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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 63, No. 160
Wednesday, August 19, 1998

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV98–916–1 FIR]

Nectarines and Peaches Grown in California; Revision of Handling and Reporting Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, with a few corrections, the provisions of an interim final rule revising the handling and reporting requirements for California nectarines and peaches by modifying the grade, size, maturity, and container requirements for fresh shipments of these fruits, during the 1998 season shipments. This rule continues in effect the modification of requirements for placement of Federal-State Inspection Service lot stamps, as well as the establishment of a single due date for handlers' shipment reports. This rule enables handlers to continue shipping fresh nectarines and peaches meeting consumer needs in the interest of producers, handlers, and consumers of these fruits. This rule also continues in effect the correction of the address of the California Tree Fruit Agreement.

EFFECTIVE DATE: September 18, 1998.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement Nos. 124 and 85, and Marketing Order Nos. 916 and 917 (7 CFR parts 916 and 917) regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the "orders." The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

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

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

This rule continues in effect the modifications to language in the orders' administrative rules and regulations which revised the handling and reporting requirements for California nectarines and peaches by modifying the grade, size, maturity, and container requirements of these fruits, beginning with 1998 season shipments. This rule also continues in effect the modifications of the requirements for the placement of Federal-State Inspection Service lot stamps, and continues in effect the establishment of a single due date for handlers' shipment reports. This rule also continues in effect a correction to the address of the California Tree Fruit Agreement (CTFA).

Under the orders, grade, size, maturity, and container and pack requirements are established for fresh shipments of California nectarines and peaches. Such requirements are in effect on a continuing basis. The Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC), which are responsible for local administration of the orders, met on December 4, 1997, and unanimously recommended that these handling requirements be revised for the 1998 season, which began April 1, to: (1) Correct the address for the CTFA; (2) modify the lot stamping requirements; (3) establish a single date by which handlers must file shipment reports; (4) define and provide dimensions for a new container; (5) simplify size marking requirements for consumer packages and establish marking requirements for the new container; (6) modify weight counts for early varieties; (7) authorize shipments of "CA Utility" quality fruit during the 1998 season; (8) standardize container tolerances for mature and well-matured nectarines; (9) revise varietal maturity and size requirements to reflect recent changes in growing conditions; and (10) revise the names of some patented nectarine varieties to reflect the name changes made by the patent holders.

The committees meet prior to and during each season to review the rules and regulations effective on a continuing basis for California nectarines and peaches under the orders. Committee meetings are open to the public, and interested persons are encouraged to express their views at these meetings. The Department reviews committee recommendations and information, as well as information from other sources, and determines whether

modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

No official crop estimate was available at the time of the committees' meetings in December because the nectarine and peach trees were dormant. The committees did, however, make crop estimates at their meetings in April. The estimated shipments for the 1998 crop year are 18,600,000 containers of nectarines and 19,300,000 containers of peaches, making the anticipated 1998 crop similar in size and characteristics to the 1997 crop which totaled 20,533,760 boxes of nectarines and 19,882,584 boxes of peaches.

Communications (Peaches)

Section 917.110 of the peach order's rules and regulations provides an address for communications to the CTFA. The Control Committee of Marketing Order 917 provides administrative services for the NAC and PCC. The CTFA is the name used to describe this administrative staff.

The CTFA moved its offices from Sacramento to Reedley, California. For that reason, the PCC recommended that the address for the Control Committee be changed to reflect the current location of the CTFA's offices. The interim final rule corrected the address in § 917.110 and this rule continues that address change.

Lot Stamping Requirements

Sections 916.55 and 917.45 of the orders require inspection and certification of nectarines and peaches, respectively, handled by handlers. Sections 916.115 and 917.150 of the nectarine and peach orders' rules and regulations, respectively, require that containers of nectarines and peaches be stamped with the Federal-State Inspection Service (inspection service) lot stamp number after inspection and prior to shipment to show that the fruit has been inspected. Such requirements apply to all containers of nectarines or peaches unless such containers are loaded directly into railway cars or mailed directly to consumers in consumer packages.

Lot stamp numbers are assigned to each handler by the inspection service, but control of the lot stamps is retained by the inspector assigned to each handler's packing facility. Handlers with full-time inspectors have full-time access to the lot stamp, thus ensuring that each container of nectarines and/or peaches is stamped as required. Handlers without a full-time inspector have access to the lot stamp only when the inspector is on the premises. Thus, containers packed and placed on pallets in the inspector's absence can be stamped only after the inspector returns and performs an inspection on samples of those containers. However, a new container configuration on the 40 by 48 inch metric pallet is increasingly utilized by the industry. When the new containers are stacked on the standardized pallet, the result is a nine-column configuration of stacked containers; i.e., eight outer columns surrounding a ninth, center column. The center column of containers in that configuration cannot easily be marked with the lot stamp upon the return and approval of the inspector since a portion of the outer columns have to be unstacked from the pallet to expose the containers comprising the center column. After the containers in the center column are marked with the lot stamp, the containers comprising the outer columns must be restacked on the pallet. This unstacking and restacking of containers in an effort to mark the center column of containers with the lot stamp is time-consuming and increases the handler's costs. This cost is borne solely by smaller handlers who do not pack a sufficient number of containers in a day to require the presence of a full-time inspector.

In an effort to decrease handling time and costs for smaller handlers, the NAC and PCC voted unanimously to exempt the containers in the center column of the nine-column configuration from the requirement for a Federal-State Inspection Service lot stamp. This exemption implemented in the interim final rule is still estimated to affect fewer than 10 handlers and less than 10,000 boxes of nectarines and peaches, or approximately .6 percent of handlers and less than .001 percent of the total boxes of nectarines and peaches inspected during the 1997 season. Exempting containers in this center column still meets the intent of the orders' stamping requirements by allowing buyers and the inspection service to positively identify each inspected lot. This rule continues in effect the exemption implemented by the interim final rule.

Reporting Procedures

Sections 916.60 and 917.50 of the orders require shipment reports from nectarine and peach handlers to be submitted to the respective committees. Prior to the implementation of the interim final rule, §§ 916.160(b) and 917.178(b) of the orders' rules and regulations required that handlers report shipments of each nectarine and peach variety by the tenth day of the month following the month the varieties were shipped.

In prior seasons, handlers were required to file approximately three shipment reports with the committees per season, resulting in approximately 750 shipment reports for nectarine handlers and approximately 900 shipment reports for peach handlers. Each shipment report is estimated to take one hour for handlers to complete.

In an effort to make reporting less burdensome to handlers, the NAC and PCC voted unanimously to establish a single reporting deadline of November 15 of each year, no matter when shipments of each nectarine or peach variety were made. This single reporting deadline implemented by the interim final rule simplifies the reporting requirements so that handlers need only file one report each for nectarine varieties and for peach varieties at the end of the season rather than numerous reports providing the shipments of individual nectarine and peach varieties during the season. This relaxation is estimated to reduce burden hours for nectarine handlers to approximately 250 hours from 750 hours and for peach handlers to approximately 300 from 900 hours. This rule continues in effect the relaxation in reporting requirements implemented by the interim final rule.

Container Requirements

Sections 916.52 and 917.41 of the nectarine and peach orders, respectively, provide authority to fix the size, capacity, weight, dimensions, markings, or pack of containers that may be used in the packaging and handling of these fruits. Sections 916.350 and 917.442 of the orders' rules and regulations specify container and pack requirements for nectarine and peach shipments. In part, the container requirements specify the dimensions of the boxes commonly used by handlers of nectarines and peaches. In recent years, to realize efficiencies in utilizing space, the produce industry has standardized shipment and storage of produce on a pallet measuring 40 by 48 inches. With the adoption of this pallet, some of the boxes commonly utilized by nectarine and peach handlers are being replaced by boxes which more readily conform to the new, standardized pallet. One box that is used more frequently is the No. 32 standard box, which measures 5¾ to 7¼ inches (inside dimensions) by 12 inches by 19¾ inches (outside dimensions). This box is commonly referred to as the "shoebox" because of its distinctive shape. The NAC and PCC believe that new boxes, such as the No. 32, will become increasingly important to the industry

because of their widespread acceptance by retailers and their use in conjunction with the standardized pallet. For those reasons, the NAC and PCC voted unanimously to include the definition and dimensions of the No. 32 standard box within the orders' rules and regulations. The Department implemented these changes in the interim final rule. This rule continues these changes.

Use of the No. 32 standard lug box has also become interchangeable with the No. 22D standard lug box. In part, this is because the capacity of the two containers is similar, so handlers can pack the same number of fruit of a particular size in either box. For that reason, the modification of §§ 916.350 and 917.442 of the orders' rules and regulations continues in effect, specifying that sizes of fruit shall be based on the number that can be packed in accordance with the requirements of standard pack in either a No. 32 standard box or a No. 22D standard lug box.

Sections 916.350 and 917.442 of the orders' rules and regulations also require containers to be marked with certain information, including the size and/or number of pieces of fruit in the container, the name of the variety, if known, the maturity, and the name and address of the shipper. Because the No. 32 standard box is also currently the principal container used for molded forms (tray packs), the No. 32 box has now become the industry standard for determining the sizes in tray-pack packages. Thus, requiring markings for both the size and count of fruit in this container is not necessary. For example, if a No. 32 box is marked "80 size," the buyer already knows it contains 80 pieces of "size 80." fruit because the number of fruit that fit in standard pack configuration is the basis for the size designation.

Another packaging style whose use has become increasingly widespread is the one-layer consumer package. Consumer packages of nectarines and peaches are smaller boxes or bags of fruit suited for display and sale as single units in some retail outlets. Consumer packages of nectarines and peaches are generally smaller units without adequate space on the outside ends for additional markings. Requiring dual markings on consumer boxes would place a burden on handlers who prefer to minimize markings on the outside of these boxes.

Pursuant to the interim final rule, No. 32 boxes and consumer packages are required to be marked with either the size of the fruit, e.g., "88 size" or "80 size," or the count, e.g., "88 count" or "80 count," but not both. Eliminating the requirement for dual markings on these containers is consistent with the rules and regulations of the orders and with historical practices within the nectarine and peach industries. This rule continues in effect the authority for regulating the No. 32 box and consumer packages.

In a comment to the interim final rule, the Field Director for the CTFA pointed out that the use of the word "cartons" in paragraphs (a)(4)(i) of §§ 916.350 and 917.442 was unnecessarily repeated. According to the commenter, the word "cartons" is synonymous with containers that have a net weight of 35 pounds, regardless of the assigned container number. For that reason, the word "cartons" when used a second time in those paragraphs was duplicative and has been removed.

Table 1 of paragraphs (a)(4)(iv) of §§ 916.350 and 917.442 specify the tray pack size designations which must be marked on containers of nectarines or peaches, respectively, depending on the size of the fruit. The weight-count size designations specify the maximum number of nectarines or peaches in a 16-pound sample for each tray-pack size designation. This rule continues in effect the revision of §§ 916.350 and 917.442 by modifying the weight counts of early-season fruit sizes 56 to 72 in Table 1 of those paragraphs.

According to the information provided by a handler of early-season nectarines and peaches, increasing amounts of early-season nectarines and peaches are currently being converted to volume-filled containers from the traditional tray packs. Early-season nectarines and peaches lack the density of mid-season and late-season fruit, while maintaining overall size. For this reason, early-season nectarines and peaches may adequately fill the tray-pack container molded forms; but, when converted to volume-filled containers without the molded forms, the early-season fruit lacks the weight to adequately meet the requirements of a 16-pound sample. Prior to the implementation of the interim final rule, the handler was required to include an additional nectarine or peach in the 16-pound sample to meet the required sample weight for five sizes of nectarines and peaches when the tray-pack container is converted to the volume-filled container. This resulted in lower returns for the producer and handler of early-season fruit sold in volume-filled containers. The NAC and PCC unanimously recommended modifications to the early-season weight-count standards for five sizes of nectarines and peaches by the addition of one piece of fruit to each weight-count standard currently in effect for sizes 56 to 72. This rule continues in effect the modifications of Table 1 of paragraphs (a)(4)(iv) in §§ 916.350 and 917.442 which added an additional nectarine or peach, respectively, to sizes 56, 60, 64, 70, and 72. The changes will permit handlers to more easily convert tray-packed nectarines and peaches to volume-filled containers and decrease the handling costs associated with that conversion.

Quality Requirements

Sections 916.52 and 917.41 of the orders authorize the establishment of grade and quality requirements for nectarines and peaches, respectively. Prior to the 1996 season, § 916.356 of the order's rules and regulations required nectarines to meet a modified U.S. No. 1 grade. Specifically, nectarines were required to meet U.S. No. 1 grade requirements, except there was a slightly tighter requirement for scarring and a more liberal allowance for misshapen fruit. Under § 917.459 of the order's rules and regulations prior to the 1996 season, peaches were also required to meet the requirements of a U.S. No. 1 grade, except there was a more liberal allowance for open sutures that were not "serious damage."

This rule continues the revision of §§ 916.350, 916.356, 917.442, and 917.459 permitting shipments of nectarines and peaches meeting "CA Utility" quality requirements during the 1998 season. ("CA Utility" fruit is lower in quality than that meeting the modified U.S. No. 1 grade requirements.) Shipments of nectarines and peaches meeting "CA Utility" quality requirements were permitted during the 1996 and 1997 seasons only.

Preliminary studies conducted by the NAC and PCC indicate that some consumers, retailers, and foreign importers found the lower quality fruit acceptable in some markets. Shipments of "CA Utility" nectarines represented 1.1 percent of all nectarine shipments, or approximately 210,000 boxes in 1996. In 1997, shipments of "CA Utility" nectarines represented 1.1 percent of all nectarine shipments, or approximately 230,000 boxes. Shipments of "CA Utility" peaches represented 1.9 percent of all peach shipments, or 366,000 boxes in 1996. In 1997, shipments of "CA Utility" peaches represented 1.0 percent of all peach shipments, or approximately 217,000 boxes.

For these reasons, the NAC and PCC unanimously recommended that shipments of "CA Utility" quality nectarines and peaches, respectively, be permitted for the 1998 season with a

continuing in-house statistical review at the end of the season.

Clarification of Container Tolerances (Nectarines)

As previously indicated, the orders require that, except for "CA Utility" quality fruit, nectarines and peaches meet most of the requirements of the U.S. No. 1 grade. These requirements include the requirement that such fruit is "mature." ("CA Utility" fruit is also required to be "mature.") A second, higher maturity standard of "well matured" is also defined in the rules and regulations for both nectarines and peaches.

For those grade factors included in the U.S. Standards for Grades of Nectarines and for Grades of Peaches (standards), tolerances are provided for fruit that fail to meet those factors to allow for variations incident to proper grading and handling. Tolerances are specified for both entire lots of fruit and for individual containers within the lot. These tolerances may be modified by the orders' rules and regulations.

On December 4, 1997, the NAC recommended a nectarine container tolerance of one and one-half times the lot tolerance in instances where the lot tolerance was 10 percent or more, and a nectarine container tolerance of twice the lot tolerance in instances where the lot tolerance was 9 percent or less. This nectarine container tolerance implemented by the interim final rule is identical to that currently in effect for peaches. Continued standardization of container tolerances between nectarines and peaches should benefit handlers of both fruits. These tolerances are specified in revised paragraph (c) of § 916.356 and continue in effect.

Maturity Requirements

Both orders provide (in §§ 916.52 and 917.41) authority to establish maturity requirements for nectarines and peaches, respectively. The minimum maturity level currently specified for nectarines and peaches is "mature" as defined in the standards. Additionally, both orders' rules and regulations provide for a higher, "well matured" classification. For most varieties, "well-matured" fruit determinations are made using maturity guides (e.g., color chips). These maturity guides are reviewed each year by the Shipping Point Inspection Service (SPI) to determine whether they need to be changed based on the most recent information available on the individual characteristics of each variety. These maturity guides established under the handling regulations of the California tree fruit marketing orders have been codified in the Code of Federal Regulations as Table 1 in §§ 916.356 and 917.459, for nectarines and peaches, respectively.

The requirements in the 1998 handling regulation are the same as those that appeared in the 1997 handling regulation with a few exceptions. Those exceptions were implemented by the interim final rule, are explained in this rule, and continue in effect.

Nectarines

Requirements for "well-matured" nectarines are specified in § 916.356 of the order's rules and regulations. This rule continues in effect a revision of Table 1 of paragraph (a)(1)(iv) of § 916.356 which added maturity guides for 2 nectarine varieties. Specifically, SPI recommended adding maturity guides for the June Brite nectarine variety at a maturity guide of I; and the Diamond Ray nectarine variety at a maturity guide of L.

The NAC recommended these maturity requirements based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the "well-matured" level of maturity for nectarine varieties in production.

A revision of Table 1 of paragraph (a)(1)(iv) of § 916.356 is also continued in effect to remove 15 nectarine varieties which are no longer in production. The NAC routinely reviews the status of nectarine varieties listed in these maturity guides. The most recent review revealed that 15 of the nectarine varieties previously listed in the maturity guide have not been in production since the 1995 season. Typically, the NAC recommends removing a variety after non-production for three seasons, or if trees of that variety are known to have been pulled out, because a maturity guide for an obsolete variety is no longer needed. The varieties removed included the Ama Lyn, Del Rio Rey, Gold King, Grand Stan, June Grand, Kent Grand, Le Grand, Red June, Regal Grand, Sierra Star/181–119, Spring Grand, Spring Top, Star Bright, Star Grand, and Tasty Free nectarine varieties.

This rule also continues in effect the removal of the 61–61 nectarine variety from all variety-specific regulations, including the requirement for 80 percent surface color, as specified in § 916.350. Similarly, this rule continues in effect the removal of the Fairlane nectarine variety from § 916.350, including the requirement for 80 percent surface color. These two varieties are now being regulated at the requirement for 90 percent surface color. With the removal of the Fairlane and 61–61 nectarine varieties, the Tom Grand nectarine variety continues as the only variety regulated at the requirement for 80 percent surface color.

Peaches

Section 917.459 of the order's rules and regulations specifies maturity requirements for fresh peaches being inspected and certified as being "well matured."

This rule continues in effect the revision of Table 1 of paragraph (a)(1)(iv) of § 917.459 which added maturity guides for 2 peach varieties. Specifically, SPI recommended adding maturity guides for the Rich Mike peach variety to be regulated at the H maturity guide, and the August Lady peach variety to be regulated at the L maturity guide.

The PCC recommended these maturity requirements based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the "well-matured" level of maturity for peach varieties in production.

This rule continues in effect the revision of Table 1 of paragraph (a)(1)(iv) of § 917.459 removing 7 peach varieties which are no longer in production. The PCC routinely reviews the status of peach varieties listed in these maturity guides. The most recent review revealed that 7 of the peach varieties previously listed in the maturity guide have not been in production since the 1995 season. Typically, the PCC recommends removing a variety after non-production for three seasons, or if trees of that variety are known to have been pulled out, because a maturity guide for an obsolete variety is no longer needed. The varieties removed included the Cardinal, Early Coronet, July Lady, Kearney, May Lady, Prime Crest, and Redglobe peach varieties.

Size Requirements

Both orders provide (in §§ 916.52 and 917.41) authority to establish size requirements. Size regulations encourage producers to leave fruit on the tree longer. This increased growing time not only improves the size of the fruit, but also increases its maturity. Increased size also results in an increased number of packed boxes of nectarines or peaches per acre. Acceptable size fruit also provides greater consumer satisfaction, more repeat purchases, and, therefore, increases returns to producers and handlers. Varieties recommended for

specific size regulation have been reviewed and such recommendations are based on the specific characteristics of each variety. The NAC and PCC conduct studies each season on the range of sizes reached by the regulated varieties and determine whether revisions in the size requirements are appropriate.

In the comment received, the commenter requested that the numerical identification of the Prima Diamond IV nectarine variety in the narrative text on page 16035, third column, third paragraph of the interim final rule be corrected to read Prima Diamond VI. The commenter also requested that the numerical identification of the Prima Diamond 13 nectarine variety in the regulatory text on page 16040, third column, paragraph (a)(4) of § 916.356 be corrected to read Prima Diamond XIII. The commenter further requested that the numerical identification of the Prima Peach VIII peach variety in the narrative text on page 16036, second column, paragraph one, and in the regulatory text on page 16043, second column, paragraph (a)(6) of § 917.459 of the interim final rule be corrected to read Prima Peach 13. Such corrections have been incorporated.

Nectarines

Section 916.356 of the order's rules and regulations specifies minimum size requirements for fresh nectarines in paragraphs (a)(2) through (a)(9). This rule continues in effect the revision of § 916.356 establishing variety-specific size requirements for 10 nectarine varieties that were produced in commercially-significant quantities of more than 10,000 packages for the first time during the 1997 season. This rule also continues in effect the modification of the variety-specific size requirements for 3 varieties of nectarines.

For example, one of the varieties recommended for addition to the variety-specific size requirements was the Brite Pearl variety. Studies of the size ranges attained by the Brite Pearl variety revealed all of the nectarines of the Brite Pearl variety met sizes 40, 50, 60, 70, and 80. While the size distribution peaked on the size 60, 100 percent of the fruit sized at a minimum of size 80.

A review of other varieties with the same harvesting period indicated that Brite Pearl was also comparable to those varieties in its size ranges. Thus, the recommendation to place the Brite Pearl nectarine variety in the variety-specific size regulation at a size 80 was appropriate. Historical variety data such as this provides the NAC with the information necessary to recommend the appropriate sizes at which to regulate various nectarine varieties. In addition, producers of the varieties affected are invited to comment when such size recommendations are deliberated.

For reasons similar to those discussed in the preceding paragraphs, the revision of the introductory text of paragraph (a)(4) of § 916.356 continues in effect the addition of the following varieties: Diamond Bright, June Pearl, Prima Diamond VI, and Prima Diamond XIII nectarine varieties. In the interim final rule, Prima Diamond VI was incorrectly referred to as Prima Diamond IV and has been corrected. In addition, the revision of the introductory text of paragraph (a)(6) in § 916.356 also continues in effect the addition of the August Snow, Brite Pearl, Crystal Rose, Fire Pearl, Prima Diamond XIX, and Prima Diamond XXIV nectarine varieties.

This rule also continues in effect the revision of the introductory text of paragraph (a)(6) of § 916.356 which removed 3 nectarine varieties from the variety-specific size requirements specified in the section because less than 5,000 packages of each of these varieties were produced during the 1997 season. Thus, the revision of the introductory text of paragraph (a)(6) continues in effect to remove the Bob Grand, Kism Grand, and 80P–1135 nectarine varieties.

This rule continues in effect the revision of the introductory text of paragraph (a)(4) of § 916.356 which modified the identification of the Prima Diamond II nectarine variety; and continues in effect the revision of the introductory text of paragraph (a)(6) of § 916.356 which modified the identification of the Prima Diamond IV, Prima Diamond VII, Prima Diamond VIII, and 424–195 nectarine varieties. The names have been changed as follows: Prima Diamond II has been changed to Prima Diamond IV, Prima Diamond IV has been changed to Prima Diamond IX, Prima Diamond VII has been changed to Prima Diamond XVI, Prima Diamond VIII has been changed to Prima Diamond XVIII, and 424–195 has been changed to Late How Red, respectively. Such changes are done routinely when the holder of a patented variety of nectarines changes the variety's name. For that reason, all references to these varieties were changed by the implementation of the interim final rule.

Nectarine varieties removed from the nectarine variety-specific list become subject to the non-listed variety size requirements specified in paragraphs (a)(7), (a)(8), and (a)(9) of § 916.356. Such removals continue in effect.

The NAC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these nectarine varieties, and consumer acceptance levels for various sizes of fruit. This rule continues in effect minimum size requirements for fresh nectarines consistent with expected crop and market conditions.

Peaches

Section 917.459 of the order's rules and regulations specifies minimum size requirements for fresh peaches in paragraphs (a)(2) through (a)(5), and paragraphs (b) and (c). This rule continues in effect the revision of § 917.459 which established variety-specific size requirements for 10 peach varieties that were produced in commercially-significant quantities of more than 10,000 packages for the first time during the 1997 season. This rule also continues in effect the addition of new paragraph (a)(2) to § 917.459(a), and the redesignation of paragraphs (a)(2), (a)(3), (a)(4), (a)(5) as paragraphs (a)(3), (a)(4), (a)(5), and (a)(6). New paragraph (a)(2) is being used to regulate peaches at a minimum size 96. Conforming changes required in paragraphs (b) and (c) of that section because the paragraphs refer to the redesignated paragraphs also continue in effect.

One of the varieties recommended for addition to the variety-specific size requirements was the Spring Snow variety. Studies of the size ranges attained by the Spring Snow variety revealed that none of that variety met the smallest sizes, sizes 96, 88, and 84. While the size distribution peaked on size 50, the minimum size encompassing 100 percent of the variety was size 80.

A review of other varieties of the same harvesting period indicated that Spring Snow was also comparable to those varieties in its size ranges. Thus, the recommendation to place the Spring Snow peach variety in the variety-specific size regulation at a size 80 was appropriate and continues in effect. Historical variety data such as this provides the PCC with the information necessary to recommend the appropriate sizes at which to regulate various peach varieties. In addition, producers of the affected varieties are invited to comment when such size recommendations are deliberated.

In § 917.459 of the order's rules and regulations, new paragraph (a)(2) is continued in effect and includes the

Earlitreat and Lady Sue peach varieties to be regulated at a minimum size 96. The revision to the introductory text of paragraph (a)(5) is continued in effect. That revision added the Pink Rose, Prima Peach IV, Spring Snow, and White Dream peach varieties to that paragraph. The revision to the introductory text of paragraph (a)(6) is also continued in effect with a minor correction. That revision added the Madonna Sun, Prima Peach VIII, Prima Peach 20, and Saturn (Donut) peach varieties. This rule corrects the numerical identification of the Prima Peach VIII variety to Prima Peach 13 per the comment received.

This rule also continues in effect a revision of § 917.459 removing 6 peach varieties from the variety-specific size requirements previously specified in that section, because less than 5,000 packages of this variety were produced during the 1997 season. In § 917.459, the revision of the introductory text of paragraph (a)(5) is continued in effect. That revision removed the June Sun, Kingscrest, Kings Red, and Snow Flame peach varieties. The revision of the introductory text of paragraph (a)(6) of § 917.459 is continued in effect. That revision removed the Prima Lady and Snow Ball peach varieties.

Peach varieties removed from the variety-specific list become subject to the non-listed variety size requirements specified in paragraphs (b) and (c) of § 917.459. Such removals continue in effect.

The PCC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these peach varieties, and the consumer acceptance levels for various fruit sizes. This rule is designed to establish minimum size requirements for fresh peaches consistent with expected crop and market conditions.

This rule reflects the committees' and the Department's appraisal of the need to revise the handling requirements for California nectarines and peaches, as specified. The Department has determined that this rule should have a beneficial impact on producers, handlers, and consumers of California nectarines and peaches.

This rule continues in effect revised handling requirements for fresh California nectarines and peaches consistent with expected crop and market conditions, and will help ensure that all shipments of these fruits made each season will meet acceptable handling requirements established under each of these orders. This rule will also help the California nectarine and peach industries provide fruit desired by consumers. This rule is designed to establish and maintain orderly marketing conditions for these fruits in the interest of producers, handlers, and consumers.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 300 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. Small agricultural service firms, which includes handlers, are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5,000,000. Small agricultural producers have been defined as those having annual receipts of less than $500,000. A majority of these handlers and producers may be classified as small entities.

Under §§ 916.52 and 917.41 of the orders, grade, size, maturity, and container and pack requirements are established for fresh shipments of California nectarines and peaches, respectively. Such requirements are in effect on a continuing basis. This rule continues in effect revisions of the requirements in the interim final rule to: (1) Correct the address for the CTFA; (2) modify the lot stamping requirements; (3) establish a single date by which handlers must file shipment reports; (4) define and provide dimensions for a new container; (5) simplify size marking requirements for consumer packages and establish marking requirements for the new container; (6) modify weight counts for early varieties; (7) authorize shipments of "CA Utility" quality fruit during the 1998 season; (8) standardize container tolerances for mature and well-matured nectarines; (9) revise varietal maturity and size requirements to reflect recent changes in growing conditions; and (10) revise names of some patented nectarine and peach varieties consistent with name changes made by the patent holders. This rule also makes corrections in the names of some nectarine and peach varieties and corrects an inaccurate use of the word "cartons" in two sections, one each for nectarines and peaches.

In § 917.110 of the peach order's rules and regulations, the address of the CTFA is listed for various communications (reports, applications, submittals, requests, etc.). The CTFA moved its offices from Sacramento to Reedley, California, and the interim final rule corrected the address as recommended by the PCC. This rule continues in effect the changes in the interim final rule. Updating the address of the CTFA is a clarifying change which benefits producers and handlers.

In §§ 916.115 and 917.150 of the nectarine and peach orders' rules and regulations, respectively, handlers are required to stamp containers of nectarines and peaches with the Federal-State Inspection Service lot stamp number after inspection and prior to shipment. Such a requirement is relatively easy and cost effective for larger handlers who pack sufficient numbers of containers in a day to warrant the presence of a full-time inspector who maintains control of the handler's lot stamp. However, for smaller handlers who do not pack sufficient numbers of containers in a day to warrant the presence of a full-time inspector assigned to their facility, the requirement for a lot stamp creates an unnecessary burden of increased packing time and costs. Containers packed and placed on pallets in the inspector's absence must be stamped after the inspector returns and performs an inspection on samples of those containers. The increased use of new container styles and a standardized pallet has created a nine-column configuration of stacked containers consisting of eight columns surrounding a ninth, center column. The center column is difficult to mark with the lot stamp since a portion of the other eight columns must be unstacked to allow access to the center column. The interim final rule exempted the containers in the center column of the nine-column configuration from lot stamp marking requirements, thereby decreasing handling time and costs for smaller handlers who have only intermittent inspections in a day. This change should have a positive impact on the affected handlers. This exemption is currently estimated to affect fewer than 10 handlers and less than 10,000 boxes of nectarines and peaches.

Prior to the issuance of the interim final rule, §§ 916.160 and 917.178 of the orders' rules and regulations required handlers to report shipments of each

nectarine and peach variety, respectively, not later than the tenth day of the month following the month in which the varieties were shipped. As a result, handlers filed approximately three shipment reports with the committees per season, resulting in approximately 750 shipment reports for all nectarine handlers and approximately 900 shipment reports for all peach handlers. Each shipment report is estimated to take one hour for handlers to complete. In an effort to make reporting less burdensome to handlers, the NAC and PCC recommended the establishment of a single date of November 15 of each year as a reporting deadline, no matter when shipments of each nectarine or peach variety were made. This single reporting deadline simplifies the reporting requirements so that handlers need only file one report each for nectarine and peach shipments upon conclusion of the handling season. This relaxation of the reporting requirements and burden for the benefit of handlers continues in effect from the interim final rule. This relaxation is estimated to reduce burden hours for nectarine handlers to approximately 250 hours from 750 hours and for peach handlers to approximately 300 from 900 hours.

In §§ 916.350 and 917.442 of the rules regulating nectarines and peaches, respectively, several container types are identified by a name, such as 12B or 22G, and then further defined by their dimensions and weight-holding capacities. This rule continues in effect the definition and description of the new container, the No. 32 (shoebox), which is more easily configured to fit a standard 40 by 48 inch pallet. Both the container and the pallet are increasingly utilized by the industry because they are favored by retailers. The addition of this container to the orders' rules and regulations provides increased flexibility for handlers by providing yet another approved container for shipments of nectarines and peaches.

Sections 916.350 and 917.442 of the orders' rules and regulations require specified container markings. To facilitate the use of the No. 32 standard box and consumer packages, the container marking requirements implemented by the interim final rule continue in effect. These requirements eliminate the need to mark both the count and size of the fruit in the box. Instead, only one marking, either for fruit size or count of fruit, is required. Eliminating the dual marking requirement eases the burden on handlers.

Consumer packages of nectarines and peaches are smaller boxes without adequate space on the outside ends for marking both the fruit size and count of fruit in the box. The No. 32 box has become the industry standard for tray-pack arrangements. Including both the size and count of fruit on these containers is unnecessary since the number of fruit in the box is also the size of the fruit in the box. Moreover, requiring dual markings on these two boxes placed a burden on handlers who prefer to minimize markings on the outside of the boxes. Prior to the modified marking requirements, the outside of the boxes were marked with the size of the fruit, e.g., "88 size" or "80 size," and the count, e.g., "88 count" or "80 count,". Continuing to eliminate the requirement for dual marking on these containers is consistent with the rules and regulations of the orders, and is a relaxation of the marking requirements.

In §§ 916.350 and 917.442 of the orders' rules and regulations concerning nectarines and peaches, respectively, the use of container markings is specified. Container markings based on weight standards differ for early-season nectarines and peaches, compared to those marketed later in the season. The NAC and PCC routinely conduct tests to determine the optimum weight-count standards for such early-season, mid-season, and late-season nectarines and peaches, respectively. Acting upon information from a handler of early-season nectarines and peaches, the NAC and PCC determined that while early-season nectarines and peaches frequently attain a size to adequately fill the molded forms when tray-packed, early-season nectarines and peaches are not as dense as mid-season and late-season nectarines and peaches, and thus, failed to meet the current weight standards set for specified sizes when converted to volume-filled containers. When such tests were performed by the NAC and PCC in 1994 and 1995, early-season nectarines and peaches were not predominately packed in volume-filled containers. More commonly, early-season nectarines and peaches were packed in tray-packs. However, the practice of converting tray-packed containers of early-season nectarines and peaches to volume-filled containers has increased and more information about the characteristics of early-season nectarines and peaches has come to light. In reviewing this information, the NAC and PCC determined that the weight-count standards for five early-season nectarine and peach sizes needed to be adjusted by adding one piece of fruit to the 16-pound sample of fruit of these sizes to accommodate volume-filled container shipments to the benefit of producers and handlers.

Therefore, the NAC and PCC unanimously recommended, and the interim final rule implemented, modifications to the early-season weight-count standards for five sizes of nectarines and peaches by the addition of one piece of fruit to each weight-count standard then in effect for sizes 56 to 72. Table 1 of paragraphs (a)(4)(iv) in §§ 916.350 and 917.442 of the regulations were modified by adding an additional nectarine or peach, respectively, to sizes 56, 60, 64, 70, and 72. The changes permit handlers to more easily convert tray-packed nectarines and peaches to volume-filled containers and decrease the handling costs associated with that conversion. Thus, the changes continue in effect.

