woodburyana, a small evergreen tree, is endemic to Puerto Rico and currently known from only the Sierra Bermeja in the municipalities of Cabo Rojo and Lajas and from the Guánica Commonwealth Forest in Guánica, all in southwestern Puerto Rico. An additional individual has been reported from the Cabo Rojo National Wildlife Refuge, in Cabo Rojo, adjacent to the Sierra Bermeja. Approximately 45 individuals are known from these three locations. The species was only recently discovered and described by Alain Liogier (Liogier 1980).

Eugenia woodburyana may reach 6 meters (20.0 feet) in height. The leaves are opposite, obovate, pilose on both sides, glandular-punctate below, and from 1.5 to 2 centimeters (.6 to .8 in) long and 1 to 1.5 (.4 to .6 in) centimeters wide. The inflorescence is axillary, 2 to 5 flowered and with a peduncle 1 to 3 millimeters (.04 to .12 in) long. The calyx is 4-lobed and the petals are white, 4 millimeters (.12 in) long and 3.5 millimeters (.14 in) wide. The striking fruit is red upon maturity, 8-winged and 2 centimeters (.8 in) in diameter.

Previous Federal Action

Mitracarpus maxwelliae and *Mitracarpus polycladus* were recommended for Federal listing in a report prepared by the Smithsonian Institution as directed by section 12 of the Endangered Species Act of 1973. The report was presented to Congress in 1975 as House Document No. 94–51. The species were subsequently included among the plants being considered as endangered or threatened by the Service, as published in the Federal Register notice of review dated December 15, 1980 (45 FR 82480); the November 28, 1983 update (48 FR 53680), the revised notice of September 27, 1985 (50 FR 39526), and the February 21, 1990 (55 FR 6184) notice of review. In the February 21, 1990, notice, *M. maxwelliae* was designated as a category 1 species (a species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) and *M. polycladus* as a category 2 species (taxa for which there is some evidence of vulnerability, but for which there was not enough data to support listing). *Eugenia woodburyana* was included as a category 2 candidate for listing in the September 30, 1993, plant notice of review. It has been included in the Center for Plant Conservation's Report on Rare Plants in Puerto Rico (Center for Plant Conservation 1992) as a taxa which may become extinct within the next 10 years. All three species are considered to be critical plants by the Natural Heritage Program of the Puerto Rico Department of Natural Resources (Department of Natural Resources 1993).

Based on status surveys reports completed in 1991, and in conjunction with other recent field work, the Service recently reclassified *Mitracarpus polycladus* and *Eugenia woodburyana* as category 1 candidates.

Section 4(b)(3)(B) of the Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Mitracarpus maxwelliae* and *M. polycladus*, because the Service had accepted the 1975 Smithsonian report as a petition. In each October from 1983 through 1992, the Service has found that the petitioned listing of these species was warranted but precluded by other listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. A proposed rule to list *M. maxwelliae*, *M. polycladus* and *Eugenia woodburyana*, published on January 3, 1994 (59 FR 44), constituted the final 1-year finding for the *Mitracarpus* species in accordance with Section 4(b)(3)(B)(ii) of the Act.

Summary of Comments and Recommendations

In the January 3, 1994, proposed rule and associated notifications, all interested parties were requested to submit factual reports of information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations and other interested parties were contacted and requested to comment. A newspaper notice inviting general public comment was published in the "San Juan Star" on January 22, 1994, and in "El Día" on January 24, 1994. Two letters of comment were received, neither of which opposed the listing. The Puerto Rico Department of Natural and Environmental Resources supported the listing and provided additional information on threats to the species in the Sierra Bermeja. A public hearing was neither requested nor held.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Mitracarpus maxwelliae*, *M. polycladus* and *Eugenia woodburyana* should be classified as endangered species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Mitracarpus maxwelliae* Britton & Wilson, *Mitracarpus polycladus* Urban and *Eugenia woodburyana* Alain are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* In the Sierra Bermeja, *Eugenia woodburyana* is found on privately owned land subject to intense pressure for agricultural, rural and tourist development. The land is currently being cleared for grazing by cattle and goats. Adjacent land is being subdivided for sale in small farms, some destined for tourist and urban development. Off road vehicles used in these areas may affect seedling recruitment. All three species are also found within the Guánica Commonwealth Forest; however, *Mitracarpus maxwelliae* and *Mitracarpus polycladus* are found along infrequently used roadways where they