In §§ 916.350 and 917.442 of the orders regulating nectarines and peaches, respectively, lower-quality nectarines and peaches were authorized for shipment as "CA Utility" as an experiment for the 1996 season only. Such authorization was continued during the 1997 season. This rule continues in effect the authority in the interim final rule for the continued use of "CA Utility" quality fruit for the 1998 season with a continued in-house statistical review to be conducted by the NAC and PCC at the end of the 1998 season. During the 1996 season, the Department authorized the shipment of nectarines and peaches which were of a lower quality than the minimum permitted for previous seasons. During 1996, there were approximately 210,000 boxes of nectarines and approximately 366,000 boxes of peaches packed as "CA Utility," or 1.1 percent and 1.9 percent of fresh shipments, respectively. During 1997, there were approximately 230,000 boxes of nectarines and 217,000 boxes of peaches packed as "CA Utility," or 1.1 percent and 1.0 percent of fresh shipments, respectively. Continued availability of "CA Utility" quality fruit is expected to have a positive impact on producers, handlers, and consumers by permitting more nectarines and peaches to be shipped into fresh market channels, without adversely impacting the market for higher quality fruit.

The interim final rule standardized the container tolerances for nectarines with those in effect for peaches. The revision of the container tolerances for nectarines simplified handling requirements for the industry and continues to apply.

Sections 916.356 and 917 442 of the orders' rules and regulations for nectarines and peaches, respectively, currently establish minimum maturity levels. This rule continues in effect the

annual adjustments to the maturity requirements for several varieties of nectarines and peaches implemented by the interim final rule. Maturity requirements are based on maturity measurements generally using maturity guides (e.g., color chips), as reviewed by SPI. Such maturity guides provide producers, handlers, and SPI with objective tools for measuring the maturity of different varieties of nectarines and peaches. Such maturity guides are reviewed annually by SPI to determine the appropriate guide for each nectarine and peach variety. These annual adjustments reflect changes in the maturity patterns of nectarines and peaches as experienced over the previous seasons' inspections. Adjustments in the guides ensure that fruit has met an acceptable level of maturity, thus ensuring consumer satisfaction while benefitting nectarine and peach producers and handlers.

Currently, in § 916.356 of the order's rules and regulations for nectarines and § 917.459 of the order's rules and regulations for peaches, minimum sizes for various varieties of nectarines and peaches are established. This rule continues in effect adjustments made by the interim final rule to the minimum sizes authorized for various varieties of nectarines and peaches for the 1998 season. Minimum size regulations are put in place to allow fruit to stay on the tree for a greater length of time. Increased growing time not only improves maturity, but also improves fruit size. Increased fruit size increases the number of packed boxes per acre. Increased fruit size and maturity also provide greater consumer satisfaction and, therefore, more repeat purchases by consumers. Repeat purchases and consumer satisfaction benefit producers and handlers alike. Adjustments to minimum sizes of nectarines and peaches are recommended each year by the NAC and PCC based upon historical data, and producer and handler information regarding sizes which the different varieties attain.

This action does not impose any additional reporting and recordkeeping requirements on either small or large handlers. In fact, this action continues to reduce the reporting requirements and burden by allowing handlers to file only one report each for nectarine and peach shipments upon conclusion of the handling season. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in Parts 916 and 917 have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB Nos. 0581–0072 and 0581–0080, respectively.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. However, as previously stated, nectarines and peaches under the orders have to meet certain requirements set forth in the standards issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627). Standards issued under the Agricultural Marketing Act of 1946 are otherwise voluntary.

In addition, the committees' meetings were widely publicized throughout the nectarine and peach industries and all interested parties were invited to attend the meetings and participate in committee deliberations on all issues. These meetings are held annually during the first week of December. Like all committee meetings, the December 4, 1997, meetings were public meetings and all entities, both large and small, were able to express views on these issues. The committees themselves are composed of producers, the majority of whom are small entities. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses in the interim final rule. No such comments were received.

An interim final rule concerning this action was published in the **Federal Register** on April 1, 1998. This rule was also made available through the Internet by the Office of the Federal Register. The Committees' staff made copies available to the industry through the publication of the handler bulletins for nectarines and peaches. The bulletins are a compilation of the orders' rules and regulations prepared in a more user-friendly format. That rule provided for a 60-day comment period which ended June 1, 1998. One comment was received from the Field Director for the CTFA. As discussed earlier, the corrections requested by the commenter have been made.

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, the comment received, and other information, it is found that finalizing the interim final rule, with corrections as indicated, as published in the **Federal Register** (63 FR 16032, April 1, 1998), will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

Accordingly, the interim final rule amending 7 CFR parts 916 and 917, which was published at 63 FR 16032 on April 1, 1998, is adopted as a final rule with the following changes:

1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 916—NECTARINES GROWN IN CALIFORNIA

§ 916.350 [Amended]

2. Section 916.350, paragraph (a)(4)(i) is amended by removing the words "No. 22G standard lug boxes, cartons;" and adding in their place the words "No. 22G standard lug boxes;".

§ 916.356 [Amended]

3. Section 916.356, paragraph (a)(4) introductory text is amended by revising the words ", Prima Diamond 13," to read ", Prima Diamond XIII,".

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

§ 917.442 [Amended]

4. Section 917.442, paragraph (a)(4)(i) is amended by removing the words "No. 22G standard lug boxes, experimental containers, cartons;" and adding in their place the words "No. 22G standard lug boxes or experimental containers;".

§ 917.459 [Amended]

5. Section 917.459, paragraph (a)(6) introductory text is amended by revising the words ", Prima Peach VIII," to read ", Prima Peach 13,".

Dated: August 12, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–22254 Filed 8–18–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–86–AD; Amendment 39–10714; AD 98–17–12]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace (Jetstream) Model 4100 series airplanes, that requires an eddy current conductivity test to measure the conductivity of the upper splice plate of the wing, and follow-on actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to correct corrosion of the upper splice plate of the wing, which could result in reduced structural integrity of the airplane.

DATES: Effective September 23, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 23, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain British Aerospace (Jetstream) Model 4100 airplanes was published in the **Federal Register** on April 21, 1998 (63 FR 19680). That action proposed to require an eddy current conductivity test to measure the conductivity of the upper splice plate of the wing, and follow-on actions, if necessary.

Comments

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

Issuance of Additional Service Information

Since the issuance of the proposed AD, the manufacturer has issued British Aerospace Regional Aircraft Service Bulletin J41–57–021, dated May 7, 1998, which provides service information for replacement of the upper splice plate of the wing with a new upper splice plate, as conditionally required by paragraph (b)(1)(ii) of this AD. Although British Aerospace Regional Aircraft Service Bulletin J41–57–020, dated March 20, 1997, was referenced in the proposed AD as the appropriate source of service information for this replacement, the FAA has been advised that Service Bulletin J41–57–021 provides complete instructions for accomplishment of the replacement. Paragraph (b)(1)(ii) of the final rule has been revised to cite Service Bulletin J41–57–021, dated May 7, 1998, as an additional source of service information for accomplishment of this action.

Conclusion

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

Cost Impact

The FAA estimates that 54 airplanes of U.S. registry will be affected by this AD, and that it will take approximately 1 work hour per airplane to accomplish the required eddy current conductivity test, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the test required by this AD on U.S. operators is estimated to be $3,240, or $60 per airplane.

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

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. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

98–17–12 British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Amendment 39–10714. Docket 98–NM–86–AD.

Applicability: Jetstream Model 4100 series airplanes, constructor's numbers 41004 through 41096 inclusive; certificated in any category.

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

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

Compliance: Required as indicated, unless accomplished previously. To correct corrosion of the upper splice plate of the wing, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Within 6 months after the effective date of this AD, perform an eddy current conductivity test to measure the conductivity of the upper splice plate of the wing, in accordance with British Aerospace Regional Aircraft Service Bulletin J41–57–019, Revision 1, dated November 26, 1997. If the conductivity measurement is greater than or equal to 35.0% of the International Aluminum and Copper Standards (IACS), no further action is required by this AD.

(b) During the inspection required by paragraph (a) of this AD, if the conductivity measurement is less than 35.0% of the IACS: Prior to further flight, use a boroscope to perform a detailed visual inspection to detect corrosion along the full length of the upper splice plate of the wing, in accordance with British Aerospace Regional Aircraft Service Bulletin J41–57–020, dated March 20, 1997. Thereafter, repeat the inspection at intervals not to exceed 1 year.

(1) During any inspection required by paragraph (b) of this AD, if any corrosion is detected that is within the allowable limits specified in British Aerospace Regional Aircraft Service Bulletin J41–57–020, dated March 20, 1997: Accomplish the actions required by paragraphs (b)(1)(i) and (b)(1)(ii) of this AD, at the times specified in those paragraphs.

(i) Prior to further flight, repair the upper splice plate of the wing in accordance with Appendix 2 of British Aerospace Regional Aircraft Service Bulletin J41–57–020, dated March 20, 1997. And

(ii) Within 3 years after the detection of corrosion, replace the upper splice plate of the wing with a new upper splice plate in accordance with British Aerospace Regional Aircraft Service Bulletin J41–57–020, dated March 20, 1997; or British Aerospace Regional Aircraft Service Bulletin J41–57–021, dated May 7, 1998. Such replacement constitutes terminating action for the requirements of this AD.

(2) During any inspection required by paragraph (b) of this AD, if any corrosion is detected that is outside the allowable limits specified inBritish Aerospace Regional Aircraft Service Bulletin J41–57–020, dated March 20, 1997: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

(e) Except as provided by paragraph (b)(2) of this AD, the actions shall be done in accordance with British Aerospace Regional Aircraft Service Bulletin J41–57–019, Revision 1, dated November 26, 1997, British Aerospace Regional Aircraft Service Bulletin J41–57–020, dated March 20, 1997, and British Aerospace Regional Aircraft Service Bulletin J41–57–021, dated May 7, 1998. 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 AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directive 005–03–97.

(f) This amendment becomes effective on September 23, 1998.

Issued in Renton, Washington, on August 11, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–21992 Filed 8–18–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–194–AD; Amendment 39–10715; AD 98–17–13]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 and 767 Series Airplanes Equipped with Rolls-Royce Model RB211–524G/H Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 and 767 series airplanes. This action requires modification of the engine fire detection system. This amendment is prompted by a report of a combustor burn-through event that damaged the engine fire detection system such that no fire warning message was annunciated in the flight deck. The actions specified in this AD are intended to prevent failure of the engine fire detection system to annunciate a fire warning message to the flight crew following a severe engine failure, which could lead to delayed or improper flight crew response to the engine failure.

DATES: Effective September 3, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 3, 1998.

Comments for inclusion in the Rules Docket must be received on or before October 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–194–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

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 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.

FOR FURTHER INFORMATION CONTACT: Holly Thorson, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–1357; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received a report of a combustor burn-through event on the number 4 engine on a Boeing Model 747–400 series airplane equipped with Rolls-Royce Model RB211–524G engines. The flight crew received a fault advisory message for the engine fire detection system, but no fire warning message was annunciated. The cabin crew and control tower observed sparks emitting from the number 4 engine and alerted the flight crew.

Subsequent investigation revealed that the flame breakout burned through the wiring to the loop A and B fire detector elements, which shorted both elements to ground, disabling the engine fire detection system. At least one of the elements shorted to the grounded

protective shield on the wiring. The element connectors on the fire detector are located in an area susceptible to combustor burn-through events; damage to these connectors also could result in a short to ground, disabling the engine fire detection system.

When both elements of an engine fire detector short to ground, a system fault advisory message is displayed in the flight deck, but no fire warning message is annunciated. Failure of the engine fire detection system to annunciate a fire warning message to the flight crew following a severe engine failure, if not corrected, could lead to delayed or improper flight crew response to the engine failure.

The engine fire detection system on Rolls-Royce Model RB211–524H engines is identical to the engine fire detection system installed on Rolls-Royce Model RB211–524G engines. Both engine models can be installed on Model 747 series airplanes; Model RB211–524H engines are also installed on Model 767 series airplanes. Therefore, both of these airplane and engine models may be subject to the same unsafe condition.

Explanation of Relevant Service Information

Boeing has issued Alert Service Bulletin 747–26A2250, dated June 26, 1997 (for Model 747 series airplanes), and Alert Service Bulletin 767–26A0103, dated June 26, 1997 (for Model 767 series airplanes), which describe procedures for modification of the engine fire detection system. This modification includes: Extension of the fire detectors to provide 360-degree protection around the combustor, removal of the grounded protective shield from the fire detector wiring, re-routing of the wire bundles away from the burn-through region, and replacement of the element connectors with terminal lug screw connections. Accomplishment of the modification of the engine fire detection system specified in the alert service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent failure of the engine fire detection system following a severe engine failure. This AD requires modification of the engine fire detection system. The actions are required to be accomplished in accordance with the alert service bulletins described previously, except as discussed below.

Differences Between Rule and Alert Service Bulletin

Operators should note that, although the alert service bulletins identify only certain Model 747 and 767 series airplanes, this AD applies to any Model 747 and 767 series airplane equipped with Rolls-Royce Model RB211–524G/H engines. The engines installed on the airplanes identified in the alert service bulletins may be installed on other Model 747 and 767 series airplanes; therefore, the FAA has determined that this AD must apply to all Model 747 and 767 series airplanes that are equipped with Rolls-Royce Model RB211–524G/H engines.

Operators also should note that, although the alert service bulletins do not recommend accomplishing the modification within specific time period, this AD requires that the modification be accomplished at the next shop visit of an engine or combustor module, but no later than 5 years after the effective date of the AD. The 5-year compliance time specified in paragraph (a) of this AD should allow ample time for the modification to be accomplished coincidentally with scheduled shop visits for the majority of affected engines and represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

None of the Boeing Model 747 and 767 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected Boeing Model 747 series airplane be imported and placed on the U.S. Register in the future, it would require approximately 64 work hours (16 hours per engine; 4 engines per airplane) to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts would cost approximately $56,000 per airplane ($14,000 per engine). Based on these figures, the cost impact of this AD would be $59,840 per airplane.

Should an affected Boeing Model 767 series airplane be imported and placed on the U.S. Register in the future, it would require approximately 32 work hours (16 hours per engine; 2 engines per airplane) to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts would cost approximately $28,000 per airplane ($14,000 per engine). Based on these figures, the cost impact of this AD would be $29,920 per airplane.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–194–AD." The postcard will be date stamped and returned to the commenter.

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. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

98–17–13 Boeing: Amendment 39–10715. Docket 98–NM–194–AD.

Applicability: Model 747 and 767 series airplanes, equipped with Rolls-Royce Model RB211–524G/H engines; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the engine fire detection system to annunciate a fire warning message to the flight crew following a severe engine failure, which could lead to delayed or improper flight crew response to the engine failure, accomplish the following:

(a) At the next shop visit of an engine or combustor module, but no later than 5 years after the effective date of this AD, modify the engine fire detection system in accordance with Boeing Alert Service Bulletin 747–26A2250, dated June 26, 1997 (for Model 747 series airplanes) or Boeing Alert Service Bulletin 767–26A0103, dated June 26, 1997 (for Model 767 series airplanes); as applicable.

(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 2: 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 Alert Service Bulletin 747–26A2250, dated June 26, 1997; or Boeing Alert Service Bulletin 767–26A0103, dated June 26, 1997; 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 September 3, 1998.

Issued in Renton, Washington, on August 12, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–22242 Filed 8–18–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWA–1]

RIN 2120–AA66

Revision of the Legal Description of the Memphis Class B Airspace Area; Tennessee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the legal description of the Memphis, TN, Class B airspace area by changing the point of origin of the airspace area from the Memphis Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) to the VORTAC's present geographical coordinate. The FAA is taking this action due to the relocation of the Memphis VORTAC 2.85 nautical miles south of the site it currently occupies. The intent of this action is to facilitate the relocation of the Memphis VORTAC without changing the actual dimensions, configuration, or operating requirements of the Memphis Class B airspace area. The effective date of this rulemaking action will coincide with the relocation of the Memphis VORTAC. The August 13, 1998, effective date does not correspond with a scheduled publication date for the appropriate aeronautical charts. The Memphis Visual Flight Rules (VFR) Terminal Area Chart and Memphis Sectional Aeronautical Chart will be published on October 8, 1998, and will reflect this rulemaking action.

EFFECTIVE DATE: 0901 UTC, August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On June 4, 1998, the FAA published a proposal, in the **Federal Register**, to revise the legal description for the Memphis, TN, Class B airspace area (63 FR 30427). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments. No comments objecting to the proposal were received during the comment period that closed on July 6, 1998. However, the FAA received two

comments, from the Aircraft Owners and Pilots Association (AOPA) and the Air Line Pilots Association (ALPA) after the close of the comment period. An analysis of the comments received and the FAA's response are discussed below.

Analysis of Comments

ALPA commented that the use of a geographical point of origin to determine one's position is only practical for aircraft equipped with LORAN or GPS. They are of the opinion that use of a geographical "point of origin" for this Class B airspace area would present a human factors impact because the proposed airspace will appear to be designed with fix radial distance which would be inaccurate unless the airspace area is centered on a NAVAID. ALPA further states that not centering the airspace area on a NAVAID would cause pilots to intrude on the airspace area and degrade the safety of aircraft operations.

The FAA does not agree with this commenter. As described in the Notice, the configuration (vertical and lateral limits) of the Memphis Class B airspace area will remain the same and are not being changed by this rulemaking effort. However, the relocated VORTAC cannot be used to solely describe the airspace area description, which has not been affected. Use of a geographic point of origin in the airspace description will only eliminate the Memphis NAVAID as the point of origin. The FAA does not believe that a revision to the legal description of the airspace area, which does not alter the airspace configuration, will contribute to inadvertent incursions or derogate safety.

The FAA will disseminate information regarding the revised legal description of the Memphis Class B airspace area in the Notices to Airmen publication and will publish a special notice in the Airport/Facility Directory to ensure that pilots and airspace users are advised of the status. Also, the FAA's Southern Regional Office will distribute Letters to Airmen that will advertise the revised description of the airspace area, and discuss the change in legal description in users forums that would be held in the local area.

AOPA maintains that the 30-day comment period for the notice was not adequate and requests that the comment period be reopened for an additional 60-days. AOPA also proposes that the FAA use a 90 day comment period for airspace rulemaking proposals and review alternative methods of providing notice to the flying public in addition to publication in the **Federal Register**.

The FAA does not agree with this comment. The 30-day comment period was adequate and is consistent with the FAA's timeframe policy for airspace rules. Title 14 Code of Federal Regulations Section 11.65(d) provides in part that "approximately 30 days are allowed for submitting written information, views or arguments on the notice. Petitions for extension of the time for such comments are governed by the provisions of Section 11.29(c)." Although comments were received outside the 30-day comment period, it was practicable and feasible to consider and address them in this final rule. The FAA does not find a need to reopen the comment period for this effort. To the extent, the commenter would prefer a mandatory 90-day comment period applicable to airspace rule proposals, that request may be submitted as a petition for rulemaking. Regarding the use of the **Federal Register** to disseminate rulemaking information, the FAA will continue to use the **Register** as the predominate tool for announcing rulemaking efforts. However, the FAA will explore other avenues, such as utilizing user entities, to disseminate rulemaking information of this type.

AOPA maintains that the FAA has already acquired and installed a VORTAC in a new location, as well as, flight checked and adjusted the relevant airways and instrument approaches. AOPA contends that these actions prejudged the outcome of the notice of proposed rulemaking for the revision of the description of the Class B airspace area.

The FAA does not agree with this comment. The relocation of the Memphis VORTAC, or any NAVAID in itself is not regulatory in nature. This rulemaking effort is necessary to update and maintain an accurate description of the Memphis Class B airspace area. The FAA reiterates that the configuration of the Memphis Class B airspace area remains unchanged. Currently, the legal description of the Memphis Class B airspace area uses the former location of the NAVAID extensively to describe its boundaries. The airspace description must be revised to use a point in space which corresponds to the former geographic location of the VORTAC. If this revision is not accomplished, the location of the Class B airspace area will change when the VORTAC becomes operational, which is contrary to the intent of this rulemaking and will result in pilot confusion and potentially affect air safety.

AOPA also states that the proposed revision to the description of the Memphis Class B airspace area will change the operational requirements for aircraft navigating in and around the airspace area and that pilots will no longer be able to navigate without RNAV capability to determine their relative position. The commenter asserts that the use of a geographic point in space to describe the airspace, instead of the NAVAID, will eliminate a navigational tool for those aircraft, operating in accordance with visual flight rules (VFR) attempting to navigate around the airspace area using VOR/DME.

The FAA does not agree with this comment. VFR flight can be conducted using a variety of navigation which does not depend exclusively on a NAVAID being the center of this airspace area. As stated in the proposal for this effort, the vertical or lateral limits of the existing Memphis Class B airspace area are not being changed. The proposed is in response to the relocation of the NAVAID previously used to describe the boundaries of the existing airspace area. The FAA believes that relocating the NAVAID does not compromise the airspace area. The current geographical landmarks used by pilots navigating in accordance with VFR flight rules to determine their position relative to the airspace area remain intact. These landmarks were selected with the assistance of local user groups when the Class B airspace area was established. The FAA believes that flight in the area can be conducted without the sole reliance on the NAVAID when appropriately planned for during preflight preparation. Additionally, future aeronautical charts depicting the airspace area will reflect mileage from the airspace areas point of origin, and, wherever possible, from the new NAVAID location as well as an accompanying chart that will depict latitude/longitude and fix radial distance information. Further, the FAA will disseminate information regarding the revised legal description of the Memphis Class B airspace area in the Notices to Airmen publication and will publish a special notice in the Airport/Facility Directory to ensure that pilots and airspace users are advised of the status. Also, the FAA's Southern Regional Office will distribute Letters to Airmen that will advertise the revised description of the airspace area, and discuss the change in legal description in user forums that would be held in the local area.

AOPA notes that the FAA has used local user groups to assist with the determination of the points to be depicted to benefit VFR navigation. The commenter maintains that the FAA did not follow its own policy of working

with local user groups prior to a regulatory proposal, with regard to the proposed relocation of the Memphis VORTAC.

The FAA does not agree with this comment. The FAA does not consult with user groups and the public regarding the installation or relocation of navigational aids. This rulemaking action revises the airspace description to reflect the fact that the Memphis VORTAC cannot be used any longer to accurately describe the airspace.

AOPA asks that the FAA delay commissioning of the new VORTAC until the airspace is realigned or until the general aviation user concerns are adequately mitigated.

The FAA disagrees that the commissioning of the new VORTAC should be delayed until the airspace is realigned. The Memphis Class B airspace area is not dependent upon the location of a VORTAC. However, the FAA continuously reviews Class B airspace areas and will review the Memphis Class B airspace in the future.

The Rule

Due to the relocation of the Memphis, TN, VORTAC 2.85 nautical miles south of its current location, the FAA is revising the legal description for the Memphis, TN, Class B airspace area by changing the point of origin from the Memphis VORTAC navigational aid to the VORTAC's current geographical coordinate. Relocating the navigational aid affects the legal description of the airspace area. Except for editorial changes and minor adjustments to the geographic coordinates for the Memphis International Airport, this rule is the same as that proposed in the notice. This action does not change the vertical or lateral limits of the existing Memphis Class B airspace area.

The Memphis VORTAC will be operational on August 13, 1998. In order to avoid pilot confusion and to make pilots immediately aware of the revised legal description of the Memphis Class B airspace area, the FAA finds that good cause exists, pursuant to 5 U.S.C (d), for making this amendment effective in less than 30 days. The August 13, 1998, effective date does not correspond with a scheduled publication date for the appropriate aeronautical charts. In the interim, the FAA will disseminate information regarding the revised legal description of the Memphis Class B airspace area in the Notices to Airmen publication and will publish a special notice in the Airport/Facility Directory to ensure that pilots and airspace users are advised of the status. Additionally, the FAA's Southern Regional Office will distribute Letters to Airmen that will advertise the revised description of the airspace area. The Memphis VFR Terminal Area Chart and Memphis Sectional Aeronautical Chart will be published on October 8, 1998, and will reflect this rulemaking action.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 3000—Subpart B-Class B Airspace

* * * * *

ASO TN B Memphis, TN [Revised]

Memphis International Airport (Primary Airport)
(Lat. 35°02′37″ N., long. 89°58′36″ W.)
Point of Origin
(Lat. 35°03′46″ N., long. 89°58′54″ W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL within a 7-mile arc of the Point of Origin extending clockwise from the 075° bearing from the Point of Origin to the 275° bearing from the Point of Origin and within a 5-mile arc of the Point of Origin extending clockwise from the 275° bearing from the Point of Origin to the 075° bearing from the Point of Origin.

Area B. That airspace extending upward from 1,800 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the 037° bearing 13-mile position from the Point of Origin; thence southward to the 052° bearing 10-mile position from the Point of Origin; then clockwise on the 10-mile arc until intercepting the 126° bearing from the Point of Origin; then extending southward until intercepting the 147° bearing 15-mile position from the Point of Origin; thence clockwise on the 15-mile arc until intercepting the 211° bearing from the Point of Origin; thence northward until intercepting the 226° bearing 11-mile position from the Point of Origin; thence clockwise on the 11-mile arc until intercepting the 312° bearing from the Point of Origin; thence northbound until intercepting the 321° bearing 13-mile arc from the Point of Origin; thence clockwise on the 13-mile arc to the point of beginning and excluding that airspace within Area A.

Area C. That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL within a 20-mile radius of the Point of Origin and excluding that airspace within Areas A and B.

Area D. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL within a 30-mile radius of the Point of Origin, excluding that airspace northwest of a line from the 295° bearing 30-mile position from the Point of Origin to the 352° bearing 30-mile position from the Point of Origin, excluding that airspace southeast of a line from the 114° bearing 30-mile position from the Point of Origin to the 157° bearing 30-mile position from the Point of Origin and excluding that airspace within Areas A, B, and C.

* * * * *

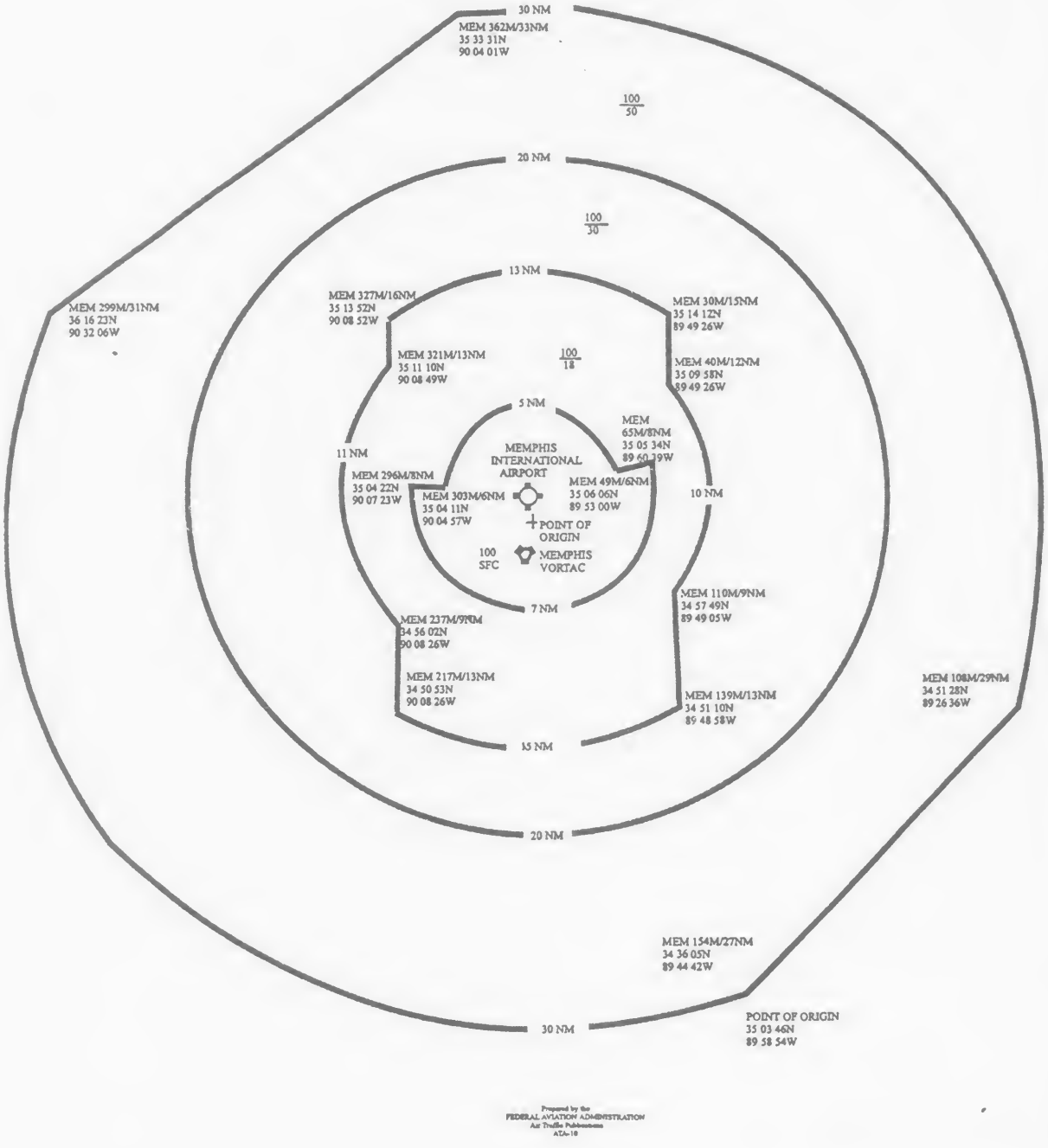
Issued in Washington, DC, on August 13, 1998.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

BILLING CODE 4910–13–P

MEMPHIS, TN
CLASS B AIRSPACE



[FR Doc. 98–22244 Filed 8–13–98; 5:07 pm]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–26]

Amendment to Class E Airspace; Clinton, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Class E airspace area at Clinton Municipal Airport, Clinton, IA. A review of the Class E airspace area for Clinton Municipal Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The Class E airspace has been enlarged to conform to the criteria of FAA Order 7400.2D.

In addition the Class E airspace surface area is revised to indicate a minor revision to the Airport Reference Point (ARP) coordinates and is included in this document. The intended effect of this rule is to provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR), comply with the criteria of FAA Order 7400.2D, and revise the ARP coordinates.

DATES: *Effective date:* 0901 UTC, December 3, 1998.

Comments for inclusion in the Rules Docket must be received on or before September 19, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 98–ACE–26, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division, at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class E airspace at Clinton, IA. A review of the Class E airspace for Clinton Municipal Airport indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the ARP to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile.

In addition the Class E airspace surface area is amended to indicate the revised ARP coordinates. The amendment at Clinton Municipal Airport, IA will provide additional airspace for aircraft operating under IFR, comply with the criteria of FAA Order 7400.2D, and revise the ARP coordinates. The areas will be depicted on appropriate aeronautical charts.

Class E airspace areas designated as a surface area for an airport are published in paragraph 6002 and Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, 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 or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related 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 action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ACE–26". The postcard will be date stamped and returned to the commenter.

Agency Findings

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 noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant

regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedure (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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

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

* * * * *

ACE E2 IA Clinton, IA [Revised]

Clinton Municipal Airport, IA
(lat. 41°49'52" N., long. 90°19'45" W.)
Davenport VORTAC
(lat. 41°42'30" N., long. 90°29'01" W.)
Clinton NDB
(lat. 41°49'43" N., long. 90°19'40" W.)

Within a 4.1-mile radius of Clinton Municipal Airport and within 2.6 miles each side of the 044° radial of the Davenport VORTAC extending from the 4.1-mile radius to the VORTAC and within 2.6 miles each side of the NDB 316° bearing of the Clinton NDB extending from the 4.1-mile radius to 7.4 miles northwest of the airport and within 2.2 miles each side of the 030° bearing of the Clinton NDB extending from the 4.1-mile radius to 5.3 miles northeast of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

ACE IA E5 Clinton, IA [Revised]

Clinton Municipal Airport, IA
(lat. 41°49'52" N., long. 90°19'45" W.)
Davenport VORTAC
(lat. 41°42'30" N., long. 90°29'01" W.)
Clinton NDB
(lat. 41°49'43" N., long. 90°19'40" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Clinton Municipal Airport and within 1.8 miles each side of the 044° radial of the Davenport VORTAC extending from the 6.6-mile radius to the VORTAC and within 4.5 miles each side of the 316° bearing from the Clinton NDB, extending to 10.5 miles northwest of the NDB and within 1 mile each side of the 146° bearing from the airport extending from the 6.6-mile radius to 9.5 miles southeast of the airport.

* * * * *

Issued in Kansas City, MO, on July 24, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–22171 Filed 8–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASO–10]

Establishment of Class E Airspace; Hartford, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice establishes Class E airspace at Hartford, KY. Global Positioning System (GPS) Runways (RWY's) 3–21 and a VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME)–A Standard Instrument Approach Procedures (SIAP's) have been developed for Ohio County Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP's and for Instrument Flight Rules (IFR) operations at Ohio County Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP's.

EFFECTIVE DATE: 0901 UTC, October 8, 1998.

FOR FURTHER INFORMATION CONTACT:

Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

On June 26, 1998, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace at Hartford, KY (63 FR 34839). This action provides adequate Class E airspace for IFR operations at Ohio County Airport. Designations for Class E airspace extending upward from 700 feet or more above the surface of the earth are published in FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR part 71.1. The Class E designation listed in this document will be published subsequently in the Order.

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

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Hartford, KY, GPS RWY's 3–21 and a VOR/DME–A SIAP's have been developed for Ohio County Airport. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP's and for IFR operations at Ohio County Airport. The operating status of the airport will change from VFR to include IFR operations concurrent with the publication of the SIAP.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

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

* * * * *

ASO KY E5 Hartford, KY [New]

Ohio County Airport
(Lat. 37°27′30″ N, long. 86°50′59″ W)

That airspace extending upward from 700 feet or more above the surface within a 6.4-mile radius of Ohio County Airport.

* * * * *

Issued in College Park, Georgia, on August 4, 1998.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 98–22313 Filed 8–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASO–7]

Amendment of Class E Airspace; Savannah, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies Class E airspace at Savannah, TN. A Non-directional Beacon (NDB) Runway (RWY) 19 Standard Instrument Approach Procedure (SIAP) has been developed for Savannah-Hardin County Airport. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP at Savannah-Hardin County Aiport. The Class E airspace has been increased from a 6.4 to a 6.5-mile radius and the width of the airspace each side of the 009° bearing from the Pinhook NDB extending from the 6.5-mile radius to 7 miles north of the NDB is increased from 2.4 to 3.2 miles.

EFFECTIVE DATE: 0901 UTC, October 8, 1998.

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

SUPPLEMENTARY INFORMATION:

History

On June 26, 1998, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class E airspace at Savannah, TN, (63 FR 34838). This action provides adequate Class E airspace for IFR operations at Savannah-Hardin County Airport. Designations for Class E airspace extending upward from 700 feet or more above the surface of the earth are published in FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Savannah, TN. A NDB RWY 19 SIAP has been developed for Savannah-Hardin County Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at Savannah-Hardin County Airport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

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

* * * * *

ASO TN E5 Savannah, TN [Revised]

Savannah-Hardin County Airport
(Lat. 35°10′13″ N, long. 88°12′57″ W)

That airspace extending upward from 700 feet or more above the surface of the earth within a 6.5-mile radius of Savannah-Hardin County Airport and within 3.2 miles each side of the 009 degree bearing from the Pinhook NDB, extending from the 6.5-mile radius to 7 miles north of the NDB.

* * * * *

Issued in College Park, Georgia, on August 4, 1998.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 98–22312 Filed 8–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 522

Implantation or Injectable Dosage Form New Animal Drugs; Beta-Aminopropionitrile Fumarate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alaco, Inc. The NADA provides for veterinary prescription use of beta-aminopropionitrile fumarate by injection for intratendinous treatment of superficial digital flexor tendinitis of horses.

EFFECTIVE DATE: August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0618.

SUPPLEMENTARY INFORMATION: Alaco, Inc., 1500 North Wilmot Rd., suite 290–C, Tucson, AZ 85712, is the sponsor of NADA 141–107 that provides for the use of Bapten® (beta-aminopropionitrile fumarate), a sterile lyophilized powder, after reconstitution with sterile physiologic saline, for the treatment of tendinitis of the superficial digital flexor tendon (SDFT) in the adult horse where there is sonographic evidence of fiber tearing. The drug is limited to use by or on the order of a licensed veterinarian. The NADA is approved as of June 10, 1998, and the regulations are amended by adding § 522.84 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, Alaco, Inc., has not been previously listed in the animal drug regulations as sponsor of an approved application. At this time, 21 CFR 510.600(c) is amended to add entries for the firm.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. to 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act, this approval for nonfood-producing animals qualifies for 5 years of marketing exclusivity beginning June 10, 1998, because no active ingredient of the drug (including any salt or ester of the active ingredient) has been approved in any other application.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding an entry for "Alaco, Inc." and in the table in paragraph (c)(2) by numerically adding an entry for "064146" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * *	* * *
Alaco, Inc., 1500 North Wilmot Rd., suite 290–C, Tucson, AZ 85712.	064146
* * * *	* * *

(2) * * *

Drug labeler code	Firm name and address
* * *	* * * *
064146	Alaco, Inc., 1500 North Wilmot Rd., suite 290–C, Tucson, AZ 85712.
* * *	* * * *

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 522.84 is added to read as follows:

§ 522.84 Beta-aminopropionitrile fumarate.

(a) *Specifications.* Each vial contains 7.0 milligrams of beta-aminopropionitrile fumarate sterile lyophilized powder which is reconstituted for injection with 10 milliliters of sterile physiologic saline, USP.

(b) *Sponsor.* See No. 064146 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use*—(1) *Horses*—(i) *Amount.* 7 milligrams (10 milliliters) intralesionally every other day for 5 treatments beginning about 30 days after initial injury.

(ii) *Indications for use.* For treatment of tendinitis of the superficial digital flexor tendon (SDFT) in the adult horse where there is sonographic evidence of fiber tearing.

(iii) *Limitations.* Single dose container for intralesional injection. Do not use in horses with dermal irritation or open skin lesions in the injection area. Do not administer intraarticularly, into the tendon sheath, or in the presence of concurrent limb fractures. Do not use in breeding animals since the effects on fertility, pregnancy, or fetal health have not been determined. Not for use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) [Reserved]

Dated: July 29, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–22228 Filed 8–18–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 522

Implantation or Injectable Dosage Form New Animal Drugs; Deslorelin Acetate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Peptech Animal Health Pty, Ltd. The NADA provides for veterinary prescription use of deslorelin acetate implants in horses and ponies for inducing ovulation in estrous mares with an ovarian follicle greater than 30 millimeters (mm) in diameter.

EFFECTIVE DATE: August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1612.

SUPPLEMENTARY INFORMATION: Peptech Animal Health Pty, Ltd., 35–41 Waterloo Rd., North Ryde, New South Wales 2113, Australia, filed NADA 141–044 that provides for veterinary prescription use of 2.1 milligrams deslorelin acetate (Ovuplant™) implant to induce ovulation within 48 hours in estrous mares with an ovarian follicle greater than 30 mm in diameter. Follicular size should be determined by rectal palpation and/or ultrasonography prior to treatment. NADA 144–044 is approved as of June 18, 1998, and the regulations are amended by adding § 522.533 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Peptech Animal Health Pty, Ltd., has not been previously listed in the animal drug regulations as the sponsor of an approved application. At this time, 21 CFR 510.600(c)(1) and (c)(2) are amended by adding a new listing to reflect the sponsor.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning June 18, 1998, because no active ingredient (including any salt or ester of the active ingredient) has been approved in any other application.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding an entry for "Peptech Animal Health Pty, Ltd." and in the table in paragraph (c)(2) by numerically adding an entry for "064288" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
Peptech Animal Health Pty, Ltd., 35–41 Waterloo Rd., North Ryde, New South Wales 2113, Australia	064288

(2) * * *

Drug labeler code	Firm name and address
064288	Peptech Animal Health Pty, Ltd., 35–41 Waterloo Rd., North Ryde, New South Wales 2113, Australia

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

4. Section 522.533 is added to read as follows:

§ 522.533 Deslorelin acetate.

(a) *Specifications.* Each implant contains 2.1 milligrams deslorelin acetate.

(b) *Sponsor.* See 064288 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use*—(1) *Horses and ponies*—(i) *Amount.* One implant per mare.

(ii) *Indications for use.* For inducing ovulation within 48 hours in estrous mares with an ovarian follicle greater than 30 millimeters in diameter. Follicular size should be determined by rectal palpation and/or ultrasonography prior to treatment.

(iii) *Limitations.* Administer subcutaneously in the neck. Not for use in horses or ponies intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) [Reserved]

Dated: August 3, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–22224 Filed 8–18–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Oxytetracycline Hydrochloride Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer Inc. The supplemental NADA provides for added package sizes of oxytetracycline hydrochloride (OTC HCl) soluble powder to be used in the drinking water of poultry for control of specific diseases, in the drinking water of cattle, swine, and sheep for control and treatment of specific diseases, and for control of specific diseases of bees.

EFFECTIVE DATE: August 19, 1998.

FOR FURTHER INFORMATION CONTACT: William G. Marnane, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0678.

SUPPLEMENTARY INFORMATION: Pfizer Inc., 235 East 42d St., New York, NY 10017, filed supplemental NADA 8–622 that provides for use of 2.25 pound jars and 4.5 pound pails of Terramycin–343® (oxytetracycline hydrochloride) soluble powder for making drinking water for poultry for control of specific OTC-susceptible diseases, drinking water for cattle, swine, and sheep for control and treatment of specific OTC-susceptible diseases, and for control of specific OTC–susceptible diseases of bees. The supplemental NADA is approved as of June 19, 1998, and 21 CFR 520.1660d(a)(3) is amended to reflect the approval.

Approval of this supplemental NADA does not require additional safety or effectiveness data. A freedom of information summary as provided under 21 CFR part 20 and 514.11(e)(2)(ii) is not required.

The agency has determined under 21 CFR 25.33(a)(4) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1660d is amended by revising paragraph (a)(3) to read as follows:

§ 520.1660d Oxytetracycline hydrochloride soluble powder.

(a) * * *

(3) Each 1.32 grams of powder contains 1 gram of OTC HCl (packets: 2.39, 4.78, and 9.55 oz.; jars: 2.25 lbs.; and pails: 4.5 lbs.).

* * * * *

Dated: July 29, 1998.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 98–22266 Filed 8–18–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Iron Hydrogenated Dextran Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for intramuscular use of iron hydrogenated dextran injection in baby pigs for prevention or treatment of iron deficiency anemia.

EFFECTIVE DATE: August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, filed ANADA 200–254 that provides for intramuscular use of iron hydrogenated dextran injection in baby pigs for prevention or treatment of iron deficiency anemia.

Approval of Phoenix Scientific, Inc.'s ANADA 200–254 for iron hydrogenated dextran injection is as a generic copy of Boehringer Ingelheim Vetmedica, Inc.'s NADA 106–772 iron dextran complex injection. The ANADA is approved as of July 14, 1998, and the regulations are amended in § 522.1183(e)(1) (21 CFR 522.1183(e)(1)) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, § 522.1183(b) provides for the National Academy of Sciences/National Research Council (NAS/NRC) status of the product. With enactment of the Generic Animal Drug and Patent Term Restoration Act of 1996, that paragraph is outdated. Therefore, paragraph (b) is removed and reserved.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of the application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.1183 [Amended]

2. Section 522.1183 *Iron hydrogenated dextran injection* is amended by removing and reserving paragraph (b), and in paragraph (e)(1) by removing "Nos. 000010, 017287, and 050604," and adding in its place "Nos. 000010, 017287, 050604, and 059130".

Dated: July 29, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–22229 Filed 8–18–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Ivermectin Topical Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for use of ivermectin topical (pour-on) solution on cattle for the treatment and control of worms, grubs, lice, mites, and flies.

EFFECTIVE DATE: August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, filed ANADA 200–219 that provides for the topical use of Phoenectin™ Pour-On (5 milligrams of ivermectin per milliliter) for cattle for the treatment and control of gastrointestinal roundworms (including inhibited *Ostertagia ostertagi*), lungworms, grubs, horn flies, sucking and biting lice, and sarcoptic mange mites.

Phoenix Scientific, Inc.'s ANADA 200–219 ivermectin topical (pour-on) solution for cattle is approved as a generic copy of Merial, Ltd.'s NADA 140–841 Ivomec® (ivermectin) Pour–On for Cattle. The ANADA is approved as of July 6, 1998, and 21 CFR 524.1193(b) and (d)(2) are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner

of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 524.1193 is amended by revising paragraphs (b) and (d)(2) to read as follows:

§ 524.1193 Ivermectin pour-on.

* * * * *

(b) *Sponsors.* (1) See No. 050604 in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(2) See No. 059130 for use as in paragraphs (d)(1), (d)(2)(i), and (d)(3) of this section.

* * * * *

(d) * * *

(2) *Indications for use.* (i) For cattle: It is used for the treatment and control of: Gastrointestinal roundworms (adults and fourth-stage larvae) *Ostertagia ostertagi* (including inhibited stage), *Haemonchus placei, Trichostrongylus axei, T. colubriformis, Cooperia* spp., *Oesophagostomum radiatum;* (adults) *O. venulosum, Strongyloides papillosus, Trichuris* spp.; lungworms (adults and fourth-stage larvae) *Dictyocaulus viviparus;* cattle grubs (parasitic stages) *Hypoderma bovis, H. lineatum;* mites *Chorioptes bovis, Sarcoptes scabei* var. *bovis;* lice *Linognathus vituli, Haematopinus eurysternus, Damalina bovis, Solenoptes capillatus;* horn flies *Haematobia irritans.*

(ii) For cattle: It is also used to control infections of gastrointestinal roundworms *O. ostertagi, O. radiatum, H. placei, T. axei, Cooperia punctata,* and *C. oncophora* for 14 days after treatment.

* * * * *

Dated: August 3, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–22226 Filed 8–18–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use In Animal Feeds; Bacitracin Methylene Disalicylate and Chlortetracycline

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Alpharma Inc. The supplemental NADA provides for using approved single ingredient bacitracin methylene disalicylate (BMD) and chlortetracycline (CTC) Type A medicated articles to make Type B medicated feeds used to make Type C medicated swine feeds.

EFFECTIVE DATE: August 19, 1998.

FOR FURTHER INFORMATION CONTACT: William T. Flynn, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1652.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed supplemental NADA 141–059 that provides for combining approved BMD® (10, 25, 30, 40, 50, 60, or 75 grams per pound (g/lb) BMD) and CTC® (50, 65, or 70 g/lb CTC) Type A medicated articles to make Type B medicated feed. The Type B medicated feed containing 1 to 3 g/lb BMD and 40 g/lb CTC is used to make Type C medicated swine feed containing 10 to 30 g per ton (g/t) BMD and 400 g/t CTC. The Type C medicated swine feeds are used for treatment of bacterial enteritis caused by *Escherichia coli* and *Salmonella choleraesuis*, and bacterial pneumonia caused by *Pasteurella multocida* susceptible to CTC, and for increased rate of weight gain and improved feed efficiency. The supplemental NADA is approved as of June 24, 1998, and the regulations are amended in the table in 21 CFR 558.76(d)(1) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(3) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.76 is amended in the table in paragraph (d)(1) by revising entry (iv) to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

* * * * *

(d) * * *

(1) * * *

Bacitracin methylene disalicylate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
* *	*	*	* *	*
(iv) 10 to 30	.....	Swine: for increased rate of weight gain and improved feed efficiency.	For growing and finishing swine.	000004 and 046573

Bacitracin methylene disalicylate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Chlortetracycline approximately 400, varying with body weight and food consumption to provide 10 milligrams per pound of body weight per day.	Swine; for increased rate of weight gain and improved feed efficiency; for treatment of bacterial enteritis caused by *Escherichia coli* and *Salmonella choleraesuis* and bacterial pneumonia caused by *Pasteurella multocida* susceptible to chlortetracycline.	Feed for not more than 14 days to provide 10 milligrams of chlortetracycline per pound of body weight per day; as chlortetracycline provided by Nos. 000004 and 046573 in § 510.600(c) of this chapter. Type C feed may be prepared from Type B feed containing 1 to 3 grams per pound BMD with 400 grams per pound CTC, to 046573 in § 510.600(c).	000004 and 046573

* * * * *

Dated: August 1, 1998.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 98–22227 Filed 8–18–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bambermycins

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoechst Roussel Vet. The supplement provides revised limitations for using bambermycins Type A medicated articles to make a bambermycins Type B and Type C medicated feeds for feedlot cattle and for pasture cattle, including dairy and beef replacement heifers.

EFFECTIVE DATE: August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0217.

SUPPLEMENTARY INFORMATION: Hoechst Roussel Vet, 30 Independence Blvd., P.O. Box 4915, Warren, NJ 07059, filed supplemental NADA 141–034 that provides for revised limitations for using 10-grams-per-pound Gainpro® (bambermycins) Type A medicated articles to make Type B and Type C medicated feeds for feedlot cattle and for pasture cattle, including dairy and beef replacement heifers. The Type C medicated feeds are fed to provide 10 to 20 milligrams bambermycins per head per day to feedlot cattle for increased rate of weight gain and improved feed efficiency and to pasture cattle for increased rate of weight gain. The supplement is approved as of June 29, 1998, and the regulations are amended in § 558.95(d)(4) to reflect the approval by deleting the statement "Not for use in animals intended for breeding", and amending the phrase "slaughter, stocker, and feeder" to read "slaughter, stocker, and feeder cattle, and dairy and beef replacement heifers."

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning June 29, 1998, because the supplement contains substantial evidence of the effectiveness of the drug involved, studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the supplement and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to the use of bambermycins Type C medicated feeds for dairy and beef replacement heifers.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.95 [Amended]

2. Section 558.95 *Bambermycins* is amended in paragraphs (d)(4)(i)(*b*), (d)(4)(ii)(*b*), (d)(4)(iii)(*d*), and (d)(4)(iv)(*c*) by removing the statement "Not for use in animals intended for breeding," and in paragraphs (d)(4)(ii)(*b*), (d)(4)(iii), and (d)(4)(iv), by removing the phrase "(slaughter, stocker, and feeder)" and by adding in its place the phrase "(slaughter, stocker, and feeder cattle, and dairy and beef replacement heifers)."

Dated: August 1, 1998.

Margaret Ann Miller,

Acting Director, Office of New Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 98–22225 Filed 8–18–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8778]

RIN 1545–AV67

Termination of Puerto Rico and Possession Tax Credit; New Lines of Business Prohibited

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that provide guidance regarding the addition of a substantial new line of business by a possessions corporation that is an existing credit claimant. These temporary regulations reflect changes made by the Small Business Job Protection Act of 1996. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rule section published elsewhere in this issue of the **Federal Register**.

DATES: These regulations are effective September 18, 1998.

Applicability: These regulations apply to taxable years of a possessions corporation beginning after August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Patricia A. Bray or Elizabeth Beck, (202) 622–3880, or Jacob Feldman, (202) 622–3830 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 1601(a) of the Small Business Job Protection Act of 1996, Public Law 104–188, 110 Stat. 1755 (1996), amended the Internal Revenue Code by adding section 936(j). Section 936(j) generally repeals the Puerto Rico and possession tax credit for taxable years beginning after December 31, 1995. However, the section provides grandfather rules under which a corporation that is an existing credit claimant would be eligible to claim credits for a transition period. The Puerto Rico and possession tax credit will phase out for these existing credit claimants ending with the last taxable year beginning before January 1, 2006.

For taxable years beginning after December 31, 1995 and before January 1, 2006, the Puerto Rico and possession tax credit applies only to a corporation that qualifies as an existing credit claimant (as defined in section 936(j)(9)(A)). The determination of whether a corporation is an existing credit claimant is made separately for each possession. A possessions corporation that adds a substantial new line of business (other than in a qualifying acquisition of all the assets of a trade or business of an existing credit claimant) after October 13, 1995, ceases to be an existing credit claimant as of the beginning of the taxable year during which such new line of business is added. Therefore, a possessions corporation that ceases to be an existing credit claimant either because it has added a substantial new line of business, or because a new line of business becomes substantial, during a taxable year may not claim the Puerto Rico and possessions tax credit for that taxable year or any subsequent taxable year.

Explanation of Provisions

This document provides temporary regulations that interpret section 936(j)(9)(B). In particular, temporary regulation § 1.936–11T adopts principles similar to those in § 1.7704–2(c) and (d) (transition rules for existing publicly traded partnerships) for determining whether a corporation has added a substantial new line of business.

Paragraph (a) of § 1.936–11T states the general rule that, if a possessions corporation that is an existing credit claimant, as defined in section 936(j)(9)(A), adds a substantial new line of business during a taxable year, it will cease to be an existing credit claimant as of the close of the taxable year ending before the date of such addition. The paragraph also generally describes the subjects discussed in the other paragraphs in § 1.936–11T.

Paragraph (b) addresses the meaning of the term *new line of business.* The temporary regulation generally follows the approach of § 1.7704–2(d)(1), providing the general rule derived from § 1.7704–2(d)(2) that explains when a business activity is a *pre-existing business*, and from § 1.7704–2(d)(3) that defines when that activity is *closely related* to a pre-existing business. Paragraph (b)(1) provides that a new line of business is any activity of the possessions corporation that is not closely related to a pre-existing business of the possessions corporation.

Paragraph (b)(2) explains that, except as provided in paragraph (b)(2)(ii), all the facts and circumstances (including factors A through H in paragraph (b)(2)(i)) must be considered to determine whether a new activity is closely related to a pre-existing business of the possessions corporation. Paragraph (b)(2)(i) applies the same eight factors considered in § 1.7704–2(d)(3), except that the temporary regulation provides that in applying factor H, the possessions corporation may use either the new North American Industry Classification System Code (NAICS code) or the Standard Industrial Classification Code (SIC code).

Factor (H) is whether the United States Bureau of the Census assigns the activity the same six-digit NAICS code (or four-digit SIC code) as the pre-existing business. In the case of a pre-existing business or activity that is listed under a NAICS code of 99999, Unclassified establishments, or under a miscellaneous category (most NAICS codes ending in a "9" are miscellaneous categories), the similarity in NAICS codes is ignored as a factor in determining whether the activity is closely related to the pre-existing business. The dissimilarity of the NAICS codes is considered in determining whether the activity is closely related to the pre-existing business. For purposes of this section, NAICS codes must be set forth in the North American Industry Classification System Manual, United States, that is in effect for the taxable year during which a new line of business is added.

Similarly, in the case of a pre-existing business or activity that is listed under a SIC code of 9999, Nonclassifiable Establishments, or under a miscellaneous category (most SIC codes ending in a "9" are miscellaneous categories), the similarity in SIC codes is ignored as a factor in determining whether the activity is closely related to the pre-existing business. The dissimilarity of the SIC codes is considered as a factor in determining whether the activity is closely related to the pre-existing business. The SIC codes are set forth in the Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual, that is in effect for the taxable year during which a new line of business is added.

Paragraph (b)(2)(ii) provides safe harbors for determining whether an activity is closely related to a pre-existing business in three cases. First, an activity will be closely related to a pre-existing business if the activity is within the same six-digit NAICS code or four-digit SIC code as the pre-existing

business. Second, an activity will be closely related to a pre-existing business if the activity is within the same five-digit NAICS code or three-digit SIC code as the pre-existing business and the facts related to the new activity satisfy at least three of the factors in paragraphs (b)(2)(i)(A) through (G) of this section. Third, an activity will be closely related to a pre-existing business if the pre-existing business is making a component product or end-product form, as defined in § 1.936–5(a)(1), Q & A1, and the new activity is making an integrated product (or end-product form with fewer excluded components), that is not within the same six-digit NAICS code (or four-digit SIC code) as the pre-existing business solely because the component product and the integrated product (or the two end-product forms) have different end-uses.

Paragraph (b)(3) provides that a business activity of a possessions corporation is considered to be a pre-existing business if the possessions corporation was actively engaged in the activity within the possession on or before October 13, 1995, and the possessions corporation elected the benefits of the Puerto Rico and possession tax credit pursuant to an election which was in effect for the taxable year that included October 13, 1995.

Paragraph (b)(3)(ii) explains how the acquisition of all of the assets or the stock of an existing credit claimant can affect the determination of whether an activity is a pre-existing business. It is intended that an activity that is a pre-existing business of an existing credit claimant and that continues to be carried on in the possession by any affiliated or non-affiliated existing credit claimant should continue to be characterized as a pre-existing activity since all the assets and activity remain in the possession and no new activity is introduced there. A non-affiliated acquiring corporation will not be bound by any section 936(h) election made by the predecessor existing credit claimant with respect to that business activity.

Where all of the assets related to a pre-existing activity of an existing credit claimant are acquired by a corporation that is not an existing credit claimant, but that continues the activity in the possession, the regulation provides that if the acquiring corporation makes an election under section 936(e) for the taxable year of the acquisition, the acquired activity will be treated as a pre-existing activity of the acquiring corporation, and the acquiring corporation will be treated as an existing credit claimant. The acquiring corporation will be deemed to satisfy the rules of section 936(a)(2) for the year of acquisition.

In the case of an acquisition of all the assets of a non-affiliated existing credit claimant, the acquiring corporation will not be bound by its predecessor's elections under sections 936(a)(4) and (h) regarding that business activity.

A mere change in the ownership of a possessions corporation will not affect its status as an existing credit claimant for purposes of determining whether an activity is closely related to a pre-existing business.

Paragraph (b)(4) provides that the test for a new line of business is only applied at the time the new activity is added (as opposed to the test of whether a new line of business is substantial, which is applied annually under paragraph (c) of this section).

Paragraph (c)(1) provides the general rule for determining when a new line of business becomes substantial. The paragraph explains that, for purposes of section 936 and section 30A, a new line of business of a possessions corporation is treated as substantial in the first taxable year in which it satisfies either of the following two tests: (1) The possessions corporation derives more than 15 percent of its gross income for the taxable year from that line of business (the gross income test); or (2) the possessions corporation directly uses in that line of business more than 15 percent of its total assets (the assets test). This position generally reflects the rules of § 1.7704–2(c)(1).

For purposes of the gross income test, paragraph (c)(2) provides that the denominator is the amount that is the gross income of the possessions corporation for the current taxable year, while the numerator is the gross income of the new line of business for the current taxable year. The gross income test must be applied at the end of each taxable year. The income is not to be annualized when a new activity begins late in the taxable year. Testing should occur on a company-by-company basis, if a consolidated group election was made pursuant to section 936(i)(5). In the case of a new line of business acquired through the purchase of all of the assets of an existing credit claimant, the gross income test for the acquiring corporation for the year of the acquisition includes only the income from the date of acquisition through the end of the taxable year that includes the date of acquisition.

Paragraph (c)(3) provides rules for applying the annual assets test. For purposes of the assets test, paragraph (c)(3) provides that the denominator is the adjusted tax bases of the total assets of the possessions corporation for the current taxable year, while the numerator is the adjusted tax bases of the total assets utilized in the new line of business for the current taxable year. Total assets include intangibles, cash and receivables. In order to provide for administrative convenience for both the taxpayer and the IRS and for greater certainty in the result, the test uses the adjusted tax bases of the applicable assets since these amounts are already reflected in the books and records of the possessions corporation.

Paragraph (c)(3)(ii) permits an exception to the assets test. A new line of business of a possessions corporation will not be treated as substantial as a result of the assets test if an event that is not reasonably anticipated causes the adjusted tax bases of the assets used in the new line of business to exceed 15 percent of the adjusted tax basis of the possessions corporation's total assets. An event that is not reasonably anticipated would include the destruction of plant and equipment of the pre-existing business due to a hurricane or other natural disaster or other similar circumstances beyond the control of the possessions corporation. The expiration of a patent is not such an event and thus will not trigger this exception.

Paragraph (d) contains five examples that illustrate the rules of this temporary regulation.

Paragraph (e) provides that a possessions corporation that adds a significant new line of business during a taxable year may not claim the Puerto Rico and possession tax credit on its return for the taxable year in which the substantial new line of business is added or a new line of business becomes substantial.

Paragraph (f) provides that the temporary regulation will apply to taxable years of the possessions corporation beginning after August 19, 1998. However, taxpayers may elect to apply all of the provisions of the regulation for any open taxable years beginning after December 31, 1995. Once an election is made, the regulation will apply for all subsequent taxable years. The temporary regulations will not apply to the activities of pre-existing businesses for taxable years beginning before January 1, 1996.

Special Analyses

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

to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Moreover, the rules contained in this Treasury decision provide taxpayers with immediate guidance necessary to comply with section 936(j)(9)(B), which was effective for taxable years beginning after December 31, 1995. In the absence of temporary regulations, the only guidance regarding what is a *new line of business* is a reference in the legislative history to the principles of § 1.7704–2(d) of the regulations. The only guidance regarding what is *substantial* is a reference to § 1.7704–2(c) in the Joint Committee Explanation (Blue Book) of Public Law 104–188. Although a possessions corporation might be able to construct a tax return position based on this information, the effect of misinterpretation is severe—disqualification as an existing credit claimant, without benefits for either the substantial new line of business or the pre-existing business. Taxpayers must have unambiguous guidance on which they can immediately rely in structuring their possession corporation business activities. For these reasons this temporary regulation is needed to ensure the efficient administration of the tax laws. Pursuant to section 7805(f) of the Internal Revenue Code, this temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its effect on small business.

Drafting Information. The principal author of these regulations is Patricia A. Bray of the Office of the Associate Chief Counsel (International), within the office of Chief Counsel, IRS. However, other personnel from the IRS and the Department of the Treasury participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.936–11T also issued under 26 U.S.C. 936(j). * * *

Par. 2. Section 1.936–11T is added to read as follows:

§ 1.936–11T New lines of business prohibited (temporary).

(a) *In general.* A possessions corporation that is an existing credit claimant, as defined in section 936(j)(9)(A), and that adds a substantial new line of business during a taxable year, or that has a new line of business that becomes substantial during the taxable year, will cease to be an existing credit claimant as of the close of the taxable year ending before either such taxable year. The term *new line of business* is defined in paragraph (b) of this section. The term *substantial* is defined in paragraph (c) of this section. Paragraph (d) of this section provides examples illustrating the rules of paragraphs (a) through (c) of this section. Paragraph (e) of this section instructs a possessions corporation not to claim the Puerto Rico and possession tax credit on its return if it has added a substantial new line of business during the taxable year. Paragraph (f) of this section is the effective date provision.

(b) *New line of business*—(1) *In general.* A new line of business is any business activity of the possessions corporation that is not closely related to a pre-existing business of the possessions corporation. The term *closely related* is defined in paragraph (b)(2) of this section. The term *pre-existing business* is defined in paragraph (b)(3) of this section.

(2) *Closely related.* All the facts and circumstances must be considered, including paragraphs (b)(2)(i)(A) through (H) of this section, to determine whether a new activity is closely related to a pre-existing business of the possessions corporation, and thus is not a new line of business.

(i) *Factors.* The following factors will help to establish that a new activity is closely related to a pre-existing business activity of the possessions corporation—

(A) The activity provides products or services very similar to the products or services provided by the pre-existing business;

(B) The activity markets products and services to the same class of customers as that of the pre-existing business;

(C) The activity is of a type that is normally conducted in the same business location as the pre-existing business;

(D) The activity requires the use of similar operating assets as those used in the pre-existing business;

(E) The activity's economic success depends on the success of the pre-existing business;

(F) The activity is of a type that would normally be treated as a unit with the pre-existing business in the business' accounting records;

(G) If the activity and the pre-existing business are regulated or licensed, they are regulated or licensed by the same or similar governmental authority; and

(H) The United States Bureau of the Census assigns the activity the same six-digit North American Industry Classification System (NAICS) code or four-digit Industry Number Standard Identification code (SIC code) as the pre-existing business. In the case of a pre-existing business or activity that is listed under a NAICS code of 99999, Unclassified Establishments, or under a miscellaneous category (most NAICS codes that end in a "9" are miscellaneous categories), the similarity in NAICS codes is ignored as a factor in determining whether the activity is closely related to the pre-existing business. The dissimilarity of the NAICS code is considered in determining whether the activity is closely related to the pre-existing business. For purposes of this section, NAICS codes must be set forth in the North American Industry Classification System (United States) Manual that is in effect for the taxable year during which a new line of business is added. The official NAICS-United States Manual is available in both printed and electronic versions from the National Technical Information Service (NTIS) at 1–800–553–6847 or at the NTIS NAICS web site at <http://www.ntis.gov/naics>. In the case of a pre-existing business or activity that is listed under a SIC code of 9999, Nonclassifiable Establishments, or under a miscellaneous category (most SIC codes ending in "9" are miscellaneous categories), the similarity in SIC codes is ignored as a factor in determining whether the activity is closely related to the pre-existing business. The dissimilarity of the SIC codes is considered in determining whether the activity is closely related to the pre-existing business. The SIC codes are set forth in the Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual, that is in effect for the taxable year during which a new line of business is added. A printed version of the official SIC Manual is available from the National Technical Information Service (NTIS) at 1–800–553–6847.

(ii) *Safe harbors.* An activity is closely related to a pre-existing business and thus is not a new line of business in the following three cases—

(A) If the activity is within the same six-digit NAICS code (or four-digit SIC code);

(B) If both the pre-existing business activity and the new activity are within the same five-digit NAICS code (or three-digit SIC code) and the facts relating to the new activity satisfy at least three of the factors listed in paragraph (b)(2)(i) (A) through (G) of this section; or

(C) If the pre-existing business is making a component product or end-product form, as defined in § 1.936–5(a)(1), Q & A1, and the new business activity is making an integrated product, or an end-product form with fewer excluded components, that is not within the same six-digit NAICS code (or four-digit SIC code) as the pre-existing business solely because the component product and the integrated product (or two end-product forms) have different end-uses.

(3) *Pre-existing business*—(i) *In general.* Except as provided in paragraph (b)(3) (ii) and (4) of this section, a business activity is a pre-existing business of the existing credit claimant if—

(A) The existing credit claimant was actively engaged in the activity within the possession on or before October 13, 1995; and

(B) The existing credit claimant has elected the benefits of the Puerto Rico and possession tax credit pursuant to an election which is in effect for the taxable year that includes October 13, 1995.

(ii) *Acquisition of all of the assets or stock of an existing credit claimant.* (A) If all the assets of a pre-existing business of an existing credit claimant are acquired by an affiliated or non-affiliated existing credit claimant which carries on the business activity of the predecessor existing credit claimant, the acquired business activity will be treated as a pre-existing business of the acquiring corporation. A non-affiliated acquiring corporation will not be bound by any section 936(h) election made by the predecessor existing credit claimant with respect to that business activity.

(B) Where all of the assets of a pre-existing business of an existing credit claimant are acquired by a corporation that is not an existing credit claimant, if the acquiring corporation makes a section 936(e) election for the taxable year in which the assets are acquired—

(*1*) The acquiring corporation will be treated as an existing credit claimant for the year of acquisition;

(*2*) The activity will be considered a pre-existing business of the acquiring corporation;

(*3*) The acquiring corporation will be deemed to satisfy the rules of section 936(a)(2) for the year of acquisition; and

(*4*) After making an election under section 936(e), a non-affiliated acquiring corporation will not be bound by elections under sections 936(a)(4) and (h) made by the predecessor existing credit claimant.

(C) A mere change in the stock ownership of a possessions corporation will not affect its status as an existing credit claimant for purposes of this section.

(4) *Timing rule.* The tests for a new line of business in this paragraph (whether the new activity is closely related to a pre-existing business) are applied only at the end of the taxable year during which the new activity is added.

(c) *Substantial*—(1) *In general.* For purposes of section 936 and section 30A, a new line of business is considered to be substantial as of the earlier of—

(i) The taxable year in which the possessions corporation derives more that 15 percent of its gross income from that new line of business (gross income test); or

(ii) The taxable year in which the possessions corporation directly uses in that new line of business more that 15 percent of its assets (assets test).

(2) *Gross income test.* The denominator in the gross income test is the amount that is the gross income of the possessions corporation for the current taxable year, while the numerator is the amount that is the gross income of the new line of business for the current taxable year. The gross income test is applied at the end of each taxable year. For purposes of this test, if a new line of business is added late in the taxable year, the income is not to be annualized in that year. In the case of a new line of business acquired through the purchase of assets, the gross income of such new line of business for the taxable year of the acquiring corporation that includes the date of acquisition is determined from the date of acquisition through the end of the taxable year. In the case of a consolidated group election made pursuant to section 936(i)(5), the test applies on a company by company basis and not on a consolidated basis.

(3) *Assets test*—(i) *Computation.* The denominator is the adjusted tax basis of the total assets of the possessions corporation for the current taxable year. The numerator is the adjusted tax basis of the total assets utilized in the new line of business for the current taxable year. The assets test is computed annually using all assets including cash and receivables.

(ii) *Exception.* A new line of business of a possessions corporation will not be treated as substantial as a result of meeting the assets test if an event that is not reasonably anticipated causes assets used in the new line of business of the possessions corporation to exceed 15 percent of the adjusted tax basis of the possession corporation's total assets. For example, an event that is not reasonably anticipated would include the destruction of plant and equipment of the pre-existing business due to a hurricane or other natural disaster, or other similar circumstances beyond the control of the possessions corporation. The expiration of a patent is not such an event and will not trigger this exception.