may be impacted in the future. Any road improvement, widening, or increase in traffic along these roads would result in the loss of a significant portion of the only known populations. The sites of these two species are near preferred recreational areas, heavily utilized during the summer months.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Taking plants for these purposes has not been a documented factor in the decline of these species.

C. *Disease or predation.* Disease and predation have not been documented as factors in the decline of these species.

D. *The inadequacy of existing regulatory mechanisms.* The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Mitracarpus maxwelliae, Mitracarpus polycladus* and *Eugenia woodburyana* are not yet on the Commonwealth list. Federal listing will provide immediate protection under the Act, and by virtue of an existing Section 6 Cooperative Agreement with the Commonwealth, listing will also assure the addition of these species to the Commonwealth list and enhance funding possibilities for recovery actions.

E. *Other natural or manmade factors affecting its continued existence.* One of the most important factors affecting the continued survival of these species is their limited distribution. Because so few individuals are known to occur in a limited area, the risk of extinction is extremely high. Wildfires are a frequent occurrence in this extremely dry portion of southwestern Puerto Rico, particularly in the coastal roadside areas of Guánica where *Mitracarpus maxwelliae* and *M. polycladus* are found.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Mitracarpus maxwelliae, M. polycladus* and *Eugenia woodburyana* as endangered. In U.S. territory, *M. maxwelliae* and *M. polycladus* are known from only one location in the Guánica area of southwestern Puerto Rico. In this area they are threatened by road construction, recreational activities and wildfires. *E. woodburyana* is known from only approximately 45 individuals at three locations in southwestern Puerto Rico. Deforestation for rural, agricultural, and tourist development are imminent threats to the survival of the species. Therefore, endangered rather than threatened status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for these species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. Service regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. Both situations apply to *Mitracarpus maxwelliae, Mitracarpus polycladus* and *Eugenia woodburyana.*

Critical habitat would not be beneficial in terms of adding additional protection for the species under section 7 of the Act. Regulations promulgated for the implementation of section 7 provide for both a "jeopardy" standard and a "destruction or adverse modification" of critical habitat standard. Because of the highly limited distribution of these species and their precarious status, any Federal action that would destroy or have any significant adverse affect on their habitat would likely result in a jeopardy biological opinion under section 7. Under these conditions, no additional benefits would accrue from designation of critical habitat that would not be available through listing alone.

The Service also finds that designation of critical habitat is not prudent for these species due to the potential for taking. The number of individuals of *Mitracarpus maxwelliae, Mitracarpus polycladus* and *Eugenia woodburyana* is sufficiently small that vandalism and collection could seriously affect the survival of the species. Publication of critical habitat descriptions and maps in the **Federal Register** would increase the likelihood of such activities. The Service believes that Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting these species' habitat. Protection of these species' habitat will also be addressed through the recovery process and through the Section 7 jeopardy standard.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for these three species, as discussed above.

The only currently known Federal involvement is through the occurrence of *Eugenia woodburyana* on the Cabo Rojo National Wildlife Refuge. Other Federal involvement may occur in the future through the funding of housing (Farmer's Home Administration or Housing and Urban Development) or funding utilized for the management of the Guánica Commonwealth Forest (U.S. Department of Agriculture, Forest Service).

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal for any person subject to the

jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. In addition, for endangered plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any Commonwealth law or regulation, including Commonwealth criminal trespass law. Certain exceptions apply to agents of the Service and Commonwealth conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few permits for these three species will ever be sought or issued, since the species are not known to be in cultivation and are uncommon in the wild. Requests for copies of the regulations on listed plants and inquiries regarding prohibitions and permits should be addressed to the U.S. Fish and Wildlife Service, Attn: Endangered and Threatened Species Permits, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (404/697–4000).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Center for Plant Conservation. 1992. Report on the rare plants of Puerto Rico. Missouri Botanical Garden, St. Louis, Missouri.