(d) *Examples.* The following examples illustrate the rules described in paragraphs (a), (b), and (c) of this section. In the following examples, X Corp. is an existing credit claimant unless otherwise indicated:

Example 1. X Corp. is a pharmaceutical corporation which manufactured bulk chemicals (a component product). In March 1997, X Corp. began to also manufacture pills (e.g., finished dosages or an integrated product). The new activity provides products very similar to the products provided by the pre-existing business. The new activity is of a type that is normally conducted in the same business location as the pre-existing business. The activity's economic success depends on the success of the pre-existing business. The manufacture of bulk chemicals is in NAICS code 325411, Medicinal and Botanical Manufacturing, while the manufacture of the pills is in NAICS code 325412, Pharmaceutical Preparation Manufacturing. Although the products have a different end-use, may be marketed to a different class of customers, and may not use similar operating assets, they are within the same five-digit NAICS code and the activity also satisfies paragraphs (b)(2)(i) (A), (C), and (E) of this section. The manufacture of the pills by X Corp. will be considered closely related to the manufacture of the bulk chemicals. Therefore, X Corp. did not add a new line of business because it falls within the safe harbor rule of paragraph (b)(2)(ii)(B) of this section.

Example 2. X Corp. currently manufactures printed circuit boards in a possession. As a result of a technological breakthrough, X Corp. could produce the printed circuit boards more efficiently if it modified its existing production methods. Because demand was high, X Corp. expanded its facilities to support the production of its current products when it modified its production methods. After these modifications to the facilities and production methods, the products produced through the new technology were in the same six-digit NAICS code as products produced previously by X Corp. See paragraph (b)(2)(ii)(A) of this section. Therefore, X Corp. will not be

considered to have added a new line of business for purposes of paragraph (b) of this section.

Example 3. X Corp. has manufactured Device A in Puerto Rico for a number of years and began to manufacture Device B in Puerto Rico in 1997. Device A and Device B are both used to conduct electrical current to the heart and are both sold to cardiologists. There is no significant change in the type of activity conducted in Puerto Rico after the transfer of the manufacturing of Device B to Puerto Rico. Similar manufacturing equipment, manufacturing processes and skills are used in the manufacture of both devices. Both are regulated and licensed by the Food and Drug Administration. The economic success of Device B is dependent upon the success of Device A only to the extent that the liability and manufacturing prowess with respect to one reflects favorably on the other. Depending upon the heart abnormality, the cardiologist may choose to use Device A, Device B or both on a patient. Both devices are within the same business sector of the taxpayer's business. The manufacture of Device A is in the six-digit NAICS code 339112, Surgical and Medical Instrument Manufacturing. The manufacture of Device B is in the six-digit NAICS code 334510, Electromedical and electro-therapeutic Apparatus Manufacturing. (The manufacture of Device A is in the four-digit SIC code 3845, Electromedical and Electrotheraputic Apparatus. The manufacture of Device B is in the four-digit SIC code 3841, Surgical and Medical Instruments and Apparatus.) The safe harbor of paragraph (b)(2)(ii)(B) of this section applies because the two activities are within the same three-digit SIC code and Corp. X satisfies paragraphs (b)(2)(i) (A), (B), (C), (D), (F), and (G) of this section.

Example 4. X Corp. has been manufacturing house slippers in Puerto Rico since 1990. Y Corp. is a U.S. corporation that is not affiliated with X Corp. and is not an existing credit claimant. Y Corp. has been manufacturing snack food in the United States. In 1997, X Corp. purchased the assets of Y Corp. and began to manufacture snack food in Puerto Rico. House slipper manufacturing is in the six-digit NAICS code 316212 (Four-digit SIC code 3142, House Slippers). The manufacture of snack foods falls under the six-digit NAICS code 311919, Other Snack Food Manufacturing (four-digit SIC code 2052, Cookies and Crackers (pretzels)). Because these activities are not within the same five or six digit NAICS code (or the same three or four-digit SIC code), and because snack food is not an integrated product that contains house slippers, the safe harbor of paragraph (b)(2)(ii) of this section cannot apply. Considering all the facts and circumstances, including the eight factors of paragraph (b)(2)(i) of this section, the snack food manufacturing activity is not closely related to the manufacture of house slippers, and is a new line of business, within the meaning of paragraph (b) of this section.

Example 5. X Corp. is an existing credit claimant that has elected the profit-split method for computing taxable income. P Corp. was not an existing credit claimant and manufactured a product in a different five-digit NAICS code than the product manufactured by X Corp. In 1997, X Corp. acquired the stock of P Corp. and liquidated P Corp. in a tax-free liquidation under section 332, but continued the business activity of P Corp. as a new business segment. Assume that this new business segment is a new line of business within the meaning of paragraph (c) of this section. In 1997, X Corp. has gross income from the active conduct of a trade or business in a possession computed under section 936(a)(2) of $500 million and the adjusted tax basis of its assets is $200 million. The new business segment had gross income of $60 million, or 12 percent of the X Corp. gross income, and the adjusted basis of the new segment's assets was $20 million, or 10 percent of the X Corp. total assets. In 1997, X Corp. does not derive more than 15 percent of its gross income, or directly use more that 15 percent of its total assets, from the new business segment. Thus, the new line of business acquired from P Corp. is not a *substantial* new line of business within the meaning of paragraph (c) of this section, and the new activity will not cause X Corp. to lose its status as an existing credit claimant during 1997. In 1998, however, the gross income of X Corp. grew to $750 million while the gross income of the new line of business grew to $150 million, or 20% of the X Corp. 1998 gross income. Thus, in 1998, the new line of business is substantial within the meaning of paragraph (c) of this section, and X Corp. loses its status as an existing credit claimant as of December 31, 1997.

(e) *Loss of status as existing credit claimant.* An existing credit claimant that adds a substantial new line of business in a taxable year, or that has a new line of business that becomes substantial in a taxable year, loses its status as an existing credit claimant as of the close of the taxable year ending before either such taxable year. In such case, the possession corporation must not claim the Puerto Rico and possession tax credit on its return for the taxable year in which the substantial new line of business is added or a new line of business becomes substantial.

(f) *Effective date*—(1) *General rule.* This section applies to taxable years of a possessions corporation beginning after August 19, 1998.

(2) *Election for retroactive application.* Taxpayers may elect to apply retroactively all the provisions of this section for any open taxable year beginning after December 31, 1995. Such election will be effective for the year of the election and all subsequent taxable years. This section will not apply to activities of pre-existing businesses for taxable years beginning before January 1, 1996.

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Approved:

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 98–21826 Filed 8–18–98; 8:45 am]

BILLING CODE 4831–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 20 and 602

[TD 8779]

RIN 1545–AU27

Estate and Gift Tax Marital Deduction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations amending the estate tax marital deduction regulations. The amendments are made to conform the estate tax regulations to recent court decisions in *Estate of Clayton* v. *Commissioner,* 976 F.2d 1486 (5th Cir. 1992), *rev'g* 97 T.C. 327 (1991); *Estate of Robertson* v. *Commissioner,* 15 F.3d 779 (8th Cir. 1994), *rev'g* 98 T.C. 678 (1992); *Estate of Spencer* v. *Commissioner,* 43 F.3d 226 (6th Cir. 1995), *rev'g* T.C. Memo. 1992–579; and *Estate of Clack* v. *Commissioner,* 106 T.C. 131 (1996). The amendments affect estates of decedents electing the marital deduction for qualified terminable interest property (QTIP) and the estates of the surviving spouses of such decedents.

DATES: These regulations are effective August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Susan B. Hurwitz, (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information in these final regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned control number 1545–1612.

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

The collection of information in this regulation is in § 20.2056(b)–7(d)(3)(ii). This information is required to provide a method for estates of decedents whose estate tax returns were due on or before February 18, 1997, to obtain an extension of time to make the qualified terminable interest property election under section 2056(b)(7)(B)(v). This information will be used to inform the IRS of the affected estates that are electing to obtain the relief granted in the regulation. The collection of information is mandatory for those estates that seek relief. The likely respondents are individuals representing estates.

Comments concerning the collection of information should be directed to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attention: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Any such comments should be submitted not later than October 19, 1998. Comments are specifically requested concerning:

Whether the collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility.

The accuracy of the estimated burden associated with the collection of information (see below);

How to enhance the quality, utility, and clarity of the information collected;

How to minimize the burden of complying with the collection of information, including the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Estimates of the reporting burden in these final regulations will be reflected in the burden of Form 843 (Claim for Refund and Request for Abatement) and Form 706 (Estate Tax Return) or 706NA (Estate Tax Return for Nonresident Noncitizens).

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

Background

On March 1, 1994, the IRS published final estate and gift tax regulations (26 CFR part 20 and part 25) under sections 2044, 2056, 2207A, 2519, 2523, and 6019 of the Internal Revenue Code (Code) in the **Federal Register** (59 FR 9642). At that time, § 20.2056(b)–7(d)(3) provided that an income interest (or life estate) that is contingent upon the executor's election under section 2056(b)(7)(B)(v) (the QTIP election) is not a qualifying income interest for life.

On February 18, 1997, temporary regulations (TD 8714) amending the existing final estate tax regulations relating to the marital deduction for qualified terminable interest property (QTIP) were published in the **Federal Register** (62 FR 7156). A notice of proposed rulemaking (REG–209830–96) cross-referencing the temporary regulations was published in the **Federal Register** (62 FR 7188) for the same day.

The temporary regulations provide that an income interest for life (or life estate) that is contingent upon the executor's QTIP election, will not, because of the contingency, fail to be a qualifying income interest for life.

Written comments responding to the notice of proposed rulemaking were received. A public hearing was held on June 3, 1997. After consideration of all the comments, the proposed regulations under sections 2044 and 2056 are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed.

Explanation of Revisions and Summary of Comments

Under section 2056(b)(7)(B)(ii), the surviving spouse has a qualifying income interest for life in property which passes from the decedent if (1) the surviving spouse is entitled to all of the income from the property, payable at least annually (or has a usufruct interest for life in the property), and (2) no person has a power to appoint any part of the property to any person other than the surviving spouse.

Commentators suggested that the regulation, based on the case law, should specifically provide that as a result of the executor's election over a portion of the property, in cases where the unelected portion of the property passes to a beneficiary other than the surviving spouse, the executor will not be considered to have a power to appoint any part of the property to any person other than the surviving spouse.

The final regulation is clarified to provide that an interest in property is eligible for treatment as qualified terminable interest property if the income interest is contingent upon the executor's election and if that portion of the property for which no election is made will pass to or for the benefit of beneficiaries other than the surviving spouse. Two examples provided in the temporary regulations have been revised in the final regulations to conform to this clarification.

Comments were also received regarding the effective date of the temporary regulations. It was suggested that relief should be made available for estates of decedents that did not make the QTIP election on their estate tax returns because the surviving spouse's income interest in the property was contingent upon the election or because the nonelected portion of the property was to pass to a beneficiary other than the surviving spouse. Accordingly, the final regulations provide that estates of decedents whose estate tax returns were due on or before February 18, 1997, are granted an extension of time to make the QTIP election if: (1) the period of limitations on filing a claim for credit or refund under section 6511(a) has not expired; and (2) the estate submits a statement providing that, pursuant to section 2044, the surviving spouse's gross estate will include the value, at the date of the surviving spouse's death, of the property for which the QTIP election is being made. The statement must be signed, under penalties of perjury, by the surviving spouse, the surviving spouse's legal representative (if the surviving spouse is legally incompetent), or the surviving spouse's executor (if the surviving spouse is deceased).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information. The principal author of these regulations is Susan B. Hurwitz, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS

and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 20 and 602 are amended as follows:

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

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

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

Par. 2. In § 20.2044–1, paragraph (e), *Example 8* is added to read as follows:

§ 20.2044–1 Certain property for which marital deduction was previously allowed.

* * * * *

(e) * * *

Example 8. Inclusion of trust property when surviving spouse dies before first decedent's estate tax return is filed. D dies on July 1, 1997. Under the terms of D's will, a trust is established for the benefit of D's spouse, S. The will provides that S is entitled to receive the income from that portion of the trust that the executor elects to treat as qualified terminable interest property. The remaining portion of the trust passes as of D's date of death to a trust for the benefit of C, D's child. The trust terms otherwise provide S with a qualifying income interest for life under section 2056(b)(7)(B)(ii). S dies on February 10, 1998. On April 1, 1998, D's executor files D's estate tax return on which an election is made to treat a portion of the trust as qualified terminable interest property under section 2056(b)(7). S's estate tax return is filed on November 10, 1998. The value on the date of S's death of the portion of the trust for which D's executor made a QTIP election is includible in S's gross estate under section 2044.

§ 20.2044–1T [Removed]

Par. 3. Section 20.2044–1T is removed.

Par. 4. In § 20.2056(b)–(7), paragraphs (d)(3) and (h) *Example 6* are revised to read as follows:

§ 20.2056(b)–(7) Election with respect to life estate for surviving spouse.

* * * * *

(d) * * *

(3) *Contingent income interests.* (i) An income interest for a term of years, or a life estate subject to termination upon the occurrence of a specified event (e.g., remarriage), is not a qualifying income interest for life. However, a qualifying income interest for life that is contingent upon the executor's election under section 2056(b)(7)(B)(v) will not fail to be a qualifying income interest for life because of such contingency or because the portion of the property for which the election is not made passes to or for the benefit of persons other than the surviving spouse. This paragraph (d)(3)(i) applies with respect to estates of decedents whose estate tax returns are due after February 18, 1997. This paragraph (d)(3)(i) also applies to estates of decedents whose estate tax returns were due on or before February 18, 1997, that meet the requirements of paragraph (d)(3)(ii) of this section.

(ii) Estates of decedents whose estate tax returns were due on or before February 18, 1997, that did not make the election under section 2056(b)(7)(B)(v) because the surviving spouse's income interest in the property was contingent upon the election or because the nonelected portion of the property was to pass to a beneficiary other than the surviving spouse are granted an extension of time to make the QTIP election if the following requirements are satisfied:

(A) The period of limitations on filing a claim for credit or refund under section 6511(a) has not expired.

(B) A claim for credit or refund is filed on Form 843 with a revised Recapitulation and Schedule M, Form 706 (or 706NA) that signifies the QTIP election. Reference to this section should be made on the Form 843.

(C) The following statement is included with the Form 843: "The undersigned certifies that the property with respect to which the QTIP election is being made will be included in the gross estate of the surviving spouse as provided in section 2044 of the Internal Revenue Code, in determining the federal estate tax liability on the spouse's death." The statement must be signed, under penalties of perjury, by the surviving spouse, the surviving spouse's legal representative (if the surviving spouse is legally incompetent), or the surviving spouse's executor (if the surviving spouse is deceased).

* * * * *

(h) * * *

Example 6. Spouse's qualifying income interest for life contingent on executor's election. D's will established a trust providing that S is entitled to receive the income, payable at least annually, from that portion of the trust that the executor elects to treat as qualified terminable interest property. The portion of the trust which the executor does not elect to treat as qualified terminable interest property passes as of D's date of death to a trust for the benefit of C, D's child. Under these facts, the executor is not considered to have a power to appoint any part of the trust property to any person other than S during S's life.

* * * * *

§ 20.2056(b)–7T [Removed]

Par. 5. Section 20.2056(b)–7T is removed.

Par. 6. Section 20.2056(b)–10 is revised to read as follows:

§ 20.2056(b)–10 Effective dates.

Except as specifically provided in §§ 20.2056(b)–5(c)(3) (ii) and (iii), 20.2056(b)–7(d)(3), 20.2056(b)–7(e)(5), and 20.2056(b)–8(b), the provisions of §§ 20.2056(b)–5(c), 20.2056(b)–7, 20.2056(b)–8, and 20.2056(b)–9 are applicable with respect to estates of decedents dying after March 1, 1994. With respect to decedents dying on or before such date, the executor of the decedent's estate may rely on any reasonable interpretation of the statutory provisions.

§ 20.2056(b)–10T [Removed]

Par. 7. Section 20.2056(b)–10T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 8. In § 602.101, paragraph (c), the entry in the table for 20.2056(b)–7 is revised to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
. . . . .	.
20.2056(b)–7	1545–0015 1545–1612
. . . . .	.

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Approved: July 27, 1998.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 98–22089 Filed 8–18–98; 8:45 am]

BILLING CODE 4830–01–U

NATIONAL MEDIATION BOARD

29 CFR Part 1208

Freedom of Information Act, Implementation; Fee Schedule

AGENCY: National Mediation Board.

ACTION: Final rule.

SUMMARY: The National Mediation Board (NMB) is amending its rules implementing the Freedom of Information Act (FOIA), as provided by the Freedom of Information Reform Act of 1986 which requires that the NMB promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of FOIA requests and establishing procedures and guidelines for determining when such fees should be waived or reduced. The revisions substantially conform to the Uniform Freedom of Information Act Fee Schedule and Guidelines published by the Office of Management and Budget in the **Federal Register** of March 27, 1987.

DATES: This rule is effective August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Ronald M. Etters, General Counsel, 1301 K Street, N.W., Suite 250, Washington, DC 20572, Telephone (202) 523–5944.

SUPPLEMENTARY INFORMATION: On February 13, 1998, the National Mediation Board published a proposed rule under the FOIA. See 63 FR 7331, Feb. 13, 1998. Interested parties were afforded an opportunity to participate in the rulemaking through submission of written comments on the proposed rule. The NMB received no written comments. The Freedom of Information Reform Act of 1986 (Pub. L. 99–570) requires agencies to adopt regulations that conform to the Act regarding procedures and fees for obtaining copies of agency records. The Reform Act specifically required the Office of Management and Budget (OMB) to develop and issue a schedule of fees and guidelines pursuant to notice and comment. That Act also required agencies to publish their own regulations for those same purposes based upon the OMB guidelines. The regulations represent NMB's response to that requirement. They are based upon the OMB guidelines.

Executive Order 12291

This rule is not a "major rule" under Executive Order 12291 because it is not "likely to result in: (1) An annual effect on the economy of $100 million or more; (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets." Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b), do not apply because the rule does not impose any significant economic requirements upon small entities. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

These regulations will not result in any implications pursuant to the Paperwork Reduction Act.

List of Subjects in 29 CFR Part 1208

Freedom of information.

In consideration of the foregoing, the NMB amends 29 CFR Part 1208 as follows:

PART 1208—AVAILABILITY OF INFORMATION

1. The authority citation for part 1208 is revised to read as follows:

Authority: 5 U.S.C. 552; 45 U.S.C. 151–163.

2. Section 1208.2 is revised to read as follows:

§ 1208.2 Production or disclosure of material or information.

(a) *Requests for identifiable records and copies.* (1) All requests for National Mediation Board records shall be filed in writing by mailing, faxing, or delivering the request to the Chief of Staff, National Mediation Board, Washington, DC 20572.

(2) The request shall reasonably describe the records being sought in a manner which permits identification and location of the records.

(i) If the description is insufficient to locate the records, the National Mediation Board will so notify the person making the request and indicate the additional information needed to identify the records requested.

(ii) Every reasonable effort shall be made by the Board to assist in the identification and location of the records sought.

(3) Upon receipt of a request for the records the Chief of Staff shall maintain records in reference thereto which shall include the date and time received, the name and address of the requester, the nature of the records requested, the action taken, the date the determination letter is sent to the requester, appeals and action thereon, the date any records are subsequently furnished the number of staff hours and grade levels of persons who spent time responding to the request, and the payment requested and received.

(4) All time limitations established pursuant to this section with respect to processing initial requests and appeals shall commence at the time a written request for records is received at the Board's offices in Washington, D. C.

(i) An oral request for records shall not begin any time requirement.

(ii) [Reserved]

(b) *Processing the initial request*—(1) *Time limitations.* Within 20 working days (excepting Saturdays, Sundays, and working holidays) after a request for records is received, the Chief of Staff shall determine and inform the requester by letter whether or the extent to which the request will be complied with, unless an extension is taken under paragraph (b)(3) of this section.

(2) Such reply letter shall include:

(i) A reference to the specific exemption or exemptions under the Freedom of Information Act (5 U.S.C. 552) authorizing the withholding of the record, a brief explanation of how the exemption applies to the record withheld.

(ii) The name or names and positions of the person or persons, other than the Chief of Staff, responsible for the denial.

(iii) A statement that the denial may be appealed within thirty days by writing to the Chairman, National Mediation Board, Washington, D. C. 20572, and that judicial review will thereafter be available in the district in which the requester resides, or has his principal place of business, or the district in which the agency records are situated, or the District of Columbia.

(3) *Extension of time.* In unusual circumstances as specified in this paragraph, the Chief of Staff may extend the time for initial determination on requests up to a total of ten days (excluding Saturdays, Sundays, and legal public holidays). Extensions shall be granted in increments of five days or less and shall be made by written notice to the requester which sets forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph "unusual circumstances" means, but only to the extent necessary to the proper processing of the request:

(i) The need to search for and collect the requested records from field facilities or other establishments that are

separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency or another division having substantial interest in the determination of the request, or the need for consultation among two or more components of the agency having substantial subject matter interest therein.

(4) *Treatment of delay as a denial.* If no determination has been dispatched at the end of the ten-day period, or the last extension thereof, the requester may deem his request denied, and exercise a right of appeal, in accordance with paragraph (c) of this section. When no determination can be dispatched within the applicable time limit, the responsible official shall nevertheless continue to process the request; on expiration of the time limit he shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to treat the delay as a denial and to appeal to the Chairman of the Board in accordance with paragraph (c) of this section and he may ask the requester to forego appeal until a determination is made.

(c) *Appeals to the Chairman of the Board.* (1) When a request for records has been denied in whole or in part by the Chief of Staff or other person authorized to deny requests, the requester may, within thirty days of its receipt, appeal the denial to the Chairman of the Board. Appeals to the Chairman shall be in writing, addressed to the Chairman, National Mediation Board, Washington, DC 20572.

(2) The Chairman of the Board will act upon the appeal within twenty working days (excluding Saturdays, Sundays and legal public holidays) of its receipt unless an extension is made under paragraph (c)(3) of this section.

(3) In unusual circumstances as specified in this paragraph (c)(3), the time for action on an appeal may be extended up to ten days (excluding Saturdays, Sundays and legal public holidays) minus any extension granted at the initial request level pursuant to paragraph (b)(3) of this section. Such extension shall be made written notice to the requester which sets forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph (c)(3) "unusual circumstances" means, but only to the extent necessary to the proper processing of the appeal:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency or another division having substantial interest in the determination of the request or the need for consultation among components of the agency having substantial subject matter interest therein.

(4) *Treatment of delay as a denial.* If no determination on the appeal has been dispatched at the end of the twenty-day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States, as specified in 5 U.S.C. 552(a)(4). When no determination can be dispatched within the applicable time limit, the appeal will nevertheless continue to be processed; on expiration of the time limit the requester shall be informed of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to seek judicial review in the United States district court in the district in which he resides or has his principal place of business, the district in which the Board records are situated or the District of Columbia. The requester may be asked to forego judicial review until determination of the appeal.

(d) *Indexes of certain records.* The National Mediation Board at its office in Washington, DC will maintain, make available for public inspection and copying, and publish quarterly (unless the Board determines by order published in the **Federal Register** that such publication would be unnecessary or impracticable) a current index of the materials available at the Board offices which are required to be indexed by 5 U.S.C. 552(a)(2).

(1) A copy of such index shall be available at cost from the National Mediation Board, Washington, DC 20572.

(2) [Reserved].

3. Section 1208.6 is revised to read as follows:

§ 1208.6 Schedule of fees and methods of payment for services rendered.

(a) *Definitions.* For the purposes of this section the following definitions apply:

(1) *Direct costs* means those expenditures which the National Mediation Board actually incurs in searching for, duplicating, and, in the case of commercial requesters, reviewing documents to respond to a FOIA request. For example, direct costs include the salary of the employee performing the work (the basic rate of pay for the employee plus sixteen percent of the rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space and heating or lighting the facility in which the records are stored.

(2) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page and line-by-line identification of material within documents. Searches may be done manually or by computer using existing programming.

(3) *Duplication* refers to the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microfilm, audiovisual materials, or machine readable documentation (e.g., magnetic tape or disk), among others.

(4) *Review* refers to the process of examining documents located in response to a commercial use request (see paragraph (a)(5) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(5) *Commercial use request* refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the NMB will look first to the use which a requester will put the document requested. Where the NMB has reasonable cause to doubt the use is not clear from the request itself, the National Mediation Board may seek additional clarification before assigning the request to a specific category.

(6) *Educational institution* refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education,

an institution of undergraduate higher education, an institution of professional education and an institution of vocational education, which operates a program or programs of scholarly research.

(7) *Non-commercial scientific institution* refers to an institution that is not operated on a commercial basis as that term is defined in paragraph (a)(5) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(8) *Representative of the news media* refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. These examples are not intended to be all inclusive. In the case of "freelance" journalists, they may be regarded as working for a news organization if they demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but the NMB may also look to the past publication record of a requester in making this determination.

(b) *Exceptions of fee charges.* (1) With the exception of requesters seeking documents for a commercial use, the NMB will provide the first 100 pages of duplication and the first two hours of search time without charge. The word "pages" in this paragraph (b) refers to paper copies of standard size, usually 8.5″ X 11″, or their equivalent in microfiche or computer disks. The term "search time" in this paragraph (b) is based on a manual search for records. In applying this term to searches made by computer, when the cost of the search as set forth in paragraph (d)(2) of this section equals the equivalent dollar amount of two hours of the salary of the person performing the search, the NMB will begin assessing charges for computer search.

(2) The NMB will not charge fees to any requester, including commercial use requesters, if the cost of collecting the fee would be equal to or greater than the fee itself.

(3) (i) The NMB will provide documents without charge or at reduced charges if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(ii) In determining whether disclosure is in the public interest under paragraph (b)(3)(i) of this section, the NMB will consider the following factors:

(A) *The subject of the request.* Whether the subject of the requested records concerns "the operations or activities of the government";

(B) *The informative value of the information to be disclosed.* Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(C) *The contribution to an understanding of the subject by the general public likely to result from disclosure.* Whether disclosure of the requested information will contribute to "public understanding";

(D) *The significance of the contributions to the public understanding.* Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities;

(E) *The existence and magnitude of a commercial interest.* Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(F) *The primary interest in disclosure.* Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

(iii) A request for a fee waiver based on the public interest under paragraph (b)(3)(i) of this section must address the factors of paragraph (b)(3)(ii) of this section as they apply to the request for records in order to be considered by the Chief of Staff.

(c) *Level of fees to be charged.* The level of fees to be charged by the NMB in accordance with the schedule set forth in paragraph (d) of this section, depends on the category of the requester. The fee levels to be charged are as follows:

(1) A request for documents appearing to be for commercial use will be charged to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought.

(2) A request for documents from an educational or non-commercial scientific institution will be charged for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request is being made under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

(3) The NMB shall provide documents to requesters who are representatives of the news media for the cost of reproduction alone, excluding charges for the first 100 pages.

(4) The NMB shall charge requesters who do not fit into any of the categories above such fees which recover the full direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge. All requesters must reasonably describe the records sought.

(d) The following fees shall be charged in accordance with paragraph (c) of this section:

(1) *Manual searches for records.* The salary rate (i.e., basic pay plus sixteen percent) of the employee(s) making the search. Search time under this paragraph and paragraph (d)(2) of this section may be charged for even if the NMB fails to locate responsive records or if records located are determined to be exempt from disclosure.

(2) *Computer searches for records.* The actual direct cost of providing the service, including computer search time directly attributable to searching for records responsive to a FOIA request, runs, and operator salary apportionable to the search.

(3) *Review of records.* The salary rate (i.e., basic pay plus sixteen percent) of the employee(s) conducting the review. This charge applies only to requesters who are seeking documents for commercial use and only to the review necessary at the initial administrative level to determine the applicability of any relevant FOIA exemptions, and not at the administrative appeal level or an exemption already applied.

(4) *Certification or authentication of records.* $2.00 per certification or authentication.

(5) *Duplication of records.* Fifteen cents per page for paper copy reproduction of documents, which the NMB determined is the reasonable direct cost of making such copies taking into account the average salary of the operator and the cost of the reproduction machinery. For copies of records prepared by computer, such as tapes or printouts, the NMB shall charge the actual cost, including operator time, of production of the tape or printout.

(6) *Forwarding material to destination.* Postage, insurance and special fees will be charged on an actual cost basis.

(7) *Other costs.* All other direct costs of preparing a response to a request

shall be charged to requester in the same amount as incurred by NMB.

(e) *Aggregating requests.* When the NMB reasonably believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the NMB will aggregate any such requests and charge accordingly.

(f) *Charging interest.* Interest at the rate prescribed in 31 U.S.C. 3717 may be charged those requesters who fail to pay fees charged, beginning on the thirtieth day following the billing date. Receipt of a fee by the NMB, whether processed or not, will stay the accrual of interest. If a debt is not paid, the agency may use the provisions of the Debt Collection Act of 1982, (Pub. L. 97–365, 96 Stat. 1749) including disclosure to consumer reporting agencies, for the purpose of obtaining payment.

(g) *Advance payments.* The NMB will not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(1) The NMB estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250. Then the NMB will notify the requester of the likely cost and obtain satisfactory assurances of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee charge in a timely fashion (i.e, within thirty days of the date of the billing), in which case the NMB requires the requester to pay the full amount owed plus any applicable interest as provided above or demonstrate that he has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requester. When the NMB acts under paragraph (g)(1) or (2) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., twenty working days from receipt of initial requests and twenty working days from receipt of appeals from initial denial, plus permissible extension of these time limits) will begin only after the NMB has received fee payments described in this paragraph (g).

(h) *Payment.* Payment of fees shall be made by check or money order payable to the United States Treasury.

Dated: August 11, 1998.

Stephen E. Crable,

Chief of Staff.

[FR Doc. 98–21978 Filed 8–18–98; 8:45 am]

BILLING CODE 7550–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 009–0090a FRL–6142–3]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision; Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the Ventura County Air Pollution Control District (VCAPCD). This action will remove these rules from the Federally approved SIP. The intended effect of this action is to remove rules from the SIP that are no longer in effect in VCAPCD, in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the removal of these rules from the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This rule is effective on October 19, 1998, without further notice, unless EPA receives adverse comments by September 18, 1998. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of these rules, along with EPA's evaluation report for each rule, are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted requests for rescission are also available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814

Ventura County Air Pollution Control District, 669 County Square Drive, Bakersfield, CA 93003

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION:

I. Applicability

The VCAPCD rules being removed from the California SIP include: Rule 61, Effluent Oil Water Separators, adopted July 5, 1983; Rule 65, Gasoline Specifications, adopted May 23, 1972; and Rule 66, Organic Solvents, adopted on June 24, 1975. These rules were repealed by VCAPCD on October 4, 1988, October 22, 1985, and July 9, 1996, respectively, and submitted by the California Air Resources Board (CARB) to EPA on March 26, 1990, June 4, 1986, and October 18, 1996, respectively, for removal from the SIP.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the Ventura County Area. 43 FR 8964, 40 CFR 81.305. The rules being addressed in this action were originally adopted by the VCAPCD as part of VCAPCD's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone. These rules were originally adopted to control volatile organic compound (VOC) emissions from oil water separators, motor vehicle fuels, and organic solvents. Since the adoption of these rules, the VCAPCD has adopted other rules that regulate the same sources covered by Rule 61 and Rule 66. The requirements in Rule 65 are covered by statewide regulations. VCAPCD subsequently repealed these three rules because they had been replaced by the provisions contained in other rules. These other rules have all been approved into the Federally enforceable SIP. As a result, VCAPCD submitted requests to EPA, through CARB, for the removal of Rule 61, Rule 65, and Rule 66 from the California SIP.

III. EPA Action

The VCAPCD rules that are being rescinded by today's action are listed below. EPA previously approved all these rules into the California SIP:

—Rule 61, Effluent Oil Water Separators, adopted July 5, 1983, submitted October 16, 1985, approved April 17, 1987 (52 FR 12522).
—Rule 65, Gasoline Specifications, adopted May 23, 1972, submitted November 3, 1975, approved August 15, 1977 (42 FR 41121).
—Rule 66, Organic Solvents, adopted on June 24, 1975, submitted November 3, 1975, approved August 15, 1977 (42 FR 41121).

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve this SIP revision should adverse comments be filed. This rule will be effective October 19, 1998, without further notice unless the Agency receives adverse comments by September 18, 1998.

If EPA receives such comments, then EPA will publish a document withdrawing this final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 19, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from review under Executive Order (E.O.) 12866.

This final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

B. Regulatory Flexibility Act

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.

The SIP revisions in this rule do not create any new requirements, but simply remove previously-approved SIP requirements that are no longer in effect in the VCAPCD. Therefore, because this SIP revision does not impose any new requirements, the Administrator certifies 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.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a mandate that may result in estimated costs of $100 million or more to state, local, or tribal governments in the aggregate, or to the private sector. This Federal action removes from the SIP outdated requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to private sector, result from this action.

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 19, 1998. 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, Volatile organic compounds.

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

Dated: August 3, 1998.

David P. Howekamp,

Acting Regional Administrator, Region IX.

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 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(29)(vi)(B) and (c)(164)(i)(C)(*3*) to read as follows:

§ 52.220 Identification of Plan.

* * * * *

(c) * * *

(29) * * *

(vi) * * *

(B) Previously approved on August 15, 1977 and now deleted without replacement Rules 65 and 66.

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(164) * * *

(i) * * *
(C) * * *
(3) Previously approved on April 17, 1987 and now deleted without replacement Rule 61.
* * * * *

[FR Doc. 98–22319 Filed 8–18–98; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH117–1; FRL–6147–9]

Approval and Promulgation of Maintenance Plan Revisions; Ohio

AGENCY: Environmental Protection Agency.
ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is finalizing a June 18, 1998, proposal to approve an Ohio State Implementation Plan (SIP) revision to remove the air quality triggers from the Dayton-Springfield (Montgomery, Clark, Greene, and Miami Counties), Ohio maintenance area contingency plan.

EFFECTIVE DATE: This action will be effective on August 19, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact William Jones at (312) 886–6058 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: William Jones, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6058.

SUPPLEMENTARY INFORMATION:

I. Background

Since the initial Clean Air Act (CAA) attainment status designations were made, the Dayton-Springfield area has attained the one hour ozone standard and has been redesignated to attainment status for ozone. As a requirement of being redesignated to attainment status, the area developed a maintenance plan. The purpose of the maintenance plan is to assure maintenance of the one hour ozone National Ambient Air Quality Standards (NAAQS) for at least ten years.

The area's maintenance plan included contingency provisions. The contingency provisions are intended to identify and correct violations of the one hour ozone NAAQS in a timely fashion. Triggers are included in the contingency provisions to identify the need to implement measures and correct air quality problems until such time as a revised maintenance or attainment plan could be developed to address the level of the air quality problem. Triggering events in the contingency plans could be linked to ozone air quality and/or an emission level of ozone precursors.

USEPA approved the Dayton-Springfield ozone maintenance plan in the **Federal Register** on May 5, 1995 (60 FR 22289).

II. One Hour Ozone Standard Revocation

On July 18, 1997, USEPA approved a revision to the NAAQS for ozone which changed the standard from 0.12 parts per million (ppm) averaged over one hour, to 0.08 ppm, averaged over eight hours. The USEPA is revoking the one hour standard in separate rulemakings based on an area's attainment of the one hour ozone standard. The first round of revocations was for areas attaining the one hour standard based on quality assured air monitoring data for the years 1994–1996. The second round of one hour ozone standard revocations was for areas attaining the one hour standard based on quality assured air monitoring data for the years 1995–1997. USEPA intends to publish rulemakings on an annual basis revoking the one hour ozone standard for additional areas that come into attainment of the one hour standard.

On July 22, 1998, USEPA published a final rule (63 FR 39432) in the **Federal Register** revoking the one hour ozone standard in areas attaining the one hour standard based on quality assured air monitoring data for the years 1995–1997. In that action, USEPA revoked the one hour ozone standard in the Dayton-Springfield, Ohio ozone maintenance area, effective July 22, 1998.

On July 16, 1997, President Clinton issued a directive to Administrator Browner on implementation of the new ozone standard, as well as the current one hour ozone standard (62 FR 38421). In that directive the President laid out a plan on how the new ozone and particulate matter standards, as well as the current one hour standard, are to be implemented. A December 29, 1997 memorandum entitled "Guidance for Implementing the 1-Hour and Pre-Existing PM10 NAAQS," signed by Richard D. Wilson, USEPA's Acting Assistant Administrator for Air and Radiation, reflected that directive. The purpose of the guidance set forth in the memorandum is to ensure that the momentum gained by States to attain the one hour ozone NAAQS was not lost when moving toward implementing the eight hour ozone NAAQS.

The guidance document explains that maintenance plans will remain in effect for areas where the one hour standard is revoked; however, those maintenance plans may be revised to withdraw certain contingency measure provisions that have not been triggered or implemented prior to USEPA's determination of attainment and revocation. Where the contingency measure is linked to the one hour ozone standard or air quality ozone concentrations, the measures may be removed from the maintenance plan. Measures linked to non-air quality elements, such as emissions increases or vehicle miles traveled, may be removed if the State demonstrates that removing the measure will not affect an area's ability to attain the eight hour ozone standard.

In other words, after the one hour standard is revoked for an area, USEPA believes it is permissible to withdraw contingency measures designed to correct violations of that standard. Since such measures were designed to address future violations of a standard that no longer exists, it is no longer necessary to retain them. Furthermore, USEPA believes that future attainment and maintenance planning efforts should be directed toward attaining the eight hour ozone NAAQS. As part of the implementation of the eight hour ozone standard, the State's ozone air quality will be evaluated and eight hour attainment and nonattainment designations will be made.

III. Review of the State Submittal

In a letter from Donald R. Schregardus, Director, Ohio Environmental Protection Agency (OEPA) received by USEPA on April 27, 1998, OEPA officially requested that all air quality triggers be deleted from the maintenance plans for the areas in Ohio now attaining the one hour ozone standard and where USEPA proposed to revoke the one hour standard. In a letter from Robert Hodanbosi, Chief of the Division of Air Pollution Control, dated June 11, 1998, OEPA transmitted the results of its public hearing held on June 1, 1998. No public comments were made at the hearing and no written comments were received.

The USEPA believes that Ohio's request is consistent with the December 29, 1997 guidance document and the

July 16, 1997 Presidential Directive, and that the request is approvable. On June 18, 1998, USEPA proposed to approve Ohio's request to remove the air quality triggers from the Dayton-Springfield, Ohio maintenance plan. On July 22, 1998, USEPA revoked the one hour ozone standard in the Dayton-Springfield area.

IV. Public Comments on the Proposed Rulemaking

The public comment period on USEPA's June 18, 1998, proposal to approve Ohio's request ended on July 20, 1998. See 63 FR 33314. No public comments were received on USEPA's proposed approval.

V. USEPA Final Action

USEPA is approving in final the maintenance plan revisions to remove the air quality triggers in the Dayton-Springfield, Ohio ozone maintenance area.

VI. Administrative Procedure Act

This action will be effective immediately upon publication in the **Federal Register** pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d) (1) and (3) (APA) for good cause. A delayed effective date is unnecessary due to the nature of this action, which removes certain SIP measures related to the 1-hour ozone standard, which has been revoked. The thirty day delay of the effective date of this action generally required by the Administrative Procedure Act is unwarranted in that it does not serve the public interest to unnecessarily delay the effective date of this action.

VII. Administrative Requirements

(A) Executive Order 12866

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

(B) Executive Order 13045

This rule is not subject to Executive Order 13045, titled "Protection of Children's Health From Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

(C) Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because it does not create any new requirements. Therefore, because this Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

(D) Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. This Federal action approves the removal of pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

(E) Audit Privilege and Immunity Law

Nothing in this action should be construed as making any determination or expressing any position regarding Ohio's audit privilege and immunity law (Sections 3745.70–3745.73 of the Ohio Revised Code). USEPA will be reviewing the effect of the Ohio audit privilege and immunity law on various Ohio environmental programs, including those under the Clean Air Act, and taking appropriate action(s), if any, after thorough analysis and opportunity for Ohio to state and explain its views and positions on the issues raised by the law. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any Ohio Clean Air Act program resulting from the effect of the audit privilege and immunity law. As a consequence of the review process, the regulations subject to the action taken herein may be disapproved, federal approval for the Clean Air Act program under which they are implemented may be withdrawn, or other appropriate action may be taken, as necessary.

(F) Congressional Review Act

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

(G) Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 19, 1998. 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)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Nitrogen oxides.

Dated: August 11, 1998.

David A. Ullrich,

Acting Regional Administrator, Region V.

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 *et seq.*

Subpart KK—Ohio

2. Section 52.1885 is amended by adding paragraph (a)(10) to read as follows:

§ 52.1885 Control Strategy: Ozone.

(a) * * *

(10) Approval—On April 27, 1998, Ohio submitted a revision to remove the

air quality triggers from the ozone maintenance plan for the Dayton-Springfield, Ohio Area (Miami, Montgomery, Clark, and Greene Counties)

* * * * *

[FR Doc. 98–22337 Filed 8–18–98; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 307

RIN 0970–AB71

Automated Data Processing Funding Limitation for Child Support Enforcement Systems

AGENCY: Office of Child Support Enforcement (OCSE), ACF, HHS.

ACTION: Final rule.

SUMMARY: The Federal share of funding available at an 80 percent matching rate for child support enforcement automated systems changes resulting from the Personal Responsibility and Work Opportunity Reconciliation Act is limited to a total of $400,000,000 for fiscal years 1996 through 2001. This rule responds to the requirement that the Secretary of Health and Human Services issue regulations which specify a formula for allocating this sum among the States, Territories and eligible systems.

EFFECTIVE DATE: This rule is effective August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Robin Rushton, (202) 690–1244.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This rule does not require information collection activities and, therefore, no approvals are necessary under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). In a separate transmittal, however, the Administration for Children and Families submitted for approval the information collection activities under 45 CFR § 307.15 which is referenced in this rule.

Statutory Authority

These regulations are published under the authority of the Social Security Act (the Act), as amended by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA; P.L. 104–193) and Section 5555 of the Balanced Budget Act of 1997 [P.L. 105–33]. Section 344(b) of P.L. 104–193 amends section 455(a) of the Act to provide enhanced Federal matching for approved development and implementation costs of automated child support enforcement systems.

Section 344(b)(2) of PRWORA establishes a temporary limitation on payments under the special Federal matching rate of 80 percent. The Secretary of Health and Human Services may not pay more than $400,000,000 in the aggregate for approved systems development and implementation costs in fiscal years 1996 through 2001. Under this section the Secretary is also required to prescribe in regulation a formula for allocating the available $400,000,000 among the States. According to section 344(b)(2)(C) the formula for allocating the specified funds among the States shall take into account the relative size of State IV–D caseloads and the level of automation required to meet the IV–D automated data processing requirements. Section 5555 of The Balanced Budget Act of 1997 amends the requirements in this section of PRWORA to include certain systems in the allocation formula.

Regulatory Provisions

Background

With the enactment of the Family Support Act of 1988 (P.L. 100–485), States were required to have an operational child support enforcement system, certified by the Office of Child Support Enforcement (OCSE) as meeting the requirements specified in that statute and implementing regulations, no later than October 1, 1995. (P.L. 104–85 subsequently extended this deadline to October 1, 1997.) PRWORA specifies new requirements in section 454A of the Act which must be included in a State child support enforcement system no later than October 1, 2000. The new automation requirements require State systems to perform functions including: controlling and accounting of Federal, State and local funds to carry out the child support enforcement program; maintaining data necessary to meet Federal reporting requirements; maintaining data on State performance for calculation of performance indicators; safeguarding of the integrity and security of data in the automated system; developing a State case registry; performing data matches; and providing expedited administrative procedures. (PRWORA requires the establishment of State New Hire and State Disbursement Units but does not require them to be an integrated part of the Statewide automated child support system.)

For fiscal years 1996 through 2001, the Department of Health and Human Services (HHS) will reimburse 80 percent of approved State expenditures for development and implementation of automated systems which meet the requirements of section 454(16) of the Act as in effect on September 30, 1996 (i.e., Family Support Act requirements which must be completed by October 1, 1997), the amended section 454(16), and new section 454A of the Act. The Federal share of reimbursement to States is limited to an aggregate total of $400,000,000. Once a State reaches its allocated share of the $400,000,000, Federal funding remains available at the 66 percent rate for additional approved expenditures incurred in developing and implementing child support enforcement systems. Child Support Enforcement Action Transmittal 96–10 (OCSE–AT–96–10) provides instructions for submitting claims for Federal reimbursement at the 80 percent rate.

PRWORA requires the Secretary of Health and Human Services to issue regulations which specify a formula for allocating the $400,000,000 available at 80 percent FFP among the States and Territories. The Balanced Budget Act Amendments add specified systems to the entities included in the formula. The allocation formula must take into account the relative size of State and systems IV–D (child support enforcement) caseloads and the level of automation needed to meet title IV–D automated data processing requirements.

Accordingly, we published a proposed rule in the **Federal Register** on March 2, 1998 [63 FR 10173] in which we revised 45 CFR Part 307 to include conforming changes and to add § 307.31. In response to the notice of proposed rulemaking we received nine letters containing ten comments from nine State agencies. Six of these were letters of support which commended the fairness of the allocation formula. We clarified the preamble discussion of the allocation formula to respond to comments raised in the other three letters.

These clarifications are included in the following sections which describe the regulatory provisions. A discussion of all the comments received and our response follows in the preamble under the Response to Comments section.

Conditions that must be met for 80 percent Federal financial participation

P.L. 104–193 provides enhanced funds to complete development of child support enforcement systems which meet the requirements of both the

Family Support Act and PRWORA. From this we conclude that no change in the conditions for receipt of funds was anticipated by Congress. Thus, 45 CFR § 307.31 retains the same conditions for receipt of funds at 80 percent FFP which appear at § 307.30(a), (b), (c), and (d) and apply to claims for FFP at the 90 percent rate.

Throughout this rule we use "State" as the inclusive term for States, Territories and approved systems as described in 42 U.S.C. § 655(a)(3)(B)(iii) [section 455(a)(3)(B)(iii) of the Act] as added to the Act by section 5555 of the Balanced Budget Act of 1997 (Pub. L. 105–33). The technical amendments to section 455(a)(3)(B) of the Act changed the entities included in the allocation formula by adding "system" to States and Territories.

For purposes of this rule, a system eligible for enhanced funding is a system approved by the Secretary to receive funding at the 90 percent rate for the purpose of developing a system that meets the requirements of section 454(16) of the Act (42 U.S.C. § 654(16)) (as in effect on and after September 30, 1995) and section 454A of the Act (42 U.S.C. § 654A), including a system that received funding for this purpose pursuant to a waiver under section 1115(a) of the Act (42 U.S.C. § 1315(a)). We believe that the Los Angeles County child support enforcement system is the only non-State system which meets these requirements.

Therefore, § 307.31(a) provides that until September 30, 2001, Federal financial participation (FFP) is available at the 80 percent rate for expenditures for the planning, design, development, installation, or enhancement of a child support enforcement system meeting the requirements described in §§ 307.5 and 307.10. To receive Federal reimbursement: (1) a State must have an approved advance planning document (APD); (2) the system must meet the requirements of § 307.10; (3) OCSE must determine that the expenditures are consistent with the APD; (4) OCSE must also determine that the computerized support enforcement system is designed effectively and efficiently and will improve the management and administration of the State IV–D plan; (5) the State IV–D agency must agree in writing to use the system for a period of time which is consistent with the APD approved by OCSE; and (6) the State or local government must have ownership rights in any software, software modifications and associated documentation that is designed, developed, installed or enhanced with Federal funds.

In § 307.31(b) the requirements for FFP at the 80 percent rate in the costs of hardware and proprietary software are the same as the requirements at the 90 percent rate. Until September 30, 2001, FFP at the 80 percent rate is available in expenditures for the rental or purchase of hardware for the planning, design, development, installation, or enhancement of a computerized support enforcement system as described in § 307.10. FFP at the 80 percent rate is available until September 30, 2001, for the rental or purchase of proprietary operating/vendor software necessary for the operation of hardware during the planning, design, development, installation, enhancement or operation of a child support enforcement system in accordance with the OCSE guideline entitled "Automated Systems for Child Support Enforcement: A Guide for States." FFP at the 80 percent rate is not available, however, for proprietary application software developed specifically for a computerized support enforcement system.

With § 307.31(c), the Department of Health and Human Services continues to reserve a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for Federal government purposes, software, software modifications, and documentation developed under § 307.10. This license permits the Department to authorize the use of software, software modifications and documentation developed under § 307.10 in another project or activity funded by the Federal government. (See also 45 CFR 95.617.)

Section 307.31(d) reiterates the consequences of suspension of the APD. If OCSE suspends approval of an APD during the planning, design, development, installation, enhancement or operation of the system, FFP is disallowed as of the date the State failed to comply substantially with the approved APD. FFP at the 80 percent and applicable matching rates is not available for any expenditure incurred under the APD after the date of the suspension until the date OCSE determines that the State has taken the actions specified in the notice of suspension. OCSE will notify the State in writing upon making such a determination.

Note that for conformance, we added to § 307.40(a) of the regulation a reference to "§ 307.31(d)."

As required in section 344(a)(3) of PRWORA, the Administration for Children and Families developed Federal regulations for the implementation of the child support enforcement systems requirements mandated by section 454A of the Social Security Act and listed in the background section above. We issued proposed rules on March 25, 1998 [63 FR 14462] which will revise 45 CFR Part 307 to reflect these requirements.

In addition, ACF drafted revisions to the existing OCSE publication, "Automated Systems for Child Support Enforcement: A Guide for States." By action transmittal (OCSE–AT–98–13) OCSE distributed the new and revised child support enforcement system functional requirements to the States. Currently, OCSE is reviewing comments by the States before issuing a final document.

Limitation on Payments to States

Section 344(b)(2) of PRWORA limits the Federal share of payments at the 80 percent rate to $400,000,000 over fiscal years 1996 through 2001. Section 307.31(e) therefore provides that FFP at the 80 percent rate may not exceed $400,000,000 in the aggregate for fiscal years 1996 through 2001.

We include the amount of the funding limitation in the regulation because it caps the funds available to each State at the special matching rate. The statute requires an allocation of the available $400,000,000 based on a formula established by the Secretary, HHS.

State implementation of all automated systems requirements enacted with the Family Support Act of 1988 was to be accomplished by October 1, 1997. Subsequent requirements enacted with or before PRWORA must be met by October 1, 2000. For fiscal years 1996 through 2001, the FFP rate for the provisions of this section is 80 percent. Although system implementation must be completed no later than October 1, 2000, Federal funds at the 80 percent FFP rate remain available through September 30, 2001, to accommodate contractually mandated "holdback" payments and other system implementation-related expenses.

As indicated above, FFP at the 80 percent rate is available only for expenditures made by a State on or before September 30, 2001, for system development and implementation activities which meet all statutory and regulatory requirements. Under section 1132 of the Act and Federal regulations at 45 CFR Part 95, Subpart A, States have two years from the end of a quarter in which an expenditure is made to file a claim for Federal funding for that cost. Therefore, approved system implementation expenditures made in 2001 may be claimed for Federal

funding at the 80 percent FFP rate as late as 2003.

Allocation Formula

Section 344(b)(2)(C) of PRWORA requires the Secretary to allocate by formula the $400,000,000 available at the 80 percent FFP rate. This section specifies that the formula take into account the relative size of State IV–D caseloads and the level of automation needed to meet applicable automatic data processing requirements. The legislative history does not elaborate on the meaning of these factors.

The allocation formula described in this section is the product of consultation with a wide range of stakeholders. We sought information from child support enforcement systems experts, financial experts, economists, State IV–D directors, and national associations. Before drafting regulations we asked States to suggest approaches for allocating the available Federal share of the funds. In a number of open forums we sought suggestions for the allocation formula. An internal working group considered the information from States, reviewed the suggestions, then developed the allocation formula.

Simply stated, the formula first allots a base amount of $2,000,000 to each State to take into account the level of automation needed to meet the automated data processing requirements of title IV–D. The formula, then, allots an additional amount to States based on both their reported IV–D caseload and their potential caseload based on Census data on children living with one parent.

As indicated earlier, we use "State" as the inclusive term for States, Territories and systems described in 42 U.S.C. 655(a)(3)(B)(iii) [455(a)(3)(B)(iii) of the Act] as amended by section 5555 of the Balanced Budget Act of 1997. The technical amendments to section 455(a)(3)(B) of the Act changed the entities included in the allocation formula by adding "system" to States. As noted earlier, we believe that the Los Angeles County child support enforcement system is the only non-State system which meets the requirements specified in section 455(a)(3)(B)(iii) of the Act.

Before considering a base level of funding, we examined several approaches for taking into account States' level of automation. First, we contemplated allocating funds based on the certification status of a State's child support enforcement automated system. However, we were advised of several flaws in this approach: it does not reflect current automation needs; it could reward States that are behind schedule and not certified for Family Support Act standards by giving them a larger allocation to meet PRWORA requirements and complete their statewide automated systems; and, it could advantage States with certified but obsolete systems. We then considered establishing a ranking system based on dollars invested in systems to date. This approach is problematic because it penalizes States that were early developers of child support enforcement systems and it does not address the new requirements. We also considered grading States' systems on a set of criteria, but we came to believe that this was an overly complex approach with numerous and subjective variables.

As an alternative, several States suggested that the formula allocate a base amount to each State to take into account the level of automation. This is the approach we take in the following formula. The majority of comments received in response to the notice of proposed rulemaking commended this method for its fairness to States.

Using a funding base and then varying the allocation by current and potential caseload reflects the flexibility States have, and have had, in designing their systems. Each State develops its system to meet its particular needs. Thus, each State's system development plan takes into account factors such as: caseload size; organization (county administered, state administered, court involvement); State and local business practices for case processing and management; the process for setting and enforcing orders (court or administrative process); responsiveness and capacity of its contractors; State planning process; availability of State funding and resources.

However, a number of areas common to all State systems will need additional investment in order to meet the new PRWORA requirements. Primarily, the increased systems costs are associated with changes in distribution, performance indicators, reporting, interfaces and case management, the State Case Registry and wage withholding activities on non-IV–D cases. All States must perform these functions regardless of the caseload size or State population. With each State required to perform a core set of systems functions, it is reasonable to allocate a base amount to each State.

A base level of funding for each State takes into account the level of automation by recognizing that all States have similar costs for planning, design, programming and development regardless of the size of their caseloads. A minimum amount is provided to each State to ensure support for a State's development effort. In order to treat States fairly in determining this minimum level of funding, we looked to our experience with basic project costs (e.g., planning, design, programming, and development). We believe a base amount of $2,000,000 per State fairly represents the start-up costs which are common to all States. Table 2 in Appendix A shows the distribution of the base amount to each State, Territory and Los Angeles County.

States suggested various percentages of the available funds which should be set aside to distribute as equal base amounts to each State. Obviously, as the portion of the funds designated for the base amount increases, the portion available to distribute based on relative caseload size decreases. Changes in the portion set aside for minimum funding to each State could advantage or disadvantage some States (e.g., allocating a larger percentage of funds to a base amount advantages States with small caseloads). Allocating a minimum of $2,000,000 to each State accounts for a little over one-quarter of the $400,000,000 available from federal funds. As discussed in the following paragraphs, our proposal for taking into account the relative size of State IV–D caseloads in the allocation formula also considers the scope of changes that States must make in their child support enforcement systems to meet PRWORA requirements. Therefore, we believe that using one-quarter of the available funds for the base amount is reasonable.

In addition to the base level of funding which takes into account States' levels of automation, the allocation formula's calculation of relative caseload size also addresses the changes that States must make in their child support enforcement systems in order to meet PRWORA requirements. Section 311 of PRWORA mandates that child support enforcement systems include information on all new and modified child support orders in the State as of October 1, 1998 as well as information on all cases receiving services under title IV–D. Effectively, this increases the potential child support enforcement caseload maintained on a State's automated system to include almost all children in a State who are not living with both parents. Since the majority of States must increase their automated systems capacity because of this expanding caseload, the use of a census factor based on the size of the child population not living with both parents helps take into account the need for additional capacity building.

With this in mind, the formula allocates the remaining funds, after the base amount is assigned to each State,

by an Allocation Factor. A Caseload Factor and a Census Factor are averaged to yield the Allocation Factor. Table 1 shows by State the calculation of the Allocation Factor from caseload and census data.

The State of California supplied us with caseload and census information for Los Angeles County which had been agreed to by the County. This information indicated that the County should receive 25.04 percent of the amount allocated to the State. We applied that information to California's share of the "Allocated Remainder" shown in Table 2 of the proposed rule, i.e., $32,153,986. That resulted in a division of this amount between the State and Los Angeles County, with $24,101,956 allocated to the State and $8,052,030 allocated to the County. Those figures are reflected in Table 2 of this final rule.

The Caseload Factor is the ratio of the six-year average IV–D caseload as reported by a State to the OCSE for fiscal years 1990–1995 to the total six-year average caseload in all States for the same period. States differ in the percentage of total child support cases which receive IV–D services and thus, are included in the IV–D system. For example, some States routinely include all court-ordered support cases in the child support enforcement system. In addition, all States have some duplication in their caseload count due to interstate cases. To compensate for counting variations, we propose averaging the caseloads as reported by States for fiscal years 1990–1995. We considered using shorter periods for averaging, (e.g., 2 years, 4 years) but we decided on the period from 1990–1995 because it minimizes variations in each State's reported caseload.

The Census Factor is the ratio of the number of children in a State with one parent living elsewhere as reported in the 1992 Current Population Survey-Child Support Supplement to the total number of such children in all States. We use census data on children with one parent living elsewhere because this represents the maximum number of children living in the State who could potentially receive services from the IV–D program.

Note: It is also the same data set required by statute to determine the allotments for the Access and Visitation Grants which the OCSE will issue to the States under section 391 of PRWORA.

Therefore, § 307.31(f) provides that payments to individual States will be equal to the sum of a $2,000,000 base amount and an additional amount as determined by the Allocation Factor. The Allocation Factor is an average of the Caseload and Census Factors which yields the percentage that is used to calculate a State's allocation of the $400,000,000 (less the amounts set aside for the base).

Table 1 shows by State the Caseload Factors and the Census Factors and the calculation of the Allocation Factor. Table 2 displays the amount each State would be allotted from the $400,000,000 under the allocation formula. The tables are printed in Attachment A at the end of this rule.

Response to Comments

We received a total of 10 comments on the proposed rule published in the **Federal Register** March 2, 1998 [63 FR 10173] from State agencies. Specific comments and our response follows.

General Comments

1. *Comment:* Six commenters expressed support for the allocation formula as set forth in the notice of proposed rulemaking. These commenters described the formula for distributing the limited funds for enhancing State child support enforcement systems as "fair and equitable."

Response: We agree. The allocation formula reflects the suggestions from States of all sizes.

2. *Comment:* One commenter objected to allocating a base amount to each State. This commenter questioned the rationale for setting a base level of funding.

Response: We believe that allocation of a base level of funding is a sound approach. Several commenters wrote in support of a base level of funding.

A number of areas common to all State systems will need additional investment in order to meet PRWORA requirements, such as distribution, performance indicators, reporting, and State case registry. A base level of funding recognizes that all States, regardless of their caseload size, have similar costs for planning, design, programming and development.

PRWORA requires the Secretary to develop an allocation formula which *takes into account* the level of automation. The combined elements of the formula take into account the variation in States' approaches to automation. The base acknowledges that all State child support systems must perform the same functionalities and have the same capabilities. While caseload size and potential caseload factors acknowledge that other components of *the child support system, such as training, conversion and processing time are affected by the scale of the project.

3. *Comment:* A commenter suggested that the allocation formula should give more weight to large States.

Response: The allocation formula uses two factors derived from State population: child support caseload and census data for children with one parent living elsewhere. By using these factors the formula does give more weight to States with large populations.

4. *Comment:* A commenter recommended deleting the census factor from the allocation formula because it penalizes States whose overall birthrate is declining.

Response: These data sets—average IV–D caseload as reported by States (Caseload Factor) and number of children with one parent living elsewhere (Census Factor)—are logical factors to include in the allocation formula. They consider the population served currently and anticipate the growth. Together, these factors are an approximate measure of the capacity need of a State's child support system.

5. *Comment:* A commenter questioned the apparent rounding of the census, caseload, and allocation factors.

Response: We did not use rounded numbers in calculating the allocations. We used numbers to 10 decimal places in the underlying calculations. For clarity and simplicity in the tables, we display rounded numbers.

Regulatory Impact Analysis

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles.

Regulatory Flexibility Analysis

Consistent with the Regulatory Flexibility Act (P.L. 96–354) which requires the Federal Government to anticipate and reduce the impact of rules and paperwork requirements on small business and other small entities, the Secretary certifies that this rule has no significant effect on a substantial number of small entities. The primary impact of this regulation is on State governments. State governments are not considered small entities under the Act. Therefore, a regulatory flexibility analysis is not required.

Unfunded Mandates Act

The Department has determined that this rule is not a significant regulatory action within the meaning of the Unfunded Mandates Reform Act of 1995 (P.L. 104–4).

Congressional Review of Regulations

This final rule is not a "major" rule as defined in Chapter 8 of 5 U.S.C.

List of Subjects in 45 CFR Part 307

Child support, Computer technology, Grant programs—social programs.

(Catalog of Federal Domestic Assistance Program No. 93.023, Child Support Enforcement Program.)

Dated: July 10, 1998.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: August 12, 1998.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR Part 307 is amended as follows:

PART 307—COMPUTERIZED SUPPORT ENFORCEMENT SYSTEMS (AMENDED)

1. The authority citation for Part 307 is revised to read as follows:

Authority: 42 U.S.C. 652 through 658, 664, 666 through 669A, and 1302.

2.–3. A new section 307.31 is added to read as follows:

§ 307.31 Federal financial participation at the 80 percent rate for computerized support enforcement systems.

(a) *Conditions that must be met for 80 percent FFP.* Until September 30, 2001, Federal financial participation is available at the 80 percent rate to States, Territories and systems defined in 42 U.S.C. 655(a)(3)(B)(iii) [455(a)(3)(B)(iii) of the Act] (hereafter referred to as "States") for expenditures for the planning, design, development, installation, or enhancement of a computerized support enforcement system meeting the requirements as described in §§ 307.5 and 307.10 or 42 U.S.C. § 654(16) [454(16) of the Act], if:

(1) The Office has approved an APD in accordance with § 307.15;

(2) The Office determines that the system meets the requirements specified in § 307.10, or 42 U.S.C. 654(16) [454(16) of the Act];

(3) The Office determines that the expenditures incurred are consistent with the approved APD;

(4) The Office determines that the computerized support enforcement system is designed effectively and efficiently and will improve the management and administration of the State IV–D plan;

(5) The State IV–D agency agrees in writing to use the system for a period of time which is consistent with the APD approved by the Office; and

(6) The State or local government has ownership rights in software, software modifications and associated documentation that is designed, developed, installed or enhanced under this section subject to the Department of Health and Human Services license specified in paragraph (c) of this section.

(b) *Federal financial participation in the costs of hardware and proprietary software.*

(1) Until September 30, 2001, FFP at the 80 percent rate is available for expenditures for the rental or purchase of hardware for the planning, design, development, installation, or enhancement of a computerized support enforcement system as described in § 307.10 or 42 U.S.C. 654(16) [454(16) of the Act].

(2) Until September 30, 2001, FFP at the 80 percent rate is available for the rental or purchase of proprietary operating/vendor software necessary for the operation of hardware during the planning, design, development, installation, enhancement or operation of a computerized support enforcement system in accordance with the OCSE guideline entitled "Automated Systems for Child Support Enforcement: A Guide for States." FFP at the 80 percent rate is not available for proprietary application software developed specifically for a computerized support enforcement system. (See § 307.35 regarding reimbursement at the applicable matching rate.)

(c) *HHS rights to software.* The Department of Health and Human Services reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for Federal government purposes, software, software modifications, and documentation developed under § 307.10 or 42 U.S.C. 654(16) [454(16) of the Act]. This license would permit the Department to authorize the use of software, software modifications and documentation developed under § 307.10 or 42 U.S.C. 654(16) [454(16) of the Act] in another project or activity funded by the Federal government.

(d) *Consequences of suspension of the APD.* If the Office suspends approval of an APD in accordance with § 307.40 during the planning, design, development, installation, enhancement or operation of the system:

(1) The Office shall disallow FFP as of the date the State failed to comply substantially with the approved APD; and

(2) FFP at the 80 percent and applicable matching rates is not available in any expenditure incurred under the APD after the date of the suspension until the date the Office determines that the State has taken the actions specified in the notice of suspension described in § 307.40(a). The Office will notify the State in writing upon making such a determination.

(e) *Limitation on 80 percent funding.* Federal financial participation at the 80 percent rate may not exceed $400,000,000 in the aggregate for fiscal years 1996 through 2001.

(f) *Allocation formula.* Payments at the 80 percent rate to individual States, Territories and systems defined in 42 U.S.C. 655(a)(3)(B)(iii) [455(a)(3)(B)(iii) of the Act] (hereafter referred to as "States") will be equal to the sum of:

(1) A base amount of $2,000,000; and

(2) An additional amount defined as the Allocation Factor computed as follows:

(i) Allocation Factor—an average of the Caseload and Census Factors which yields the percentage that is used to calculate a State's allocation of the funds available, less amounts set aside pursuant to paragraph (f)(1) of this section.

(ii) Caseload Factor—a ratio of the six-year average IV–D caseload as reported by a State for fiscal years 1990 through 1995 to the total six-year average IV–D caseload in all States for the same period;

(iii) Census Factor—a ratio of the number of children in a State with one parent living elsewhere as reported in the 1992 Current Population Survey—Child Support Supplement to the total number of such children in all States.

4. In § 307.40 paragraph (a) is amended by removing the paragraph designation (1) and by adding "and § 307.31(d)" at the end of the last sentence. The addition reads as follows:

§ 307.40 Suspension of approval of advance planning documents for computerized support enforcement systems.

(a) * * * Federal funding will be disallowed as described in § 307.30(d) and § 307.31(d).

* * * * *

Note: The following Tables will not appear in the Code of Federal Regulations.