Department of Natural Resources. 1993. Natural Heritage Program status information on *Mitracarpus maxwelliae*, *Mitracarpus polycladus* and *Eugenia woodburyana*. San Juan, Puerto Rico.

Liogier, Alain H. 1980. Novitates Antillanae. VIII. Phytologia 47(3):167–198.

Proctor, G. R. 1991a. Status report on *Mitracarpus maxwelliae* Britton & Wilson. *In* Publicación Científica Miscelánea No. 2, Departamento de Recursos Naturales de Puerto Rico. 196 pp.

Proctor, G. R. 1991b. Status report on *Mitracarpus polycladus* Urban. *In* Publicación Científica Miscelánea No. 2, Departamento de Recursos Naturales de Puerto Rico. 196 pp.

Author

The primary author of this final rule is Ms. Susan Silander, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851–7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Public Law 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend Section 17.12(h) by adding the following, in alphabetical order, under Myrtaceae and Rubiaceae, to the List of Endangered and Threatened Plants, to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
* * *	*	*	*	*		*
Myrtaceae—Myrtle family:						
Eugenia woodburyana ...	None	U.S.A. (PR)	E	551	NA	NA
* * *	*	*	*	*		*
Rubiaceae—Madder family:						
* * *	*	*	*	*		*
Mitracarpus maxwelliae .	None	U.S.A. (PR)	E	551	NA	NA
Mitracarpus polycladus ..	None	U.S.A. (PR), Lesser Antilles (Saba).	E	551	NA	NA
* * *	*	*	*	*		*

Dated: August 26, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–22367 Filed 9–8–94; 8:45 am]

BILLING CODE 4310–55–P

federal register

Friday
September 9, 1994

Part IV

Department of the Treasury

Office of Foreign Assets Control

31 CFR Part 565

Panamanian Transactions Regulations; Resolution of Claims From Blocked Government of Panama Assets; Final Rule

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 565

Panamanian Transactions Regulations; Resolution of Claims From Blocked Government of Panama Assets

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Unblocking of assets.

SUMMARY: The Office of Foreign Assets Control will unblock the remaining assets of the Government of Panama (including Air Panama) blocked pursuant to the Panamanian Transactions Regulations, effective September 16, 1994.

EFFECTIVE DATE: September 8, 1994.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing (tel.: 202/622–2480), or William B. Hoffman, Chief Counsel (tel.: 202/622–2410), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

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Background

Executive Order 12710 of April 5, 1990, 3 CFR, 1990 Comp., p. 282, terminated the national emergency declared on April 8, 1988, with respect to Panama, and lifted sanctions imposed against the Noriega regime. Pursuant to section 207(a)(2) of the International Emergency Economic Powers Act, 50 U.S.C. 1706(a)(2), however, the order continued the blocking of certain Government of Panama assets in the United States, with the understanding of the Government of Panama, to facilitate resolution of claims of U.S. persons. On May 12, 1994, the Panamanian Transactions Regulations, 31 CFR Part 565, were amended to provide that licenses may be issued on a case-by-case basis authorizing the release of blocked Government of Panama assets at the request of that government to satisfy settlements, final judgments and arbitral awards with respect to claims of U.S. persons arising prior to April 5, 1990. The amendment also provided that license applications would be accepted with respect to such claims from U.S. persons seeking judicial orders of attachment against blocked Government of Panama assets in satisfaction of final judgments entered against the Government of Panama, provided such applications were submitted no later than June 15, 1994.

The Office of Foreign Assets Control received no license applications pursuant to this amendment, and the Government of Panama has successfully settled the bulk of all outstanding claims that arose against it or Air Panama prior to April 5, 1990. The approximately $2.1 million in assets held in the name of the Government of Panama or its entities, including Air Panama, that remain blocked at this time will, therefore, be unblocked on September 16, 1994.