BILLING CODE 4150–04–P

Table 1.--Calculation of Allocation Factor From Caseload and Census Data

	Caseload 6 yr avg.	% of caseload	Census--92 children	% of census	Allocation factor
Alabama	290,391	1.81	345,570	1.84	1.83
Alaska	42,954	0.27	27,765	0.15	0.20
Arizona	240,814	1.50	271,870	1.45	1.47
Arkansas	111,852	0.70	187,640	1.00	0.86
California (ex. Los Angeles Co.)	1,212,347	10.48*	1,696,020	11.60*	11.09*
Los Angeles County	469,909	---	482,580	---	---
Colorado	166,360	1.04	182,320	0.97	1.00
Connecticut	167,175	1.04	242,910	1.29	1.18
Delaware	44,417	0.28	68,966	0.37	0.33
District of Columbia	78,327	0.49	61,788	0.33	0.40
Florida	795,006	4.95	1,043,100	5.56	5.28
Georgia	460,993	2.87	428,450	2.28	2.55
Guam	5,788	0.04	6,772	0.04	0.04
Hawaii	59,662	0.37	79,211	0.42	0.40
Idaho	50,243	0.31	70,539	0.38	0.35
Illinois	695,072	4.33	879,600	4.68	4.52
Indiana	610,335	3.80	690,510	3.68	3.74
Iowa	137,349	0.86	174,860	0.93	0.90
Kansas	115,061	0.72	227,530	1.21	0.98
Kentucky	259,739	1.62	362,530	1.93	1.79
Louisiana	258,556	1.61	402,430	2.14	1.90
Maine	64,203	0.40	70,932	0.38	0.39
Maryland	310,502	1.94	366,710	1.95	1.94
Massachusetts	234,721	1.46	336,030	1.79	1.64
Michigan	1,239,750	7.73	757,680	4.04	5.74
Minnesota	195,708	1.22	357,550	1.90	1.59
Mississippi	254,350	1.59	268,880	1.43	1.50
Missouri	312,990	1.95	339,170	1.81	1.87
Montana	29,676	0.18	55,911	0.30	0.25
Nebraska	118,598	0.74	90,157	0.48	0.60
Nevada	64,867	0.40	80,703	0.43	0.42
New Hampshire	38,461	0.24	56,581	0.30	0.27
New Jersey	530,061	3.30	395,560	2.11	2.66
New Mexico	64,995	0.41	138,260	0.74	0.58
New York	1,053,781	6.57	1,363,500	7.26	6.94
North Carolina	381,598	2.38	457,280	2.44	2.41
North Dakota	31,981	0.20	32,165	0.17	0.18
Ohio	879,306	5.48	785,450	4.18	4.78
Oklahoma	117,380	0.73	200,790	1.07	0.91
Oregon	221,282	1.38	222,130	1.18	1.27
Pennsylvania	851,155	5.30	696,690	3.71	4.45
Puerto Rico	184,548	1.15	215,949	1.15	1.15
Rhode Island	70,281	0.44	44,712	0.24	0.33
South Carolina	186,716	1.16	254,370	1.35	1.27
South Dakota	25,440	0.16	48,647	0.26	0.21
Tennessee	486,970	3.03	394,230	2.10	2.53
Texas	641,667	4.00	1,377,600	7.34	5.80
Utah	79,955	0.50	142,460	0.76	0.64
Vermont	18,577	0.12	40,292	0.21	0.17
Virgin Islands	10,704	0.07	12,525	0.07	0.07
Virginia	300,239	1.87	379,510	2.02	1.95
Washington	294,085	1.83	346,700	1.85	1.84
West Virginia	83,599	0.52	111,830	0.60	0.56
Wisconsin	365,825	2.28	374,170	1.99	2.13
Wyoming	29,279	0.18	27,763	0.15	0.16
Totals	16,045,594	100.00	18,775,849	100.00	100.00

*Combines amounts for Los Angeles County and the remainder of the State of California

Table 2.--Proposed Allocation of Child Support Enforcement Funds Available at 80% EFFP

	Allocation factor (percent)	Federal calculations			Total State share	Total
		Base amount	Allocated remainder	Total Federal share		
Alabama	1.83	$2,000,000	$5,296,411	$7,296,411	$1,824,103	$9,120,514
Alaska	0.20	2,000,000	588,959	2,588,959	647,240	3,236,199
Arizona	1.47	2,000,000	4,269,736	6,269,736	1,567,434	7,837,170
Arkansas	0.86	2,000,000	2,494,226	4,494,226	1,123,556	5,617,782
California (ex. Los Angeles Co.)	11.09*	2,000,000	24,101,956	26,101,956	6,525,489	32,627,445
Los Angeles County	---	2,000,000	8,052,030	10,052,030	2,513,007	12,565,037
Colorado	1.00	2,000,000	2,903,875	4,903,875	1,225,969	6,129,843
Connecticut	1.18	2,000,000	3,415,271	5,415,271	1,353,818	6,769,088
Delaware	0.33	2,000,000	944,272	2,944,272	736,068	3,680,340
District of Columbia	0.40	2,000,000	1,166,907	3,166,907	791,727	3,958,634
Florida	5.28	2,000,000	15,308,115	17,308,115	4,327,029	21,635,143
Georgia	2.55	2,000,000	7,407,463	9,407,463	2,351,866	11,759,329
Guam	0.04	2,000,000	104,603	2,104,603	526,151	2,630,754
Hawaii	0.40	2,000,000	1,156,560	3,156,560	789,140	3,945,699
Idaho	0.35	2,000,000	1,005,900	3,005,900	751,475	3,757,375
Illinois	4,52	2,000,000	13,114,182	15,114,182	3,778,545	18,892,727
Indiana	3.74	2,000,000	10,833,701	12,833,701	3,208,425	16,042,126
Iowa	0.90	2,000,000	2,600,140	4,600,140	1,150,035	5,750,174
Kansas	0.98	2,000,000	2,853,168	4,853,168	1,213,292	6,066,460
Kentucky	1.79	2,000,000	5,182,378	7,182,378	1,795,594	8,977,972
Louisiana	1.90	2,000,000	5,504,825	7,504,825	1,876,206	9,381,031
Maine	0.39	2,000,000	1,125,430	3,125,430	781,358	3,906,788
Maryland	1.94	2,000,000	5,639,961	7,639,961	1,909,990	9,549,951
Massachusetts	1.64	2,000,000	4,753,331	6,753,331	1,688,333	8,441,663
Michigan	5.74	2,000,000	16,635,003	18,635,003	4,658,751	23,293,753
Minnesota	1.59	2,000,000	4,607,640	6,607,640	1,651,910	8,259,550
Mississippi	1.50	2,000,000	4,357,564	6,357,564	1,589,391	7,946,954
Missouri	1.87	2,000,000	5,431,316	7,431,316	1,857,829	9,289,145
Montana	0.25	2,000,000	712,782	2,712,782	678,195	3,390,977
Nebraska	0.60	2,000,000	1,738,551	3,738,551	934,638	4,673,189
Nevada	0.42	2,000,000	1,212,336	3,212,336	803,084	4,015,420
New Hampshire	0.27	2,000,000	791,530	2,791,530	697,883	3,489,413
New Jersey	2.66	2,000,000	7,708,758	9,708,758	2,427,190	12,135,948
New Mexico	0.58	2,000,000	1,692,749	3,692,749	923,187	4,615,936
New York	6.94	2,000,000	20,131,601	22,131,601	5,532,900	27,664,501
North Carolina	2.41	2,000,000	6,986,341	8,986,341	2,246,585	11,232,926
North Dakota	0.18	2,000,000	534,222	2,534,222	633,556	3,167,778
Ohio	4.78	2,000,000	13,864,421	15,864,421	3,966,105	19,830,526
Oklahoma	0.91	2,000,000	2,649,783	4,649,783	1,162,446	5,812,228
Oregon	1.27	2,000,000	3,692,822	5,692,822	1,423,205	7,116,027
Pennsylvania	4.45	2,000,000	12,890,767	14,890,767	3,722,692	18,613,458
Puerto Rico	1.15	2,000,000	3,335,419	5,335,419	1,333,855	6,669,273
Rhode Island	0.33	2,000,000	957,681	2,957,681	739,420	3,697,101
South Carolina	1.27	2,000,000	3,673,449	5,673,449	1,418,362	7,091,811
South Dakota	0.21	2,000,000	617,014	2,617,014	654,254	3,271,268
Tennessee	2.53	2,000,000	7,338,813	9,338,813	2,334,703	11,673,516
Texas	5.80	2,000,000	16,816,864	18,816,864	4,704,216	23,521,080
Utah	0.64	2,000,000	1,852,320	3,852,320	963,080	4,815,400
Vermont	0.17	2,000,000	490,273	2,490,273	622,568	3,112,841
Virgin Islands	0.07	2,000,000	193,459	2,193,459	548,365	2,741,823
Virginia	1.95	2,000,000	5,661,088	7,661,088	1,915,272	9,576,360
Washington	1.84	2,000,000	5,336,587	7,336,587	1,834,147	9,170,733
West Virginia	0.56	2,000,000	1,627,568	3,627,568	906,892	4,534,460
Wisconsin	2.13	2,000,000	6,162,828	8,162,828	2,040,707	10,203,534
Wyoming	0.16	2,000,000	475,057	2,475,057	618,764	3,093,822
	100.00	110,000,000	290,000,000	400,000,000	100,000,000	500,000,000

*Includes Los Angeles County and the balance of the State of California

[FR Doc. 98-22277 Filed 8-18-98; 8:45 am]
BILLING CODE 4150-04-C

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1802, 1803, 1804, 1805, 1814, 1815, 1816, 1817, 1832, 1834, 1835, 1842, 1844, 1852, 1853, 1871, and 1872

Contracting by Negotiation

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final with changes.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NSF) to: conform to the regulatory changes effected by Federal Acquisition Circular (FAC) 97–02, FAR Part 15 Rewrite; reflect the expiration of the waiver to the requirement to publish a synopsis in the Commerce Business Daily for certain acquisitions under NASA's MidRange procedures; and specify that the NASA Acquisition Internet Service (NAIS) is the Agency Internet site for posting solicitations and other acquisition information.

DATES: This rule is effective August 19, 1998.

ADDRESSES: Tom O'Toole, Code HK, NASA Headquarters, 300 E Street, SW, Washington, DC 20456–0001.

FOR FURTHER INFORMATION CONTACT: Tom O'Toole, (202) 358–0478.

SUPPLEMENTARY INFORMATION:

Background

NASA is adopting as final, with changes, the interim rule published in the February 27, 1998 edition of the **Federal Register** (63 FR 9953) that revised NFS part 1815, Contracting by Negotiation. Several comments, largely addressing the structure of the regulation rather than its content, were received in response to the interim rule, and they were considered in the development of the final rule. Editorial, administrative, and structural changes are included in the final rule. Included in these change is a revision to the NASA MidRange procedures to reflect the expiration of the waiver of the requirement to publish synopses in the Commerce Business Daily for certain acquisitions under NASA'S MidRange procedures. Previously, these synopses had been posted only on the Internet. Another administrative changes is made to indicate that the NASA Acquisition Internet Service (NAIS) is the single Agency Internet site for posting solicitations and other acquisition information. All the revisions in this final rule are considered administrative or editorial and involve no significant change in Agency policy.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because this final rule does not impose any new requirements on offerors or contractors. This final rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1801, 1802, 1803, 1804, 1805, 1814, 1815, 1816, 1817, 1832, 1834, 1835, 1842, 1844, 1852, 1853, 1871, and 1872

Government procurement.

Tom Luedtke,

Acting Associate Administrator for Procurement.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule published at 63 FR 9953, February 27, 1998, is hereby adopted as final with the following changes:

1. The authority citation for 48 CFR Parts 1801, 1802, 1803, 1804, 1805, 1814, 1815, 1816, 1817, 1832, 1834, 1835, 1842, 1844, 1852, 1853, 1871, and 1872 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1804—ADMINISTRATIVE MATTERS

2. In section 1804.570–2, paragraph (a)(2) is revised to read as follows:

1804.570–2 Electronic posting system.

(a) * * *

(2) Post solicitation documents, including solicitation amendments or cancellations, and other procurement information on the Internet.

* * * * *

PART 1815—CONTRACTING BY NEGOTIATION

1815.201 [Amended]

3. In section 1815.201, paragraph (c)(6)(E), the word "name" in the first sentence is revised to read "nature."

1815.207–70 [Amended]

4. In section 1815.207–70, paragraphs (b)(1) and (2) are revised to read as follows:

1815.207–70 Release of proposal information.

* * * * *

(b)(1) Except as provided in paragraph (b)(2) of this section, the procurement officer is the approval authority to disclose proposal information outside the Government. If outside evaluators are involved, this authorization may be granted only after compliance with FAR 37.2 and 1837.204, except that the determination of unavailability of Government personnel required by FAR 37.2 is not required for disclosure of proposal information to JPL employees.

(2) Proposal information in the following classes of proposals may be disclosed with the prior written approval of a NASA official one level above the NASA program official responsible for the overall conduct of the evaluation. If outside evaluators are involved, the determination of unavailability of Government personnel required by FAR 37.2 is not required for disclosure in these instances.

(i) Proposals submitted in response to broad agency announcements such as Announcements of Opportunity and NASA Research Announcements;

(ii) Unsolicited proposals; and

(iii) SBIR and STTR proposals.

* * * * * *

5. In section 1815.207–71, paragraph (c) is revised to read as follows:

1815.207–71 Appointing non-Government evaluators as special Government employees.

* * * * *

(c) Non-Government evaluators need not be appointed as special Government employees when they evaluate:

(1) Proposals submitted in response to broad agency announcements such as Announcements of Opportunity and NASA Research Announcements;

(2) Unsolicited proposals; and

(3) SBIR and STTR proposals.

1815.303 [Amended]

6. In paragraph (a) to section 1815.303, the letters "SAA" in the second sentence are revised to read "SSA."

7. In section 1815.305, paragraph (a)(ii) is revised to read as follows:

1815.305 Proposal evaluation.

(a) * * *

(ii) All strengths and significant weaknesses;

* * * * *

1815.305–70 [Amended]

8. In paragraph (a)(3) of section 1815.305–70, the phrase "technical or business" is removed.

1815.306 [Amended]

9. In section 1815.306, paragraph (d)(3)(A) is removed, paragraphs

(d)(3)(B) and (d)(3)(C) are redesignated (d)(3)(A) and (d)(3)(B), and the sentence, "These items are not to be discussed with, or proposed to, other offerors," is removed from redesignated paragraph (d)(3)(B).

1815.307 [Amended]

10. In section 1815.307, paragraph (b)(i)(A) is removed, and paragraphs (b)(i)(B) through (b)(i)(E) are redesignated as paragraphs (b)(i)(A) through (b)(i)(D).

11. In section 1815.370, paragraph (g)(3) is revised to read as follows:

1815.370 NASA source evaluation boards.

* * * * *

(g) Evaluation. * * *

(3) The SEB process must be adequately documented. Clear traceability must exist at all levels of the SEB process. All reports submitted by committees or panels will be retained as part of the SEB records.

* * * * *

1815.403–3 [Amended]

12. In paragraph (b) of section 1815.403–3, the phrase "firm-fixed-price acquisitions" in the last sentence is revised to read "firm-fixed-price competitions."

1815.604 [Amended]

13. In paragraph (a) of section 1815.604 the URL "http://procure.msfc.nasa.gov/nashdbk.html" is revised to read "http://ec.msfc.nasa.gov/msfc/nasahdbk.html".

[FR Doc. 98–22290 Filed 8–18–98; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1819

Mentor-Protégé

AGENCY: National Aeronautics and Space Administration (NASA)

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) to extend the NASA Mentor-Protégé Program to complete a comprehensive evaluation of it.

EFFECTIVE DATE: August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Christopher T. Jedrey, NASA Office of Procurement, Contract Management Division (Code HK), (202) 358–0483.

SUPPLEMENTARY INFORMATION:

Background

The NASA Mentor-Protege Program began on March 24, 1995.

The Program is designed to incentivize NASA prime contractors to assist small disadvantaged business concerns, Historically Black Colleges and Universities, minority institutions, and women-owned small business concerns. The NASA Mentor-Protege Program is fully described in NFS Subpart 1819.72, including the criteria for Program success. NASA is currently in the midst of the required Program evaluation which it expects to complete by approximately September 30, 1998. The duration of the program is being extended to March 31, 1999 to allow for this comprehensive evaluation to be completed, proposed changes or recommendations evaluated, and any resulting program changes codified.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) since it is only extending an existing program to allow for a comprehensive evaluation; no new requirements are imposed on offerors or contractors. This final rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Part 1819

Government procurement.

Tom Luedtke,

Acting Associate Administrator for Procurement.

Accordingly, 48 CFR Part 1819 is amended as follows:

1. The authority citation for 48 CFR Part 1819 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1)

PART 1819—SMALL BUSINESS PROGRAMS

1819.7205 [amended]

2. In section 1819.7205, the reference to "three" in the first sentence of paragraph (b) is revised to read "four".

[FR Doc. 98–22289 Filed 8–18–98; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 980806211–8211–01; I.D. 071598I]

RIN 0648–AK24

Fisheries off West Coast States and in the Western Pacific; Northern Anchovy Fishery; Quotas for the 1998–99 Fishing Year

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

ACTION: Final quotas.

SUMMARY: NMFS announces the estimated spawning biomass and final harvest quotas for the northern anchovy fishery in the exclusive economic zone south of Point Reyes, CA, for the 1998–99 fishing year. These quotas may only be adjusted if inaccurate data were used or if errors were made in the calculations. Comments on these two points are invited. We will revise the quotas by a subsequent rulemaking if the comments warrant it. The intended effect of this action is to establish allowable harvest levels for the central subpopulation of Pacific anchovy.

DATES: Effective on August 15, 1998. Comments will be accepted until September 17, 1998.

ADDRESSES: Submit comments on the final quotas to Dr. William T. Hogarth, Administrator, Southwest Region, (Regional Administrator), NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Administrative Reports LJ–95–11 and LJ–97–08 are available from this same address.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Morgan, Southwest Region, NMFS, (562) 980–4030.

SUPPLEMENTARY INFORMATION: In consultation with the California Department of Fish and Game and with the NMFS Southwest Fisheries Science Center, the Administrator, Southwest Region, NMFS, has decided to use the 1995 estimate of 388,000 metric tons (mt) spawning biomass for the central subpopulation of northern anchovy, *Engraulis mordax*, to set harvest limits for the 1998–99 fishing year. This is the same biomass estimate that was used for the 1995–96, 1996–97, and 1997–98 fishing years, and is being used because no new assessment has been made. Indices of relative abundance from fish-spotter logs and egg production from research cruises in 1997 indicated that

the current biomass remained at or above that estimated in 1995.

The biomass estimate was derived from a stock assessment model using spawning biomass estimated by five indices of abundance. Documentation of the spawning biomass is contained in Administrative Report LJ–95–11, published by the Southwest Fisheries Science Center, NMFS (see **ADDRESSES**). Information on the status of the resource was provided at a public meeting of the Pacific Fishery Management Council's (Council) Coastal Pelagic Species Plan Development Team (Planning Team) and Advisory Subpanel in Long Beach, CA, on June 11, 1998. At that time, a review of the status of the anchovy resource was presented by the Planning Team, and NMFS requested estimates of domestic processing needs from the fishing industry so that a basis could be established for setting annual quotas. As was the case in 1997, the industry estimated that 13,000 mt would meet the needs of the reduction industry.

Reports of the Planning Team and the Advisory Subpanel were then presented to the Council at its June 22–26 meeting in Seattle, WA. The Council reviewed the quotas for the 1998–99 fishing year and recommended that they be approved.

There is some uncertainty with regard to what the domestic fishery will harvest, and there is always great uncertainty with regard to what Mexico will harvest. Nevertheless, the U.S. harvest has remained low. The Mexican harvest increased significantly in 1995, but dropped to a moderate level in 1996 and 1997. With the information available, the best estimate of domestic harvest for reduction is 13,000 mt.

According to the formula in the Northern Anchovy Fishery Management Plan (FMP), the U.S. optimum yield (OY) is 66,500 mt (70 percent of the 95,000 mt international OY). The U.S. OY includes 61,600 mt, which is allocated to reduction fisheries, plus 4,900 mt for non-reduction fisheries. There is no agreement with Mexico on the management of northern anchovy; a portion of the biomass (30 percent) above 300,000 mt is designated as the amount to account for this unregulated harvest.

Any portion of U.S. OY that will not be used by U.S. fishermen, minus the amount of harvest by Mexican vessels that is in excess of that allocated to Mexico according to the formula in the FMP, is identified as total allowable level of foreign fishing (TALFF) and is available to foreign fishing.

The estimate of Mexican excess harvest is based on the largest harvest in the last 3 years; however, the biomass has been so low during this time that there was no significant fishery off Mexico until 1995, and there has been no excess Mexican harvest as defined in the FMP.

After considering the above, the Regional Administrator has made the following determinations for the 1998–99 fishing year by applying the formulas in the FMP and in 50 CFR 660.509(b).

1. The total U.S. OY for northern anchovy is 66,500 mt, plus an unspecified amount for use as live bait.

2. The total U.S. harvest quota for reduction purposesis 13,000 mt.

a. Of the total reduction harvest quota, 1,300 mt is reserved for the reduction fishery in Subarea A (north of Pt. Buchon). The FMP requires that 10 percent of the U.S. reduction quota or 9,072 mt, whichever is less, be reserved for the northern fishery. This is not a special quota, but only a reduction in the amount allocated to the southern fishery south of Pt. Buchon (Subarea B). After the northern fishery has harvested 1,300 mt, any unused portion of the Subarea B allocation may also be harvested north of Pt. Buchon.

b. The reduction quota for subarea B (south of Pt. Buchon) is 11,700 mt.

3. The U.S. harvest quota for non-reduction fishing(i.e., fishing for anchovy for use as dead bait or human consumption) is 4,900 mt (as set by § 660.509(b)).

4. There is no U.S. harvest limit for the live baitfishery.

5. The domestic annual processing capacity (DAP) is13,000 mt.

6. The amount allocated to joint venture processing(JVP) is zero, because there is no history of, nor are there applications for, joint ventures.

7. Domestic annual harvest capacity (DAH) is 13,000mt. DAH is the sum of DAP and JVP.

8. The TALFF is 48,600 mt.

The fishery will be monitored during the year and evaluated with respect to the OY and the estimated needs of the fishing industry. Adjustments may be made to comply with the requirements of the FMP and its implementing regulations.

This action is authorized by 50 CFR 660.509 and is exempt from review under E.O. 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds for good cause under 5 U.S.C. 553(b)(B) that providing prior notice and an opportunity for public comment on this action is unnecessary because establishing the quota is a ministerial act, determined by applying a formula in the FMP. Accordingly, providing prior notice and an opportunity for public comment would serve no useful purpose.

Because this rule merely establishes a quota and does not require any participants in the fishery to take action or to come into compliance, the AA finds for good cause under 5 U.S.C. 553(d)(3) that delaying the effective date of this rule for 30 days is unnecessary. Further, because establishing a quota allows the opening of the fishery, it relieves a restriction, and under 5 U.S.C. 553(d)(1), is not subject to a delay in effective date. Accordingly, the AA makes the quota effective upon the date of filing for public inspection with the Office of the Federal Register.

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

Dated: August 13, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–22219 Filed 8–13–98; 3:29 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 160
Wednesday, August 19, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–199–AD]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Lockheed Model L–1011–385 series airplanes, that currently requires inspections to detect cracking of fuselage station (FS) 983 main frame (left and right sides), and repair, if necessary. That AD was prompted by reports of cracks found in the left and right sides of the FS 983 main frame, below the level of the cabin floor. This action would add a new requirement to review the airplane maintenance records to determine if a crack within the FS 983 main frame web was detected previously, and if repair of any such crack was deferred; and repair, prior to further flight, if necessary. The actions specified by the proposed AD are intended to prevent cracking of the FS 983 frame, which could result in reduced structural integrity of the fuselage.

DATES: Comments must be received by October 5, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–199–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 Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

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 98–NM–199–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–199–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On November 5, 1991, the FAA issued AD 91–21–51, amendment 39–8099 (56 FR 61361, December 3, 1991), applicable to all Lockheed Model L–1011–385 series airplanes, to require inspections to detect stress corrosion cracking of fuselage station (FS) 983 main frame (left and right sides), and repair, if necessary. That action was prompted by reports of cracks found in the left and right sides of FS 983 main frame, below the level of the cabin floor. The requirements of that AD are intended to prevent cracks in the fuselage frame, which, if not corrected, could result in reduced structural integrity of the fuselage.

That AD also contained a provision that, if a single crack was detected that was completely contained within a certain area of the FS 983 main frame web, repair of the crack was not required. In lieu of repair, the cracked area could be treated with corrosion inhibitor and inspected repetitively using internal visual and eddy current techniques. In the preamble to AD 91–21–51, the FAA indicated that these repetitive inspections were considered "interim action" and that further rulemaking action was being considered. The FAA now has determined that further rulemaking action is indeed necessary. As a follow-on action from that determination, the FAA is now proposing to mandate repair of any crack for which repair was deferred. Such repair would constitute terminating action for the repetitive inspection requirement.

Explanation of Relevant Service Information

The FAA has reviewed and approved Lockheed Tristar L–1011 Service Bulletin 093–53–266, dated March 2, 1992, as revised by Change Notification CN1, dated July 10, 1992; which describes, among other things, procedures for repairing cracking of the FS 983 main frame web. The service bulletin specifies that repair of any such cracking may be accomplished in

accordance with Lockheed Drawing LCC–7622–327 (for Lockheed Model L–1011–385 series airplanes having serial numbers 1002 through 1012 inclusive), or LCC–7622–325 (for Lockheed Model L–1011–385 series airplanes having serial numbers 1013 through 1250 inclusive); or partial frame replacement may be accomplished in accordance with Lockheed Drawing LCC–7622–326 (for all Lockheed Model L–1011–385 series airplanes).

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 91–21–51 to continue to require inspections to detect cracking of the FS 983 main frame (left and right sides), and repair, if necessary. The proposed AD adds a requirement to review the airplane maintenance records to determine if a crack within the FS 983 main frame web was detected previously, and if repair of any such crack was deferred; and repair, if necessary. Accomplishment of such repair would constitute terminating action for the repetitive inspection requirements of this proposed AD. The actions would be required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, unlike the procedures described in Lockheed Tristar L–1011 Service Bulletin 093–53–266, as revised by Change Notification CN1, this proposed AD would not permit long-term repetitive inspections of main frame web areas with only a single crack to continue in lieu of accomplishment of a repair. The FAA has determined that long-term continued operational safety will be better assured by modifications or repairs to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and more emphasis on modifications. The proposed repair requirement is in consonance with these considerations.

Cost Impact

There are approximately 235 airplanes of the affected design in the worldwide fleet. The FAA estimates that 117 airplanes of U.S. registry would be affected by this proposed AD.

The external eddy current inspection that currently is required by AD 91–21–51, and that would be retained in this AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection on U.S. operators is estimated to be $7,020, or $60 per airplane.

The internal visual and eddy current inspection that currently is required by AD 91–21–51, and that would be retained in this AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection on U.S. operators is estimated to be $7,020, or $60 per airplane, per inspection cycle.

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

Should an operator be required to accomplish the repair of cracking that is proposed in this AD, it would take approximately 30 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the repair proposed by this AD on U.S. operators is estimated to be $210,600, or $1,800 per airplane.

Regulatory Impact

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. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8099 (56 FR 61361, December 3, 1991), and by adding a new airworthiness directive (AD), to read as follows:

Lockheed: Docket 98–NM–199–AD. Supersedes AD 91–21–51, amendment 39–8099.

Applicability: All Model L–1011–385 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking in the fuselage station (FS) 983 frame, which could result in reduced structural integrity of the fuselage, accomplish the following:

Restatement of Requirements of AD 91–21–51, Amendment 39–8099

(a) Within 20 days after December 18, 1991 (the effective date of AD 91–21–51, amendment 39–8099), inspect the left and right sides of FS 983 main frame from waterline (WL) 175 to WL 200 to detect cracks using a high frequency eddy current procedure, in accordance with paragraph A. of the Accomplishment Instructions of

Lockheed Service Bulletin 093–53–264, dated October 4, 1991. At the operator's option, the internal inspection required by paragraph (d) below may be used in lieu of the external inspection.

(b) If cracks that extend into the main frame caps are found during the inspection performed in accordance with paragraph (a) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

(c) Within 60 days after December 18, 1991, perform an internal visual and eddy current inspection of the FS 983 main frame cap and web in accordance with paragraph B. of the Accomplishment Instructions of Lockheed Service Bulletin 093–53–264, dated October 4, 1991.

(d) If cracks in the following locations are found during the inspection required by paragraph (c) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Atlanta ACO.

(1) Any crack extending into the main frame caps.

(2) Any crack extending into the web-to-cap radius.

(3) Any crack extending into a web area outside the shaded area shown in Figure 1, Sheet 3, of Lockheed Service Bulletin 093–53–264, dated October 4, 1991.

(4) More than 1 crack within the main frame web area shown in Figure 1, Sheet 3, of Lockheed Service Bulletin 093–53–264, dated October 4, 1991.

(e) If, during the inspection required by paragraph (c) of this AD, a single crack is found that is completely contained within the main frame web area shown in Figure 1, Sheet 3, of Lockheed Service Bulletin 093–53–264, dated October 4, 1991: Prior to further flight, treat the cracked section of the web with corrosion inhibitor in accordance with the service bulletin. Thereafter, repeat the inspections at intervals not to exceed 90 days, using the internal inspection procedure required by paragraph (c) of this AD.

New Requirements of This AD

(f) Within 18 months after the effective date of this AD, review the airplane maintenance records to determine if a crack within the main frame web area has been detected previously, and if repair of any such crack was deferred in accordance with paragraph (e) of AD 91–21–51, amendment 39–8099. For any crack for which repair has been deferred, prior to further flight, repair the crack in accordance with Lockheed Tristar L–1011 Service Bulletin 093–53–266, dated March 2, 1992; as revised by Change Notification CN1, dated July 10, 1992. Accomplishment of such repair constitutes terminating action for the repetitive inspections required by paragraph (e) of this AD.

Note 2: Lockheed Tristar L–1011 Service Bulletin 093–53–266, dated March 2, 1992; as revised by Change Notification CN1, dated July 10, 1992; references Lockheed Drawings LCC–7622–325, LCC–7622–326, and LCC–7622–327, as additional sources of service information to accomplish repairs.

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

(g)(2) Alternative methods of compliance, approved previously in accordance with AD 91–21–51, amendment 39–8099, are approved as alternative methods of compliance with the inspection requirements of paragraphs (a) and (c) of this AD, and the repair/modification requirements of paragraphs (b) and (d) of this AD.

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

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

Issued in Renton, Washington, on August 12, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certificotion Service.

[FR Doc. 98–22241 Filed 8–18–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–30]

Proposed Realignment of Federal Airways and Jet Routes; TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to realign six jet routes and eight Federal airways in the Amarillo, TX, area. The FAA is proposing this action due to the decommissioning of the Amarillo, TX, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) and the commissioning of the Panhandle, TX, VORTAC, which will be located approximately 4.3 nautical miles (NM) to the southwest of the present location of the Amarillo VORTAC. This proposal would realign the affected jet routes and Federal airways from the Amarillo VORTAC to the Panhandle VORTAC. The FAA is taking this action to more effectively manage air traffic in the Amarillo, TX, area.

DATES: Comments must be received on or before October 2, 1998.

ADDRESSES: Send comments on this proposal in triplicate to: Manager, Air Traffic Division, ASW–500, Docket No. 98–ASW–30, Federal Aviation Administration, 2601 Meacham Blvd; Fort Worth, TX 76193–0500.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2601 Meacham Blvd; Fort Worth, TX 76193–0500.

FOR FURTHER INFORMATION CONTACT: Sheri Edgett Baron, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–ASW–30." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM)

by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

As part of a plan to more effectively manage air traffic in the Amarillo, TX, area, the Amarillo VORTAC will be decommissioned and the Panhandle VORTAC will be commissioned. This proposal would realign several jet routes and Federal airways previously aligned with the Amarillo VORTAC to the new Panhandle VORTAC.

The Proposal

The FAA is proposing an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to realign six jet routes and eight Federal airways due to the decommissioning of the Amarillo VORTAC, and the commissioning of the Panhandle VORTAC. The Panhandle VORTAC will be located approximately 4.3 NM southwest of the present location of the Amarillo VORTAC. Specifically, J–6, J–14, J–17, J–26, J–58, J–78, V–12, V–81, V–114, V–140, V–280, V–304, V–402, and V–440 would be realigned from the Amarillo VORTAC to the Panhandle VORTAC. The FAA is taking this action based on the results of an FAA Airspace Study to enhance the flow of air traffic in the Amarillo, TX, area.

Jet routes and VOR Federal airways are published in Sections 2004 and 6010(a), respectively, of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The jet routes and Federal airways listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 2004—Jet Routes

* * * * *

J–6 [Revised]

From Salinas, CA, via INT Salinas 145° and Avenal, CA, 292° radials; Avenal; INT Avenal 119° and Palmdale, CA, 310° radials; Palmdale; Hector, CA; Needles, CA; Drake, AZ; Zuni, AZ; Albuquerque, NM; Tucumcari, NM; Panhandle, TX; Will Rogers, OK; Little Rock, AR; Bowling Green, KY; Charleston, WV; INT Charleston 076° and Martinsburg, WV, 243° radials; Martinsburg; Lancaster, PA; Broadway, NJ; Sparta, NJ; Albany, NY; to Plattsburg, NY.

* * * * *

J–14 [Revised]

From Panhandle, TX; via Will Rogers, OK; Little Rock, AR; Vulcan, AL; to Atlanta, GA; INT Atlanta 087° and Spartanburg, SC, 234° radials; Spartanburg; Greensboro, NC; Richmond, VA; INT Richmond 039° and Patuxent, MD, 228° radials; to Patuxent.

* * * * *

J–17 [Revised]

From San Antonio, TX; via Abilene, TX; Panhandle, TX; Tobe, CO; Pueblo, CO; Falcon, CO; Cheyenne, WY; to Rapid City, SD.

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J–26 [Revised]

From Ciudad Juarez, Mexico, via El Paso, TX; INT of El Paso 070° and Chisum, NM, 215° radials; Chisum; Panhandle, TX; Gage, OK; Wichita, KS; Kansas City, MO; Kirksville, MO; Bradford, IL; to Joliet, IL. The airspace within Mexico is excluded.

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J–58 [Revised]

From Oakland, CA, via Manteca, CA; Coaldale, NV; Wilson Creek, NV; Milford, UT; Farmington, NM; Las Vegas, NM; Panhandle, TX; Wichita Falls, TX; Ranger, TX; Alexandria, LA; Harvey, LA; INT of Grand Isle, LA, 105° and Crestview, FL, 201° radials; INT of Grand Isle 105° and Sarasota, FL, 286° radials; Sarasota; Lee County, FL; to the INT Lee County 120° and Dolphin, FL, 293° radials; Dolphin.

* * * * *

J–78 [Revised]

From Los Angeles, CA, via Seal Beach, CA; Thermal, CA; Parker, CA; Drake, AZ; Zuni, AZ; Albuquerque, NM; Tucumcari, NM; Panhandle, TX; Will Rogers, OK; Tulsa, OK; Farmington, MO; Louisville, KY; Charleston, WV; Philipsburg, PA; to Milton, PA.

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Paragraph 6010—VOR Federal Airways

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V–12 [Revised]

From Gaviota, CA, via San Marcus, CA; Palmdale, CA; 38 miles, 6 miles wide, Hector, CA; 12 miles, 38 miles, 85 MSL, 14 miles, 75 MSL, Needles, CA; 45 miles, 34 miles, 95 MSL, Drake, AZ; Winslow, AZ; 30 miles 85 MSL, Zuni, NM; Albuquerque, NM; Otto, NM; Anton Chico, NM; Tucumcari, NM; Panhandle, TX; Gage, OK; Anthony, KS; Wichita, KS; Emporia, KS; Napoleon, MO; INT Napoleon 095° and Columbia, MO, 292° radials; Columbia; Foristell, MO; Troy, IL; Bible Grove, IL; Shelbyville, IN; Richmond, IN; Dayton, OH; Appleton, OH, Newcomerstown, OH; Allegheny, PA; Johnstown, PA; Harrisburg, PA; INT Harrisburg 092° and Pottstown, PA, 278° radials; to Pottstown.

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V–81 [Revised]

From Chihuahua, Mexico, via Marfa, TX; Fort Stockton, TX; Midland, TX; Lubbock, TX; Plainview, TX; Panhandle, TX; Dalhart, TX; Tobe, CO; Pueblo, CO; Black Forest, CO; Jeffco, CO; Cheyenne, WY; Scottsbluff, NE; to Chadron, NE. The airspace outside the United States is excluded.

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V–114 [Revised]

From Panhandle, TX, via Childress, TX; Wichita Falls, TX; INT Wichita Falls 117°

and Blue Ridge, TX, 285° radials; Blue Ridge; Quitman, TX; Gregg County, TX; Alexandria, LA; INT Baton Rouge, LA, 307° and Lafayette, LA, 042° radials; 7 miles wide (3 miles north and 4 miles south of centerline); Baton Rouge; INT Baton Rouge 112° and Reserve, LA, 323° radials; Reserve; INT Reserve 084° and Gulfport, MS, 247° radials; Gulfport; INT Gulfport 344° and Eaton, MS, 171° radials; to Eaton, excluding the portion within R–3801B and R–3801C.

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V–140 [Revised]

From Panhandle, TX, via Sayre, OK; Kingfisher, OK; INT Kingfisher 072° and Tulsa, OK, 261° radials; Tulsa; Razorback, AR; Harrison, AR, Walnut Ridge, AR; Dyersburg, TN; Nashville, TN; to Livingston, TN; London, KY; Hazard, KY; Bluefield, WV; INT of Bluefield 071° and Montebello, VA, 250° radials; Montebello; to Casanova, VA.

* * * * *

V–280 [Revised]

From Ciudad Juarez, Mexico, via El Paso, TX; INT El Paso 070° and Pinon, NM, 219° radials; Pinon; Chisum, NM; INT Chisum 063° and Texico, NM, 218° radials; Texico; Panhandle, TX; Gage, OK; INT Gage 025° and Hutchinson, KS, 234° radials; Hutchinson; INT Hutchinson 061° and Topeka, KS, 236° radials; to Topeka. The airspace within Mexico is excluded.

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V–304 [Revised]

From Panhandle, TX, via Borger, TX; Liberal, KS; 15 miles, 79 miles 55 MSL, Lamar, CO.

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V–402 [Revised]

From Tucumcari, NM, via INT Tucumcari 101° and Panhandle, TX 250°T(241°M) radials; Panhandle; INT Panhandle 070°T(061°M) and Gage, OK, 215° radials; to Gage.

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V–440 [Revised]

From Panhandle, TX, via INT Panhandle 070°T(061°M) and Sayre, OK, 288° radials; Sayre; INT Sayre 104° and Will Rogers, OK, 248° radials; to Will Rogers.

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Issued in Washington, DC, on August 12, 1998.

John S. Walker,

Program Director for Air Traffic Airspace Management.

[FR Doc. 98–22257 Filed 8–18–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1331

[Docket No. NHTSA–98–3945]

RIN 2127–AG91

State-Issued Driver's Licenses and Comparable Identification Documents

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

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) published a notice of proposed rulemaking (NPRM) on June 17, 1998, in which the agency proposed regulations to implement section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996—State Issued Driver's Licenses and Comparable Identification Documents. The comment period for the NPRM closed on August 3, 1998. In response to requests for an extension of the comment period, NHTSA is reopening the comment period and extending it until October 2, 1998.

DATES: Comments must be received by October 2, 1998.

ADDRESSES: Written comments should refer to the docket number and the number of this notice, and be submitted (preferably two copies) to: Docket Management, Room PL–401, National Highway Traffic Safety Administration, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590. (Docket hours are Monday–Friday, 10 a.m. to 5 p.m., excluding Federal holidays.)

FOR FURTHER INFORMATION CONTACT: Mr. William Holden, Chief, Driver Register and Traffic Records Division, NTS–32, NHTSA, 400 Seventh Street, SW, Washington, DC 20590; telephone (202) 366–4800, or Ms. Heidi L. Coleman, Assistant Chief Counsel for General Law, NCC–30, NHTSA, 400 Seventh Street, SW, Washington, DC 20590; telephone (202) 366–1834.

SUPPLEMENTARY INFORMATION: On September 30, 1996, the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, P.L. 104–208, was signed into law. Included in the Omnibus Act were the provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (hereinafter, the "Immigration Reform Act"). Section 656(b) of the Act, entitled State-Issued Driver's Licenses and Comparable Identification Documents, provides that, after October 1, 2000, Federal agencies may not accept as proof of identity driver's licenses or other comparable identification documents, issued by a State, unless the driver's license or identification document conforms to certain requirements.

Section 656(b) establishes three requirements that State issued driver's licenses or other comparable identification documents must meet to be acceptable to Federal agencies as proof of identity. The requirements concern the application process for driver's licenses and identification documents, the form of driver's licenses and identification documents (including security features) and the use of social security numbers on driver's licenses and identification documents. On June 17, 1998 (63 FR 33220), the agency published a proposed rule to implement these statutory requirements. Interested persons were invited to provide comments on the proposed rule on or before August 3, 1998.

Since that time it has come to the agency's attention that there is considerable public interest in the proposed regulations. NHTSA has received numerous requests from interested individuals for an extension of the comment period in order to have sufficient time to review the proposal and prepare comments.

In addition, on July 29, 1998, concerns regarding the agency's proposed rule were expressed in the U.S. House of Representatives by Congressman Barr of Georgia; Congressman Smith of Texas, Chairman of the Subcommittee on Immigration and Claims; and Congressman Paul of Texas. To address these concerns, Congressman Wolf of Virginia, Chairman of the Transportation Subcommittee of the House Committee on Appropriations, suggested that a meeting take place with NHTSA officials. Congressional Record, July 29, 1998, H6736–7.

A meeting was held on August 4, 1998, in the Office of the Transportation Subcommittee of the House Committee on Appropriations. Congressman Barr, Chairman Smith and Congressman Paul, Congressional staff members and NHTSA representatives attended the meeting. At the meeting, the agency was asked to consider reopening the comment period for this rulemaking action, to permit all interested parties to have sufficient time to consider the agency's proposal and to provide their written comments.

After considering these requests, NHTSA has concluded that it is in the public interest to allow additional time for comments. Accordingly, the agency

is reopening the comment period until October 2, 1998. During this reopened comment period, it is not necessary for commenters to resubmit views that have already been expressed in previous comments.

Authority: Pub. L. 104–208, 110 Stat. 3009–716 (5 U.S.C. 301) delegation of authority at 49 CFR 1.50.

Issued on: August 14, 1998.

Philip R. Recht,

Deputy Administrator, National Highway Traffic Safety Administration.

[FR Doc. 98–22314 Filed 8–18–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–115446–97]

RIN 1545–AV68

Termination of Puerto Rico and Possession Tax Credit; New Lines of Business Prohibited

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In TD 8778, published elsewhere in this issue of the **Federal Register**, the IRS is issuing temporary regulations that provide guidance regarding the addition of a substantial new line of business by a possessions corporation that is an existing credit claimant. These regulations reflect changes made by the Small Business Job Protection Act of 1996. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by November 17, 1998. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for Tuesday, December 1, 1998, at 10 a.m. must be received by Tuesday, November 10, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–115446–97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–115446–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Patricia A. Bray or Elizabeth Beck, (202) 622–3880 or Jacob Feldman, (202) 622–3830; concerning submissions and the hearing, Michael Slaughter, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary Regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend Income Tax Regulations (26 CFR Part 1) relating to section 936. Section 1.936–11T, published in TD 8778, provides guidance to possessions corporations that could lose their status as an existing credit claimant, and, as a result, their right to claim the possession tax credit, due to the addition of a substantial new line of business.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analysis

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be made available for public inspection and copying.

A public hearing has been scheduled for December 1, 1998, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Ave., NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to this hearing.

Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topic (preferably a signed original and eight (8) copies) to be discussed by November 10, 1998.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information. The principal author of these regulations is Patricia A. Bray of the Office of the Associate Chief Counsel (International). Other personnel from the IRS and the Department of the Treasury participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.936–11 also issued under 26 U.S.C. 936. * * *

Par. 2. Section 1.936–11 is added to read as follows:

§ 1.936–11 New lines of business prohibited.

[The text of this proposed section is the same as the text of § 1.936–11T published elsewhere in this issue of the **Federal Register**.]

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

[FR Doc. 98–21827 Filed 8–18–98; 8:45 am]

BILLING CODE 4831–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 009–0090b; FRL–6142–4]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision; Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern rules from the Ventura County Air Pollution Control District (VCAPCD). The intended effect of this proposed action is to remove rules from the SIP that are no longer in effect in VCAPCD, in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Rules section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will not take effect and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this rule. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by September 18, 1998.

ADDRESSES: Written comments should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rescission requests are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Ventura County Air Pollution Control District, 669 County Square Drive, Bakersfield, CA 93003.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION:

This document concerns the following rules from the Ventura County Air Pollution Control District: Rule 61, Effluent Oil Water Separators; Rule 65, Gasoline Specifications; and Rule 66, Organic Solvents. These rules were submitted to EPA for removal from the California State Implementation Plan. For further information, please see the information provided in the direct final action which is located in the Rules section of this Federal Register.

Dated: August 3, 1998.

David P. Howekamp,

Acting Regional Administrator, Region IX.

[FR Doc. 98–22320 Filed 8–18–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on the Proposed Endangered Status of Keck's Checker-mallow

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of the reopening of the comment period for the proposed endangered status for Keck's checker-mallow (*Sidalcea keckii*). The comment period has been reopened in response to a request from the Bureau of Reclamation.

DATES: Comments from all interested parties must be received by October 5, 1998.

ADDRESSES: Written comments, materials, data, and reports concerning this proposal should be sent to the Field Supervisor, Sacramento Fish and Wildlife Office, 310 El Camino Avenue, Suite 130, Sacramento, California 95821–6340. Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Ken Fuller or Jan Knight, at the address above (telephone 916/979–2120; facsimile 916/979–2128).

SUPPLEMENTARY INFORMATION:

Background

The San Joaquin Valley of California is a large, north-south oriented, alluvial valley that is mostly farmed or urbanized. The San Joaquin Valley, from Stockton in the north to Bakersfield in the south, is approximately 515 kilometers (km) (320 miles (mi)) long and 217 km (135 mi) wide. Tulare County, one of ten counties in the San Joaquin Valley, is located toward the southern end of the valley. A single population of *Sidalcea keckii* occurs toward the southern end of the valley, in south-central Tulare County.

Sidalcea keckii is a slender, hairy, erect annual herb belonging to the mallow family (Malvaceae). The species grows 1.5 to 3.3 decimeters (dm)(6 to 13 inches(in.)) tall. The lower leaf blades have 7 to 9 shallow lobes. The upper leaves have a tapered base with 2 to 5 notches in the upper lobes. A few deep pink flowers, 10 to 20 millimeters (mm) (0.4 to 0.8 in.) wide, appear in April through May. Seeds are smooth and pink-tinted. *Sidalcea keckii* closely resembles four other annual species of *Sidalcea—S. calycosa, S. diploscyha, S. hartwegii*, and *S. hirsuta. Sidalcea calycosa* and *S. diploscyha* have ranges that overlap with *S. keckii. Sidalcea keckii* can be variously separated from similar species by the number and size of flowers, the arrangement of stamens, the lengths of the bract and calyx, the presence of an aggregation of linear stipules and bracts surrounding the flower at maturity, the size and shape of the stem leaves, the density of hairs on the stems, and the presence of a purplish spot on the flower (Hickman 1993).

Wiggins (1940) described *Sidalcea keckii* from specimens collected in 1935 and 1938 near White River, Tulare County. *Sidalcea keckii* was known historically from three populations occurring between 120 to 425 meters (m) (400 to 1,400 feet (ft)) in elevation, but it has not been seen at two of these population sites for about 53 years. It was considered to be extinct until 1992, when the third, and only extant, population of *S. keckii* was discovered by consultants conducting a site inventory as part of the environmental compliance prior to construction of a subdivision (Woodward and Clyde Consultants, 1992). The population of *S.*

keckii occurs on 20 to 40 percent slopes of red or white-colored clay in sparsely-vegetated annual grasslands. The clays are thought to be derived from serpentine (magnesian or ultramafic) soils. The population covers an area measuring 30 m by 100 m (100 ft by 320 ft) and had a total of only 60 plants in 1992. It occurs on a privately-owned, 280 hectare (ha) (700 acre (ac)) parcel of land that is currently used for livestock grazing. *Sidalcea keckii* is threatened by urban development, agricultural land conversion (particularly to citrus orchards), and naturally occurring random events.

On July 28, 1997, the Service published a proposed rule to list *Sidalcea keckii* as endangered. Although the original comment period was to close on September 26, 1997, the comment period was extended until November 10, 1997, to accommodate a request for a public hearing which was held in Visalia, California, on October 21, 1997. In a memo dated June 15, 1998, the Bureau of Reclamation requested that the comment period be reopened to allow the Service to consider new information regarding the distribution of *S. keckii*.

References Cited

Hickman, J.C. (editor) 1993. The Jepson Manual-higher plants of California. University of California Press. Berkley, California. 1400 pp.

Wiggins, I. 1940. A new species of *Sidalcea*. Contributions to the Dudley Herbarium 3:55–56.

Woodward and Clyde Consultants. 1992. Focused biological surveys for eight target species in Tulare County. Unpublished report, Appendix J–1.

Author. The primary author of this notice is Ken Fuller, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

Authority

The authority of this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 10, 1998.

Michael J. Spear,

Manager, California and Nevada Operations Office.

[FR Doc. 98–22261 Filed 8–18–98; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 63, No. 160
Wednesday, August 19, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Satellite Ground Station Customer Questionnaire.

Agency Form Number(s): None.

OMB Approval Number: 0648–0227.

Type of Request: Extension of a currently approved collection.

Burden: 50 hours.

Number of Respondents: 300.

Avg. Hours Per Response: 10 minutes.

Needs and Uses: The National Oceanic and Atmospheric Administration (NOAA) operates four meteorological satellite imagery transmissions systems. The data transmitted are available worldwide, and any user can establish a ground receiving station for reception of the data without the prior consent or other approval from NOAA. NOAA, however, requests users to complete a short questionnaire which is available over Internet. When a user contacts NOAA directly, they are also sent a form to complete. The information provided helps NOAA with a "user" list so that they can provide better service, keep satellite users informed of changes, and assists NOAA with short-term operations and long-term planning.

Affected Public: Not-for-profit institutions, businesses or other for-profit organizations, individuals, farms, federal government, state, local or tribal government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395- 3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: August 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–22285 Filed 8–18–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Weather Modification Activities Reports.

Agency Form Number(s): NOAA 17–4, 17–4A, 17–4B.

OMB Approval Number: 0648–0025.

Type of Request: Extension of a currently approved collection.

Burden: 240 hours.

Number of Respondents: 40 (2 responses each).

Avg. Hours Per Response: 30 minutes per report and recordkeeping.

Needs and Uses: The National Weather Modification Policy Act requires that all weather modification activities be reported to the Secretary. The information is used for scientific research, historical statistics, international reports, and for other purposes.

Affected Public: Businesses or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: August 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–22286 Filed 8–18–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Northeast Region—Vessel Identification Requirements.

Agency Form Number(s): None.

OMB Approval Number: None.

Type of Request: New collection.

Burden: 4,242 hours.

Number of Respondents: 5,655

Avg. Hours Per Response: 45 minutes.

Needs and Uses: Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act, NOAA is responsible for management of the Nation's marine fisheries. As part of its efforts to enforce fishery regulations, NOAA specifies that a vessel's official number be displayed in a specific size on specified areas of the vessel. Vessel identification numbers are used primarily for enforcement purposes.

Affected Public: Businesses or other for-profit organizations, individuals.

Frequency: Recordkeeping.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: August 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–22287 Filed 8–18–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Emergency Beacon Registration.

Agency Form Number(s): None.

OMB Approval Number: 0648–0295.

Type of Request: Extension of a currently approved collection.

Burden: 2,500 hours.

Number of Respondents: 10,000.

Avg. Hours Per Response: 15 minutes.

Needs and Uses: An international system exists to use satellites to detect and locate ships, aircraft, or individuals in distress if they are equipped with an emergency radio beacon. Persons purchasing such a beacon must register it with NOAA. The data provided in the registration assists in identifying who is in trouble and also suppressings false alarms.

Affected Public: Businesses or other for-profit organizations, individuals, not for profit institutions, federal government, state, local or tribal government.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: August 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–22288 Filed 8–18–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–047]

Elemental Sulphur From Canada: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the preliminary results of the review of elemental sulphur from Canada. This review covers one Canadian producer, Husky Oil, Ltd., for the period December 1, 1996 through November 30, 1997.

EFFECTIVE DATE: August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Rick Johnson at (202) 482–3818; Office of AD/CVD Enforcement, Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA).

Postponement of Preliminary Results

The Department has determined that it is not practicable to issue its preliminary results of the administrative review within the original time limit of November 1, 1998. *See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III to Robert LaRussa, Assistant Secretary for Import Administration,* August 12, 1998. The Department is extending the time limit for completion of the preliminary results until December 31, 1998 in accordance with Section 751(a)(3)(A) of the Act.

The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

Dated: August 12, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary for Enforcement Group III.

[FR Doc. 98–22334 Filed 8–18–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 98–00002.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to All State Packers, Inc. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1998).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Products

Fresh California pears.

2. Services

Inspection, quality control, marketing and promotional services.

3. Technology Rights

Proprietary rights to all technology associated with Products or Services, including, but not limited to: Patents, trademarks, service marks, trade names, copyrights, trade secrets, and know-how.

4. Export Trade Facilitation Services (as They Relate to the Export of Products, Services and Technology Rights)

All export trade-related facilitation services, including, but not limited to: Consulting and trade strategy; sales and marketing; export brokerage; foreign marketing research; foreign market development; overseas advertising and promotion; product research and design based on foreign buyer and consumer preferences; communication and processing of export orders; inspection and quality control; transportation; freight forwarding and trade documentation; insurance; billing of foreign buyers; collection (letters of credit and other financial instruments); provision of overseas sales and distribution facilities and overseas sales staff; legal, accounting and tax assistance; management information systems development and application; assistance and administration of government export assistance programs, such as the USDA Market Access and Supplier Credit Programs.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

In connection with the promotion and sale of ASP's and Member's Products and Services into the Export Markets, ASP and its Member may:

1. Design and execute foreign marketing strategies for its Export Markets;

2. Prepare joint bids, establish export prices for Products and Services and establish terms of sale in the Export Markets in connection with potential or actual bona fide opportunities;

3. Grant sales and distribution rights for the Products, whether or not exclusive, into designated Export Markets to foreign agents or importers ("exclusive" meaning that ASP and Member may agree not to sell the Products into the designated Export Markets through any other foreign distributor, and that the foreign distributor may agree to represent only ASP and/or Member in the Export Markets and none of its competitors);

4. Design, develop and market generic corporate labels for use in the Export Markets;

5. Engage in joint promotional activities directly targeted at developing the Export Markets, such as: Arranging marketing trips; brochures, promotions and other forms of product, service and industry information; conducting international market and product research; procuring international marketing; advertising and promotional services; and sharing the cost of these joint promotional activities among ASP and the Member;

6. Conduct product and packaging research and development exclusively for the export of the Products, such as meeting foreign regulatory requirements and foreign buyer specifications and identifying and designing for foreign buyer and consumer preferences;

7. Negotiate and enter into agreements with governments and other foreign persons regarding non-tariff trade barriers in the Export Markets, such as packaging requirements, and providing specialized packing operations and other quality control procedures to be followed by ASP and Member in the export of Products into the Export Markets;

8. Advise and cooperate with agencies of the U.S. Government in establishing procedures regulating the export of ASP's and Member's Products, Services and/or Technology Rights into the Export Markets;

9. Negotiate and enter into purchase agreements with buyers in the Export Markets regarding the export prices, quantities, type and quality of Products, time periods, and the terms and conditions of sale;

10. Broker or take title to the Products intended for Export Markets;

11. Purchase Products from non-Members whenever necessary to fulfill specific sales obligations; provided that ASP and/or Member shall make such purchases only on a transaction-by-transaction basis and when ASP and/or Member are unable to supply, in a timely manner, the requisite Products at a price competitive under the circumstances;

12. Solicit non-Members to become Members;

13. Communicate and process export orders;

14. Assist each other in maintaining the quality standards necessary to be successful in the Export Markets;

15. Provide Export Trade Facilitation Services with respect to Products, Services and Technology (including such items as commodity fumigation, refrigeration and storage techniques, and other quality control procedures to be followed in the export of Products into Export Markets);

16. Provide, procure, negotiate, contract and administer transportation services for Products in the course of export, including overseas freight transportation, inland freight transportation from the packing house to the U.S. port of embarkment, leasing of transportation equipment and facilities, storage and warehousing, stevedoring, wharfage and handling, insurance, forwarder services, trade documentation and services, Customs clearance, financial instruments and foreign exchange;

17. Negotiate freight rate contracts with individual carriers and carrier conferences either directly or indirectly through shippers associations and/or freight forwarders;

18. Arrange financing through bank holding companies, governmental financial assistance programs and other arrangements;

19. Bill and collect from foreign buyers and provide accounting, tax, legal and consulting assistance and services in relation to Export Trade Activities and Methods of Operation;

20. Enter into exclusive agreements with non-Member(s) to provide Export Trade Services and Export Trade Facilitation Services;

21. Open and operate overseas sales and distribution offices and companies to facilitate the sales and distribution of the Products in the Export Markets;

22. Apply for and utilize applicable export assistance and incentive programs which are available within the governmental sector, such as the USDA Market Access and Supplier Credit Programs;

23. Negotiate and enter into agreements with governments and foreign persons to develop countertrade arrangements, provided that this Certificate does not protect any conduct related to the sale of goods in the United States that are imported as part of any countertrade transactions;

24. Refuse to deal with or provide quotations to other Export

Intermediaries for sales of ASP's and Member's Products into the Export Markets; and

25. Exchange information between ASP and Member as necessary to carry out Export Trade Activities and Methods of Operation, including:

a. Information about sales and marketing efforts and strategies in the Export Markets, including pricing; projected demand in the Export Markets for Products; customary terms of sale, prices and availability of Products independently committed by Member for sales in the Export Markets; prices and sales of Products in the Export Markets; and specifications by buyers and consumers in the Export Markets;

b. Information about the price, quality, quantity, source and delivery dates of Products available from ASP and its Member for export;

c. Information about terms and conditions of contracts for sales in the Export Markets to be considered and/or bid on by ASP and/or its Member;

d. Information about joint bidding opportunities;

e. Information about methods by which export sales are to be allocated among ASP and Member;

f. Information about expenses specific to exporting to and within the Export Markets, including transportation, transshipments, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing and customs duties or taxes;

g. Information about U.S. and foreign legislation and regulations, including Federal marketing order programs that may affect sales to Export Markets; and

h. Information about ASP's or its Member's export operations, including sales and distribution networks established by ASP and Member in the Export Markets, and prior export sales by ASP and Member, including export price information.

Definitions

1. *Export Intermediary* means a person who acts as distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing, or arranging for the provision of, Export Trade Facilitation Services.

2. *Member* means a person who has membership in the ASP Export Trade Certificate and who has been certified as a "Member" within the meaning of § 325.2(1) of the Regulations. Carter Thomas, LLC is currently the only member.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: August 13, 1998.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 98–22255 Filed 8–18–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend certificate.

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 87–13A04."

The Association for Manufacturing Technology's ("AMT") original Certificate was issued on May 19, 1987 (52 FR 19371, May 22, 1987) and previously amended on December 11, 1987 (52 FR 48454, December 22, 1987); January 3, 1989 (54 FR 837, January 10, 1989); April 20, 1989 (54 FR 19427, May 5, 1989); May 31, 1989 (54 FR 24931, June 12, 1989); May 29, 1990 (55 FR 23576, June 11, 1990); June 7, 1991 (56 FR 28140, June 19, 1991); November 27, 1991 (56 FR 63932, December 6, 1991); July 20, 1992 (57 FR 33319, July 28, 1992); May 10, 1994 (59 FR 25614, May 17, 1994); December 1, 1995 (61 FR 13152, March 26, 1996); October 11, 1996 (61 FR 55616, October 28, 1996; and May 6, 1998 (63 FR 31738, June 10, 1998). A summary of the application for an amendment follows.

Summary of the Application

Applicant: AMT—The Association For Manufacturing Technology, 7901 Westpark Drive, McLean, Virginia 22102–4269.

Contact: James Atwood, Legal Counsel, Telephone: (202) 662–5298.

Application No.: 87–13A04.

Date Deemed Submitted: August 13, 1998.

Proposed Amendment: AMT seeks to amend its Certificate to:

1. Add the following companies as new "Members" of the Certificate within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): DT Industries, Inc., Springfield, MO; Motoman, Inc., West Carrollton, OH; and Precision Industrial Automation, Inc., Cincinnati, OH;

2. Delete Banner Welder; Crouch Machinery, Inc.; Danly-Komatsu, L.P.; and J. M. Montgomery Manufacturing Inc. as "Members" of the Certificate; and

3. Change the listing of the company name for the current "Members" cited

in this paragraph to the new listing cited in parenthesis as follows: M T R Ravensburg, Inc. (Machine Tool Research, Inc.) and Buffalo Forge Company (Buffalo Machine Tools of Niagara, Inc.).

Dated: August 14, 1998.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 98–22280 Filed 8–18–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080598A]

Highly Migratory Species and Billfish Advisory Panels; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Atlantic Highly Migratory Species (HMS) and Billfish Advisory Panels (APs) will each hold a meeting to discuss management issues under consideration for inclusion in the draft HMS fishery management plan (FMP) and draft Billfish FMP amendment, respectively.

DATES: The HMS AP meeting will be held Thursday, August 27, 1998, and Friday, August 28, 1998, from 8:00 a.m. to 5:00 p.m. both days. A public comment period is scheduled for Wednesday, August 26, 1998, from 6:00 p.m. to 9:00 p.m. Public comment is solicited on issues in the draft HMS FMP, including the use of vessel monitoring systems (VMS) in HMS fisheries. The Billfish AP meeting will be held Wednesday, September 2, 1998, and Thursday, September 3, 1998, from 8:00 a.m. to 5:00 p.m. both days. A public comment period for the Billfish AP meeting is scheduled for Thursday, September 3, 1998, from 7:00 p.m. to 10:00 p.m. The Billfish AP public comment period will be held in conjunction with and at the site of the regional meeting of the U.S. Advisory Committee to the International Commission for the Conservation of Atlantic Tunas (ICCAT).

ADDRESSES: The HMS AP will meet at the Radisson Airport Hotel Providence, 2081 Post Road, Warwick, Rhode Island 02886; telephone: (401) 739–3000. The Billfish AP will meet at the Hotel on the Cay, Protestant Cay, P.O. Box 4020, Christiansted, St. Croix, Virgin Islands 00822; telephone: (340) 773–2035. The Billfish AP public comment period will be held at the Buccaneer Hotel, Estate Shoys, St. Croix, Virgin Islands 00824; telephone: (340) 773–2100. Written comments should be submitted to, and informational materials related to the AP meetings are available from, Liz Lauck, Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Pat Wilbert or Liz Lauck, telephone: (301) 713–2347, fax: (301) 713–1917.

SUPPLEMENTARY INFORMATION: The HMS and Billfish APs were established under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1901 *et seq.* The APs will assist the Secretary of Commerce in collecting and evaluating information relevant to the development of an FMP for Atlantic tunas, swordfish, and sharks, and an amendment to the Billfish FMP. All AP meetings are open to the public and will be attended by members of the AP, including appointed members, representatives of the five fishery management councils that work with Atlantic HMS, and the Chair, or his or her representative, of the U.S. Advisory Committee to ICCAT.

The agendas for the AP meetings will include discussion of draft documents for the HMS FMP and the Billfish FMP amendment, respectively, and the draft HMS Essential Fish Habitat document. Topics will include:

1. Rebuilding alternatives;
2. Bycatch reduction alternatives;
3. Permitting and reporting alternatives;
4. VMS (HMS AP meeting only);
5. Essential fish habitat identification; and
6. Other items related to meeting requirements of the Magnuson-Stevens Act.

The public comment period for the HMS Advisory Panel is scheduled for Wednesday, August 26, 1998, from 6:00 p.m. to 9:00 p.m. at the meeting location. NMFS seeks comments on issues in the draft HMS FMP including U.S. implementation of the ICCAT vessel monitoring system (VMS) program. The ICCAT VMS recommendation applies to vessels greater than 79 feet that fish for HMS on the high seas. Comments are requested specifically on applicability of the ICCAT recommendation to the U.S. fleet, costs of implementation, and participation in high seas fishing for HMS.

The public comment period for the Billfish Advisory Panel is scheduled for Thursday, September 3, 1998, from 7:00 p.m. to 10:00 p.m. and will be held in conjunction with, and at the site of, the ICCAT regional meeting. Note that the location of the Billfish AP public comment period/ICAAT regional meeting is different from the location of the Billfish AP meeting. Comments are solicited on management issues under consideration for inclusion in the draft Billfish FMP amendment. See **ADDRESSES** to request informational materials related to the AP discussion or to submit public comments on management issues for the draft FMP documents.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or for other auxiliary aids should be directed to Pat Wilbert, 1315 East-West Highway, Silver Spring, MD 20910, phone (301) 713–2347; fax: (301) 713–1917, at least 7 days prior to the meeting date.

Dated: August 13, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–22220 Filed 8–13–98; 3:29 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081198A]

Fisheries of the Exclusive Economic Zone off Alaska; Groundfish of the Gulf of Alaska; Experimental Fishing Permit

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

ACTION: Issuance of an experimental fishing permit.

SUMMARY: NMFS announces the issuance of an experimental fishing permit 98–01 (EFP) to the Groundfish Forum. The EFP authorizes the Groundfish Forum to conduct an experiment in the Gulf of Alaska (GOA) that would test the effectiveness of a halibut excluder device for flatfish trawls in reducing halibut bycatch rates without significantly lowering catch rates of flatfish. Results of the experiment will be used to develop methods for trawl vessels targeting flatfish to reduce halibut bycatch rates and mortality. This EFP will provide information not otherwise available through research or commercial fishing operations. The intended effect of this

action is to promote the purposes and policies of the Magnuson-Stevens Fishery Conservation and Management Act.

ADDRESSES: Copies of the EFP and the Environmental Assessment (EA) prepared for the EFP are available from Lori J. Gravel, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Sue Salveson, 907–586–7228

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) authorizes the issuance of EFPs for fishing for groundfish in a manner that would otherwise be prohibited under existing regulations. The procedures for issuing EFPs are set out at 50 CFR 679.6.

On June 8, 1998, NMFS announced in the **Federal Register** the receipt of an application for an EFP from the Groundfish Forum (63 FR 31201). The application requested authorization for Groundfish Forum to test the effectiveness of a halibut excluder device in reducing halibut bycatch rates in the deep water flatfish fisheries while not lowering the amount of target flatfish species. The purpose of this research is to assist industry in developing gear modifications that will reduce the bycatch of halibut in flatfish fisheries off Alaska. This EFP will provide information not otherwise available through research or commercial fishing operations because it is not economically feasible for vessels to participate in an experiment of this extent and rigor during the short commercial fisheries.

A statistical analysis completed by Groundfish Forum and reviewed by NMFS has determined that 60 pairs of tows between two vessels would produce a 90–percent certainty of detecting a 35– percent decline in halibut bycatch rates, and nearly a 100–percent chance of detecting a 25–percent decrease in rex sole catch, the principle target species in the GOA deepwater flatfish fishery. To complete the experiment, Groundfish Forum estimates that 650 metric tons (mt) of groundfish may be taken by vessels participating in the experiment and between 18.5 mt and 25 mt of Pacific halibut bycatch mortality. The experiment is scheduled to take place in the Western or Central Regulatory Areas of the GOA during a 10 to 20-day period in September and October 1998. The effective date for the EFP may be revised to a date in 1999, pending agreement between the permit holder and the Administrator, Alaska Region, NMFS (Regional Administrator).

The Groundfish Forum will set up a "request for proposals" (RFP) process whereby companies submit applications to test an halibut excluder device. Under the rules of the experiment, the performance of trawl gear with the excluder device in place will be tested against a standard control gear. The control gear will be the same trawl gear configured without the halibut excluder device. Trawling with experimental and control gear will be conducted with procedures and sites used during the commercial fishery for deep water flatfish species in the GOA.

The RFP will set out general standards for the design of a halibut excluder device that will be systematically tested against control trawl gear. These standards state the design should:

1. Release a large percentage of the halibut that come into the trawl unharmed;
2. Avoid significant reductions in target flatfish or round fish catches, while potentially releasing less desirable species (such as arrowtooth flounder);
3. Function with few failures or break downs and be resistant to clogging and debris jams;
4. Provide easy removal or disabling of the excluder to facilitate changes between experimental and control gear without handling difficulties or safety concerns for deck crew (this feature is especially critical for small vessels with limited deck length);
5. Provide durability and ease of storage on deck; and
6. Be constructed from affordable materials that are readily available.

Guidelines for applications to participate in the experiment will be provided by Groundfish Forum. This information will be conveyed to potential applicants through a short publication written and distributed by the Groundfish Forum and reviewed by NMFS personnel associated with the experiment. A Selection Panel of NMFS gear experts and other NMFS management personnel will review the suitability of applications and determine which design has the greatest potential for excluding halibut and retaining target catch. The device selected by the Selection Panel will be subjected to a systematic field test to establish its effectiveness as well as some exploration to isolate the elements that make the device successful (placement, towing speed, sea conditions, ambient light conditions, etc.).

The Regional Administrator has approved the EFP application and has issued EFP 98–01 to the Groundfish Forum. The EFP authorizes Groundfish Forum to solicit vessel participants through the RFP process and authorizes the harvest of 650 mt of groundfish during the course of the 10–20 day experiment during September and October 1998, of which no more than 30 percent (195 mt) may be groundfish species other than Rex sole, Dover sole, Greenland turbot, deep sea sole, flathead sole, or arrowtooth flounder (deep water flatfish). The amount of groundfish species retained other than deep water flatfish will not exceed 15 percent per species or species group (see Table 10 of 50 CFR part 679 for a definition of species groups) of the retained catch of deep water flatfish as defined in this EFP, except that the retained amount of sablefish is not to exceed 2 percent of the retained catch of deep water flatfish. Groundfish and halibut bycatch mortality associated with this experiment will not be deducted from total allowable catch and halibut bycatch allowances specified for the 1998 groundfish fisheries. This will not cause a conservation problem for groundfish species because estimated total removals under the EFP likely would remain within their acceptable biological catches and not exceed overfishing levels already considered in the EA for the 1998 specifications.

The Regional Administrator may terminate the experiment if halibut bycatch mortality exceeds the high-end projections of the permit applicant, or 25 mt mortality (39 mt bycatch). Failure of the permittee to comply with the terms and conditions of the EFP may be grounds for revocation, suspension, or modification of the EFP under 15 CFR 904 with respect to any or all persons and vessels conducting activities under the EFP. Failure to comply with applicable laws may also result in sanctions imposed under those laws.

Classification

NMFS prepared an EA for this EFP. The Assistant Administrator for Fisheries, NOAA concluded that there will be no significant impact on the human environment as a result of fishing under this EFP. A copy of the EA is available from NMFS (see **ADDRESSES**). The Regional Administrator determined that fishing activities conducted pursuant to this EFP will not affect endangered and threatened species or critical habitat under the Endangered Species Act.

This notice is exempt from review under E.O. 12866. Because prior notice and opportunity for public comment are not required; the analytical requirements of the Regulatory Flexibility Act are inapplicable.

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

Dated: August 13, 1998.

Gary C. Matlock,

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

[FR Doc. 98–22245 Filed 8–18–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Technology Administration

Under Secretary for Technology; National Medal of Technology Nomination Evaluation Committee; Determination for Closure of Meeting

The National Medal of Technology Nomination Evaluation Committee has scheduled a meeting for August 25, 1998.

The Committee was established to assist the Department in executing its responsibilities under 15 U.S.C. 3711. Under this provision, the Secretary is responsible for recommending to the President prospective recipients of the National Medal of Technology. The committee's recommendations are made after reviewing all nominations received in response to a public solicitation. The Committee is chartered to have twelve members.

Time and Place: The meeting will begin at 10 a.m. and end at 4 p.m. on August 25, 1998. The meeting will be held in Room 4824 at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. For further information contact: Allison Rosenberg, Director, National Medal of Technology, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Herbert C. Hoover Building, Room 4226, Washington, DC 20230, Ph: (202–482–5572).

If a member of the public would like to submit written comments concerning the committee's affairs at any time before and after the meeting, written comments should be addressed to the Director of the National Medal of Technology as indicated above.