Dated: September 8, 1994.

Steven I. Pinter,

Acting Director, Office of Foreign Assets Control.

Approved: September 8, 1994.

R. Richard Newcomb,

Acting Deputy Assistant Secretary (Law Enforcement).

[FR Doc. 94–22562 Filed 9–8–94; 9:50 am]

BILLING CODE 4810–25–F

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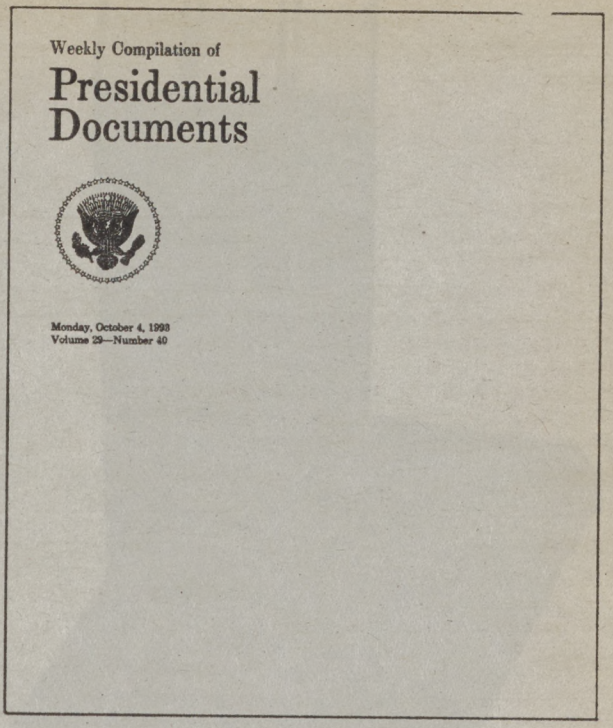

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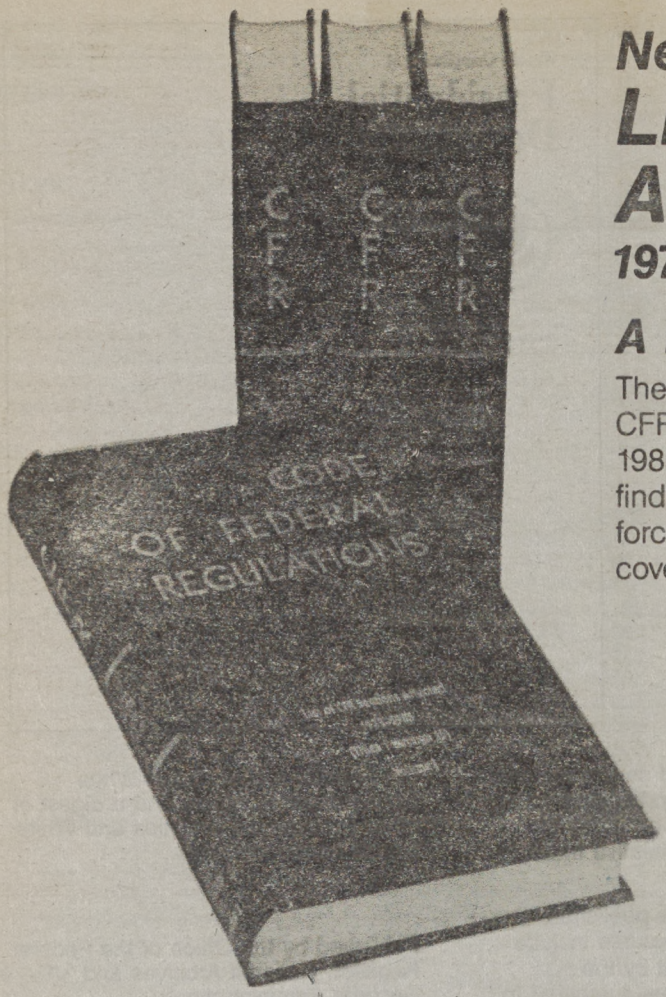

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