SUPPLEMENTARY INFORMATION: The meeting will be closed to discuss the relative merits of persons and companies nominated for the Medal. Public disclosure of this information would be likely to significantly frustrate implementation of the National Medal of Technology program because premature publicity about candidates under consideration for the Medal, who may or may not ultimately receive the award, would be likely to discourage nominations for the Medal.

Accordingly, I find and determine, pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended, that the August 25, 1998, meeting may be closed to the public in accordance with Section 552b(c)(9)(B) of Title 5, United States Code because revealing information about Medal candidates would be likely to significantly frustrate implementation of a proposed agency action.

Due to closure of the meeting, copies of the minutes of the meeting will not be available, however a copy of the Notice of Determination will be available for public inspection and copying in the office of Allison Rosenberg, Director, National Medal of Technology, 14th and Constitution Avenue, NW., Herbert Hoover Building, Room 4226, Washington, DC 20230, (Ph: 202–482–5572).

Kelly H. Carnes,

Deputy Assistant Secretary for Technology Policy.

[FR Doc. 98–22282 Filed 8–18–98; 8:45 am]

BILLING CODE 3510–18–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Korea

August 13, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, special swing, special shift, carryover, carryforward, carryforward used and recrediting unused carryforward.

In accordance with the special swing provision contained in the exchange of notes dated April 2 and 8, 1997 between the Governments of the United States and Korea, 2,842,990 square meters equivalent is being charged to the 1998 Group II limit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67833, published on December 30, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 13, 1998.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Korea and exported during the period beginning January 1, 1998 and extending through December 31, 1998.

Effective on August 19, 1998, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Group I	
200–223, 224–V [2], 224–O [3], 225, 226, 227, 300–326, 360–363, 369pt. [4], 400–414, 464, 469pt. [5], 600–629, 666, 669–P [6], 669pt. [7], and 670–O [8], as a group.	382,368,721 square meters equivalent.
Sublevel within Group I	
619/620	94,459,400 square meters.
Sublevels within Group II	
336	69,035 dozen.
338/339	1,421,090 dozen.
340	813,305 dozen of which not more than 415,800 dozen shall be in Category 340–D [9].
342/642	252,425 dozen.

Category	Adjusted limit [1]
347/348	590,225 dozen.
350	20,079 dozen.
435	39,282 dozen.
443	352,651 numbers.
633/634/635	1,439,681 dozen of which not more than 163,256 dozen shall be in Category 633 and not more than 608,408 dozen shall be in Category 635.
640–D [10]	3,071,785 dozen.
647/648	1,235,782 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

[2] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[3] Category 224–O: all remaining HTS numbers in Category 224.

[4] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091, 6307.90.9905, (Category 369–L); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700.

[5] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[6] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[7] Category 669pt.: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040.

[8] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

[9] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.

[10] Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

In accordance with exchange of notes dated April 2 and April 8, 1997 between the Governments of the United States and Korea, for products exported in 1998, you are directed to charge 2,842,990 square meters equivalent to the Group II limit.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–22281 Filed 8–18–98; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–701–000]

Columbia Gas Transmission Corporation; Notice of Application

August 13, 1998.

Take notice that on July 30, 1998, Columbia Gas Transmission Corporation (Applicant), P.O. Box 10146, Fairfax, Virginia, 22030–0146, filed in Docket No. CP98–701–000 and abbreviated application pursuant to Section 7(c) of the Natural Gas Act, as amended, and Section 157 of the Federal Energy Regulatory Commission's (Commission) regulations thereunder, for permission and approval to construct certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant specifically proposes to construct 0.05 mile of two-inch pipeline and appurtenances located on Schuyler County, New York to serve as by-pass for Applicant's Storage Line 9355. Applicant asserts that a by-pass pipeline such as the one proposed herein—the primary purpose of which is to ensure the integrity of service—is akin to an age and condition pipeline replacement and therefore qualifies for rolled-in rate treatment.

Any person desiring to be heard to make a protest with reference to said application should on or before September 3, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.W., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it 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 to the proceeding or participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, and if the Commission on its own review of the matter finds that the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provide for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 98–22248 Filed 8–18–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–710–000]

Williams Gas Central, Inc.; Notice of Request Under Blanket Authorization

August 13, 1998.

Take notice that on August 11, 1998, Williams Gas Central, Inc. (Applicant), P.O. Box 3288, Tulsa, Oklahoma, 74101, filed in Docket No. CP98–710–000 a request pursuant to Sections 157.205, 157.212, 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, and 157.216) for approval to replace facilities for the Kansas Gas Company, a division of ONEOK, in the same location in Atchinson County, Kansas, pursuant to Section 7(c) of the Natural Gas Act (NGA) and under the authorization issued in Docket No. CP82–479–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant proposes to replace the Shannon tap meter setting and appurtenant facilities with a larger meter setting and appurtenant facilities. Applicant states that the Shannon tap serves an industrial park and the peak day volume is expected to increase approximately 336 Dth per day with the addition of a new end user in the park. Applicant further states that the estimated cost of construction is approximately $48,389, which will be reimbursed by Kansas Gas.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section

157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities 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 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.

David P. Boergers,

Secretary.

[FR Doc. 98–22253 Filed 8–18–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–52–000, et al.]

Inland Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

August 11, 1998.

Take notice that the following filings have been made with the Commission:

1. Inland Power & Light Company

[Docket No. EC98–52–000]

Take notice that on August 7, 1998, Inland Power & Light Company (Inland) submitted for filing an Asset Purchase Agreement Between Inland Power & Light Company and Public Utility District No.1 of Pend Oreille County and a Merger Agreement Between Inland Power & Light Co. and Lincoln Electric Cooperative, Inc., pursuant to section 203 of the Federal Power Act (FPA), and Section 33.2 of the Regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR 33.2. Inland's filing is available for public inspection at its offices in Spokane, Washington.

Inland respectfully requests that the Commission disclaim jurisdiction or approve the transactions retroactively, effective as of March 1, 1991, and August 15, 1995, respectively.

Comment date: September 9, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Western Resources, Inc.

[Docket Nos. ER95–1515–003, R96–459–003, and ER98–1743–000]

Take notice that on April 13, 1998, Western Resources, Inc. submitted for filing a Compliance Report regarding refunds.

Comment date: September 1, 1998, in accordance with Standard Paragraph F at the end of this notice.

3. Portland General Electric Co.

[Docket No. ER98–1643–001]

Take notice that on June 10, 1998, Portland General Electric Company tendered for filing a notification of changed facts in the above-referenced docket.

Comment date: August 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. California Independent System Operator Corporation

[Docket Nos. ER98–2264–001]

Take notice that on August 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1 to the Meter Service Agreement for Scheduling Coordinators between Williams Energy Services Company and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1 modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co. et al., 81 FERC 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Interstate Power Company

[Docket No. ER98–2512–000]

Take notice that on August 6, 1998, Alliant Services, Inc., on behalf of IES Utilities Inc. (IES), Interstate Power Company (IPC) and Wisconsin Power and Light Company (WPL), submitted an amended filing in Docket No. ER98–2512–000.

Alliant Services, Inc. accordingly, seeks waiver of any of the Commission's notice requirements to permit an effective date of April 1, 1998. A copy of this filing has been served upon the Iowa Utilities Board, the Minnesota Public Utilities Commission, the Illinois Commerce Commission, and the Public Service Commission of Wisconsin.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. California Independent System Operator Corporation

[Docket Nos. ER98–4133–000]

Take notice that on August 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1 to the Participating Generator Agreement between the ISO and Duke Energy Oakland LLC for acceptance by the Commission. The ISO states that Amendment No. 1 modifies the Participating Generator Agreement by extending the date by which Duke Energy must obtain certification by the ISO in accordance with Section 4.3.2 of the agreement.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Central Hudson Gas & Electric Corporation

[Docket No. ER98–4134–000]

Take notice that on August 6, 1998, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to 18 CFR 35.12 of the Federal Energy Regulatory Commission's Regulations, a Service Agreement between CHG&E and New York Power Authority. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume 1 (Transmission Tariff) filed in compliance with the Commission's Order 888 in Docket No. RM95–8–000 and RM94–7–001 and amended in compliance with Commission's Order dated May 28, 1997. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. FirstEnergy Corp. and Pennsylvania Power Company

[Docket No. ER98–4136–000]

Take notice that August 6, 1998, FirstEnergy Corp. tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement for Network Corporation pursuant to the First Energy System Open Access Tariff. This Service Agreement will enable the party to obtain Network Integration Service under the Pennsylvania Retail Pilot in accordance with the terms of the Tariff.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. PP&L, Inc.

[Docket No. ER98–4137–000]

Take Notice that on August 6, 1998, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company)

(PP&L), filed a Service Agreement dated July 21, 1998 with Connecticut Municipal Electric Energy Cooperative (CMEEC) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds CMEEC as an eligible customer under the Tariff.

PP&L requests an effective date of August 6, 1998 for the Service Agreement.

PP&L states that copies of this filing have been supplied to CMEEC and to the Pennsylvania Public Utility Commission.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Potomac Electric Power Company

[Docket No. ER98–4138–000]

Take notice that on August 6, 1998, Potomac Electric Power Company (Pepco) tendered for filing its application for authorization to sell and to broker electric power at market-based rates.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Novarco Ltd.

[Docket No. ER98–4139–000]

Take notice that on August 6, 1998, Novarco Ltd. (Novarco) petitioned the Commission for acceptance of its Rate Schedule FERC No. 1, the granting of certain blanket approvals, including the authority to sell electricity at market-based rates, and the waiver of certain Commission regulations.

Novarco intends to engage in wholesale electric power and energy purchases and sales as a marketer. Novarco is not in the business of generating or transmitting electric power.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. The Washington Water Power Co.

[Docket No. ER98–4140–000]

Take notice that on August 6, 1998, The Washington Water Power Company (WWP) tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements for Short-Term Firm and Non-Firm Point-To-Point Transmission Service under WWP's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8 with ConAgra Energy Services, Inc., Tenaska Power Services Co., Bonneville Power Administration, Equitable Power Services Company, Sierra Pacific Power Company, Enron Power Marketing, Inc., Engage Energy US, LP, NorAm Energy Services, Inc., PECO Energy Company-Power Team, Southern Company Energy Marketing, LP, Coral Power, L.L.C., Western Resources, Grant County PUD and New Energy Ventures, LLC. WWP requests the Service Agreements be given respective effective dates of July 6, 1998, July 7, 1998, July 10, 1998, July 13, July 14, 1998, July 15, 1998, July 16, 1998, July 16, 1998, July 16, 1998, July 18, 1998, July 20, 1998, July 22, 1998, August 3, 1998 and August 3, 1998.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. PP&L, Inc.

[Docket No. ER98–4141–000]

Take notice that on August 6, 1998, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated July 29, 1998 with Griffin Energy Marketing, L.L.C. (GEM) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds GEM as an eligible customer under the Tariff.

PP&L requests an effective date of August 6, 1998 for the Service Agreement.

PP&L states that copies of this filing have been supplied to GEM and to the Pennsylvania Public Utility Commission.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Delmarva Power & Light Co.

[Docket No. ER98–4142–000]

Take notice that on August 6, 1998, Delmarva Power & Light Company (Delmarva) tendered for filing executed umbrella service agreements with Tenaska Power Services Company and Dayton Power and Light Company under Delmarva's market rate sales tariff.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Entergy Services, Inc.

[Docket No. ER98–4143–000]

Take notice that on August 6, 1998, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Gulf States, Inc. (Entergy Gulf States), tendered for filing an amendment to the Interconnection and Operating Agreement between Entergy Gulf States and Dow Chemical Company.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Idaho Power Company

[Docket No. ER98–4144–000]

Take notice that on August 6, 1998, Idaho Power Company (IPC) tendered for filing with the Federal Energy Regulatory Commission a Service Agreement under Idaho Power Company FERC Electric Tariff No. 6, Market Rate Power Sales Tariff, between Idaho Power Company and Illinova Power Marketing, Inc.

Idaho Power Company requests an effective date of July 16, 1998.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. PP&L, Inc.

[Docket No. ER98–4145–000]

Take notice that on August 6, 1998, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated July 29, 1998 with Niagara Mohawk Power Corporation (NIMO) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds NIMO as an eligible customer under the Tariff.

PP&L requests an effective date of August 6, 1998 for the Service Agreement.

PP&L states that copies of this filing have been supplied to NIMO and to the Pennsylvania Public Utility Commission.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Puget Sound Energy, Inc.

[Docket No. ER98–4146–000]

Take notice that on August 6, 1998, Puget Sound Energy, Inc. (PSE), as Transmission Provider, tendered for filing an unexecuted Service Agreement for Firm Point-to-Point Transmission Service and an unexecuted Service Agreement for Non-Firm Point-To-Point Transmission Service, with Tacoma Power (Tacoma), as Transmission Customer.

PSE respectfully requests the Commission to waive its prior notice and filing requirements and permit this filing to become effective as of August 7, 1998.

A copy of the filing was served upon Tacoma.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. California Independent System Operator Corporation

[Docket No. ER98–4167–000]

On August 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1 to the Participating Generator Agreement between the ISO and Duke Energy Morro Bay LLC for acceptance by the Commission. The ISO states that Amendment No. 1 modifies the Participating Generator Agreement by extending the date by which Duke Energy must obtain certification by the ISO in accordance with Section 4.3.2 of the agreement.

The ISO respectfully requests a waiver of the 60-day prior notice requirement, so that Amendment No. 1 may be accepted for filing and become effective as of July 1, 1998.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. California Independent System Operator Corporation

[Docket No. ER98–4168–000]

On August 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1 to the Participating Generator Agreement between the ISO and Duke Energy Moss Landing LLC for acceptance by the Commission. The ISO states that Amendment No. 1 modifies the Participating Generator Agreement by extending the date by which Duke Energy must obtain certification by the ISO in accordance with Section 4.3.2 of the agreement.

The ISO respectfully requests a waiver of the 60-day prior notice requirement, so that Amendment No. 1 may be accepted for filing and become effective as of July 1, 1998.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. New York State Electric & Gas Corporation

[Docket No. OA97–293–000]

Take notice that New York State Electric & Gas Corporation (NYSEG) tendered for filing pursuant to Section 35.13 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.13, an amendment (the Amendment) to NYSEG's December 30, 1996 filing in this docket (the December 30, 1996 Filing) which amended the following rate schedules:

130—AES Power, Inc.
169—AIG Trading
139—Atlantic City Electric
123—Allegheny Electric Coop
152—Acquila Power Corporation
122—Baltimore Gas & Electric
138—Burlington Electric Department
128—Catex Vitol Electric
144—Central Hudson Gas & Electric
175—Central Vermont Public Service
134—Citizen's Power & Light
142—CNG Power Services Corporation
149—Coastal Electric Services Corporation
85—Connecticut Light & Power Company
119—Consolidated Edison
168—Coral Power, L.L.C.
171—Duke/Louis Dreyfus L.L.C.
163—Eastex Power Marketing, Inc.
137—Electric Clearinghouse, Inc.
143—Englehard Power Mktg., Inc.
124—Enron Gas Marketing, Inc.
164—Federal Energy Sales, Inc.
148—Gateway Energy, Inc.
104—General Public Utilities
159—Global Petroleum
136—Green Mountain Power
140—Heartland Energy Services
155—Industrial Energy Applications, Inc.
167—KN Marketing, Inc.
153—Koch Power Services, Inc.
98—Long Island Lighting Company
160—Long Sault, Inc.
129—Louisville Gas & Electric
161—Midcon Power Services Corp.
158—Montaup Electric Co.
151—National Fuel Resources, Inc.
88—New York Power Authority
120—Niagara Mohawk Power Corp.
173—NorAm Energy Services, Inc.
150—North Amer. Energy Conser., Inc.
99—Orange & Rockland Utilities, Inc.
170—PanEnergy Power Services, Inc.
157—PECO Energy Co.
156—Public Service Electric & Gas
141—Rainbow Energy Marketing Company
162—Rochester Gas and Electric Corporation
166—TransCanada Power Corp.
165—Virginia Electric & Power
145—Vermont Public Power Supply Authority

The Amendment reflects a modification to the Rate Schedules, as effected by the Commission's Order No. 888, (issued on April 24, 1996) in Docket No. RM95–8–000, and by the Commission's May 7, 1998 letter in Docket No. OA97–293–000, which required NYSEG, under the Rate Schedules, to provide additional information as well as an amendment to NYSE's previous December 30, 1996 Filing to unbundle its economy energy transactions under existing bilateral coordination agreements.

NYSEG requests a waiver of any Commission regulation to the extent necessary to effectuate this filing.

NYSEG served copies of the filing upon the New York State Public Service Commission and each customer listed above.

Comment date: August 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. 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, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–22247 Filed 8–18–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3672–000, et al.]

Onondago Cogeneration Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

August 12, 1998.

Take notice that the following filings have been made with the Commission:

1. Onondaga Cogeneration Limited Partnership

[Docket No. ER98–3672–000]

Take notice that on August 7, 1998, Onondaga Cogeneration Limited Partnership, tendered for filing an Amended and Restated Power Put Agreement with Niagara Mohawk Power Corporation as an initial rate schedule.

Onondaga requests that the Commission waive the filing and notice requirements set forth in Section 35.3 of the Regulations, and under Section 35.11, permit the Power Put Agreement to become effective on July 8, 1998.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Ormond Beach Power Generation, L.L.C.

[Docket No. ER98–4147–000]

Take notice that on August 7, 1998, Ormond Beach Power Generation, L.L.C. (Ormond Beach), tendered for filing a Short-Term Sales Under Market-Based Power Sales Tariff service agreement, establishing NorAm Energy Services, Inc. (NES) as a customer under Ormond Beach's market-based rate sales tariff.

Ormond Beach requests an effective date of July 8, 1998 for the service agreement.

Ormond Beach states that a copy of the filing was served on NES.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Allegheny Power Service Corp. on behalf of The Potomac Edison Company

[Docket No. ER98–4148–000]

Take notice that on August 7, 1998, Allegheny Power Service Corporation, on behalf of The Potomac Edison Company (PE), filed an executed Power Service Agreement under which PE will provide full requirements service to the Town of Williamsport.

The parties request a July 25, 1998 effective date.

Copies of the filing have been provided to the Maryland Public Service Commission and the Virginia State Corporation and all parties of record.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Cinergy Services, Inc.

[Docket No. ER98–4149–000]

Take notice that on August 7, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing an executed Non-Firm Point-To-Point Transmission Service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff), entered into between Cinergy and NIPSGEN Marketers (NIPSGEN).

Cinergy is requesting an effective date of July 15, 1998.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Carolina Power & Light Company

[Docket No. ER98–4150–000]

Take notice that on August 7, 1998, Carolina Power & Light Company (CP&L), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Service, executed between CP&L and the following Eligible Transmission Customer: Cargill-Alliant, LLC; and a Service Agreement for Short-Term Firm Point-to-Point Transmission Service with Cargill-Alliant, LLC. Service to each eligible customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Orange and Rockland Utilities

[Docket No. ER98–4151–000]

Take notice that on August 7, 1998, Orange and Rockland Utilities, Inc. (O&R), tendered for filing its Summary Report of O&R transactions during the calendar quarter ending June 30, 1998, pursuant to the market based rate power service tariff, made effective by the Commission on March 27, 1997 in Docket No. ER97–1400–000.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Orange and Rockland Utilities, Inc.

[Docket No. ER98–4152–000]

Take notice that on August 7, 1998, Orange and Rockland Utilities, Inc. (Orange and Rockland), filed a Service Agreement for Non-firm Point-To-Point Transmission Service, between Orange and Rockland and HQ Energy Services (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of Orange and Rockland Open Access Transmission Tariff filed on July 9, 1966 in Docket No. OA96–210–000.

Orange and Rockland requests waiver of Commission's sixty-day notice requirements and an effective date of July 22, 1998.

Copies of the filing have been provided to The New York State Public Service Commission and to the Customer.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Pacific Gas and Electric Co.

[Docket No. ER98–4154–000]

Take notice that on August 7, 1998, Pacific Gas and Electric Company (PG&E), tendered for Filing an agreement entitled Special Facilities Agreement for The Interconnection of City of Biggs' 60 kV Substation (Special Facilities Agreement), between the Northern California Power Agency (NCPA) and PG&E.

The Special Facilities Agreement has been entered into pursuant to the NCPA and PG&E Interconnection Agreement, PG&E Rate Schedule FERC No. 142. The Special Facilities Agreement sets forth the rate, terms and conditions under which PG&E will design, install, own, operate and maintain the facilities for the interconnection of City of Biggs' 60 kV substation to PG&E's electric system. Under the Special Facilities Agreement, PG&E proposes to charge NCPA a capital advance and monthly Cost of Ownership Charge, with the latter using the Cost of Ownership Rate for transmission-level, customer-financed special facilities and distribution-level customer-financed special facilities filed with the California Public Utilities Commission (CPUC) pursuant to PG&E's Electric Rule No. 2. The Cost of Ownership Rate is expressed as a monthly percentage of the installed cost of the facilities.

PG&E has requested permission to use automatic rate adjustments whenever the CPUC authorizes a revised Electric Rule No. 2 Cost of Ownership Rate, limited by a rate cap of 0.58 percent monthly and 6.96 percent annually for transmission-level, customer-financed special facilities; and 0.77 percent monthly and 9.24 percent annually for distribution-level, customer-financed special facilities. Copies of this Filing have been served upon NCPA and the CPUC.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Company

[Docket No. ER98–4156–000]

Take notice that on August 7, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing an unexecuted Power Sales Tariff, Service Agreement under which Statoil Energy Trading, Inc. will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power requests an effective date of July 1, 1998, and requests such waivers of the Commission's regulations under the Federal Power Act as may be necessary to place the Power Sales Tariff, Service Agreement into effect on the requested date.

Copies of this filing have been served upon the Illinois Commerce Commission and Statoil Energy Trading, Inc.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Alliant Services, Inc.

[Docket No. ER98–4157–000]

Take notice that on August 7, 1998, Alliant Services, Inc., tendered for filing executed Service Agreements for firm and non-firm point-to-point transmission service, establishing PG&E Energy Trading-Power, L.P. as a point-to-point Transmission Customer under the terms of the Alliant Services, Inc. transmission tariff.

Alliant Services, Inc., requests an effective date of July 24, 1998, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Duquesne Light Company

[Docket No. ER98–4159–000]

Take notice that on August 7, 1998, Duquesne Light Company, tendered for filing a proposed Market Rate Tariff, governing negotiated market-based capacity and energy sales.

A copy of this filing was served on the Pennsylvania Public Utility Commission.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Illinois Power Company

[Docket No. ER98–4160–000]

Take notice that on August 7, 1998, Illinois Power Company (Illinois Power), tendered for filing executed firm and non-firm transmission agreements under which Northern/AES Energy will take transmission service pursuant to its open access transmission tariff.

Illinois Power requests an effective date of August 1, 1998.

Copies of this filing have been served upon the Illinois Commerce Commission and Northern/AES Energy.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Southwest Power Pool

[Docket No. ER98–4161–000]

Take notice that on August 7, 1998, Southwest Power Pool (SPP), tendered for filing five executed service agreements for short-term firm point-to-point transmission service and non-firm point-to-point firm transmission service under the SPP Open Access Transmission Tariff.

Copies of this filing were served upon each of the parties to these agreements.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Illinois Power Company

[Docket No. ER98–4162–000]

Take notice that on August 7, 1998, Illinois Power Company (Illinois Power), tendered for filing an executed Power Sales Tariff, Service Agreement under which Questar Energy Trading will take service under Illinois Power Company's Power Sales Tariff.

Illinois Power has requested an effective date of July 31, 1998.

Copies of this filing have been served upon the Illinois Commerce Commission and Questar Energy Trading.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. New York State Electric & Gas Corporation

[Docket No. ER98–4163–000]

Take notice that on August 7, 1998, New York State Electric & Gas Corporation (NYSEG), filed executed Non-Firm Point-To-Point Transmission Service and/or Short Term Firm Point-To-Point Transmission Service Agreements between NYSEG and North American Energy Conservation, Inc., Ensearch Energy Services, PECO Energy Company, and Virginia Electric Power Company (Customers). These Service Agreements specify that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed July 9, 1997 and effective on November 27, 1997, in Docket No. ER97–2353–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of August 7, 1998 for the Service Agreements. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Louisville Gas And Electric Co., Kentucky Utilities Company

[Docket No. ER98–4164–000]

Take notice that on August 7, 1998, Louisville Gas and Electric Company/Kentucky Utilities (LG&E/KU), tendered for filing an executed Service Agreement for Non-Firm Point-To-Point Transmission Service between LG&E/KU and El Paso Energy Marketing under LG&E/KU's Open Access Transmission Tariff.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Louisville Gas and Electric Co., Kentucky Utilities Company

[Docket No. ER98–4165–000]

Take notice that on August 7, 1998, Louisville Gas and Electric Company/Kentucky Utilities (LG&E/KU), tendered for filing an executed Service Agreement for Firm Point-To-Point Transmission Service between LG&E/KU and the Detroit Edison Company under LG&E/KU's Open Access Transmission Tariff.

LG&E/KU request that the Commission waive its usual notice requirements and any other requirements of its rules and regulations with which this filing may not comply and accept for filing this service agreement so that it can become effective as of the date of the agreement.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. California Independent System Operator, Corporation

[Docket No. ER98–4181–000]

Take notice that on August 7, 1998, the California Independent System Operator Corporation (ISO), tendered for filing an amendment to Schedule 1 to the Participating Generator Agreement between ISO and the Southern California Edison Company (SCE). The ISO states that the amendment revises the schedule to reflect SCE's sale of certain generating facilities and to reflect new Normal Maximum Operating Levels and new Meter Validation Maximum Operating Levels for several other facilities.

Pursuant to section 35.11 of the Commission's regulations, 18 CFR 35.11, the ISO requests waiver of the 60-day notice requirement, if it is deemed applicable to the enclosed filing.

The ISO also requests, pursuant to section 207 of the Commission's regulations 18 CFR 385.207, waiver of the requirement of section 35.10(c) to include a marked version of the changed pages.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced dockets.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Entergy Services, Inc.

[Docket Nos. ER98–4190–000]

Take notice that on August 11, 1998, Entergy Services, Inc., on behalf of System Energy Resources, Inc. (SERI), filed, pursuant to Section 205 of the Federal Power Act, the Grand Gulf Accelerated Recovery Tariff (GGART-Mississippi). The GGART-Mississippi permits Entergy Mississippi, Inc. (EMI), to accelerate the payment of the retail portion of its obligation to SERI for Grand Gulf capacity and energy.

A copy of such application has been served upon the state regulators of the Entergy operating companies.

Entergy requests an effective date of October 1, 1998.

Comment date: August 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Deseret Generation & Transmission Co-operative

[Docket No. ER98–4155–000]

Take notice that Deseret Generation & Transmission Co-operative on August 7, 1998, tendered for filing an executed umbrella non-firm point-to-point service agreement with NorAm Energy Services, Inc. under its open access transmission tariff.

Deseret requests a waiver of the Commission's notice requirements for an effective date of August 7, 1998. Deseret's open access transmission tariff is currently on file with the Commission in Docket No. OA97–487–000. NorAm Energy Services, Inc. has been provided a copy of this filing.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Cleco Corporation

[Docket No. ER98–4153–000]

Take notice that on August 7, 1998, Cleco Corporation, (Cleco), tendered for filing an executed service agreement under which Cleco will make market based power sales under its MR–1 tariff with Tractebel Energy Marketing, Inc.

Cleo requests an effective date of July 23, 1998 and waive the prior notice requirement consistent with the Commission's practice with service agreements to existing tariffs.

Cleco states that a copy of the filing has been served on Tractebel Energy Marketing, Inc.

Comment date: August 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. 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, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–22246 Filed 8–18–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3428–080–ME]

Androscoggin County, Maine; Notice of Availability of Environmental Assessment

August 13, 1998.

An environmental assessment (EA) is available for public review. The EA was prepared for an application filed by Miller Hydro Group, Incorporated on May 15, 1998, requesting the Commission to amend its license for the existing Worumbo Hydroelectric Project. The proposed amendment would permit the licensee: (1) to increase the normal evaluation of the project impoundment by 1.5 feet (from 97.0 feet mean sea level (msl) to 98.5 feet msl) by installing crest control gates on the Durham side and manual hinged flashboards on the Lisbon side of the existing dam; and (2) to implement periodic 1.5-foot reservoir drawdowns.

The EA evaluates the environmental impacts that would result from implementing the proposed amendment of license; the document concludes that approval of the application would not constitute a major federal action significantly affecting the quality of the human environment.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be viewed at the Commission's Reference and Information Center, Room 2A, 888 First Street, N.E., Washington, D.C., 20426. Copies also may be obtained by calling the EA coordinator, Jim Haimes, at (202) 219–2780.

David P. Boergers,

Secretary.

[FR Doc. 98–22250 Filed 8–18–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2674–003–VT]

Green Mountain Power Corporation; Notice of Availability of Draft Environmental Assessment

August 13, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's Regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the existing Vergennes Hydroelectric Project, located in the city of Vergennes, Addison County, Vermont, and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, as proposed with additional staff-recommended measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Any comments should be filed within 30 days from the date of this notice and should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Room 1–A, Washington, D.C. 20426. Please affix "Vergennes Hydroelectric Project No. 2674" to the top page of all comments. For further information, please contact Lee Emery at (202) 219–2779.

David P. Boergers,

Secretary.

[FR Doc. 98–22249 Filed 8–18–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis

August 13, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Minor License.

b. *Project No.:* P–11150–000.

c. *Date Filed:* May 24, 1991.

d. *Applicant:* Cameron Gas and Electric Company.

e. *Name of Project:* Smithville and Mix Hodro Project.

f. *Location:* On the Grant River, near Eaton Rapids, in Eaton County, Michigan.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. Jan Marie Evans, 4121 Okemos Road, Suite 23, Okemos, MI 48864, (517) 347–4048.

i. *FERC Contact:* William Guey-Lee (202) 219–2808.

j. *Deadline Date:* See paragraph D10.

k. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis at this time—see attached paragraph D10.

l. *Description of Project:* The existing constructed project consists of the following:

A. The Mix Development comprising (1) an existing 188-foot-long and 7-foot-high dam; (2) an existing 150-acre reservoir having a storage capacity of 500-acre-feet at elevation 184 feet (project datum); (3) a powerhouse containing two generating units for a total installed capacity of 202 kilowatts (kW); (4) an existing 300-foot-long, 15–Kilovolt transmission line; and (5) appurtenant facilities.

B. The Smithville Development comprising (1) an existing 440-foot-long and 17-foot-high dam; (2) an existing 80-acre reservoir having a storage capacity of 300-acre-feet at elevation 883.3 feet M.S.L.; (3) a powerhouse containing three generating units for a total installed capacity of 500-kW; (4) an existing 300-foot-long, 15-kV transmission line; and (5) appurtenant facilities.

The total project capacity would be 702-kW and the total average annual generation for this project would be 3,000 MWh. The dam and existing project facilities are owned by the applicant.

m. This notice also consists of the following standard paragraphs: A4 and D10.

n. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Filed Maintenance Branch, located at 888 First Street, NE, Room 2A–1, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Cameron Gas and Electric Company at 4121 Okemos Road, Suite 23, Okemos, MI 48864, or by calling (517) 347–4048.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the persons submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 98–22251 Filed 8–18–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Draft License Application and Preliminary Draft Environmental Assessment (PDEA) and Request for Preliminary Terms and Conditions

August 13, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Applications:* Major (FERC No. 2901, 1.875 kilowatts) and Minor (FERC No. 2902, 480 kilowatts) New Licenses.

b. *Project Nos.:* 2901 and 2902.

c. *Applicant:* Nekoosa Packaging Corporation (Nekoosa), a wholly-owned subsidiary of Georgia-Pacific Corporation.

d. *Name of Projects:* Holcomb Rock and Big Island Hydroelectric Projects.

e. *Location:* James River, Counties of Amherst and Bedford (near the city of Lynchburg), Commonwealth of Virginia.

f. *Applicants Contact:* Mr. Richard Judy, Manufacturing Services Manager, Georgia-Pacific Corporation, Highway 501 North, Big Island, VA 24526.

g. *FERC Contact:* James T. Griffin, (202) 219–2799.

h. Nekoosa mailed copies of the PDEA and Draft License Application to the parties on July 24, 1998. The Commission received a copy of the PDEA and Draft License Application on July 27, 1998. Copies of these

documents are available from Nekoosa at Georgia-Pacific Corporation, Highway 501 North, Big Island, VA 24526.

i. With this notice we are soliciting preliminary terms, conditions, and recommendations on the PDEA and comments on the Draft License Application. All comments on the PDEA and Draft License Application should be sent to the address noted above in item (f) with one copy filed with the Commission at the following address: Federal Energy Regulatory Commission, 888 First Street, NE, Attn: James T. Griffin, Mailstop HL–11.3, Washington, DC 20426. Moreover, all comments must include the project name and number and bear the heading "Preliminary Comments", "Preliminary Recommendations", "Preliminary Terms and Conditions", or "Preliminary Prescriptions". Any party interested in commenting should do so before Thursday, October 22, 1998.

David P. Boergers,

Secretary.

[FR Doc. 98–22252 Filed 8–18–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6147–4]

Kammer Power Plant; West Virginia; Stack Height Infeasibility Analysis

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is to announce that EPA has informed the State of West Virginia that it does not accept the "Kammer Plant Infeasibility Analysis" dated January 5, 1995, as supplemented on April 28, 1995, as revised on February 8, 1996, and as clarified on June 29, 1998. EPA is publishing this notice to inform all interested parties that it disagrees with the State of West Virginia's decision to accept the "Kammer Plant Infeasibility Analysis" prepared by the Ohio Power Company (OPC). EPA has determined that OPC has failed to demonstrate that it is not feasible to meet an emission limit equivalent to the new source performance standard (NSPS) applicable to electric utility steam generating units. The NSPS limit is presumed to be met in order to seek credit for having a tall stack. The credit for stack height in excess of good engineering practice (GEP) sought by OPC for the Kammer Plant in Moundsville, West Virginia, cannot be granted. This notice further informs all interested parties that any revision(s) to the West Virginia State Implementation Plan (SIP) submitted to EPA based upon technical analyses which rely upon acceptance of this "Kammer Plant Infeasibilty Analysis" will not meet the Clean Air Act's criteria for approval.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AP20, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 at (215) 814–2104.

SUPPLEMENTARY INFORMATION: The Kammer Plant is a 630 MW, coal-fired power plant constructed in Marshall County, West Virginia in 1959. The Kammer Plant is owned and operated by Ohio Power Company (OPC), a subsidiary of American Electric Power (AEP). Kammer operates three coal-fired boilers and was built specifically to provide power to the Ormet Corporation aluminum production facility in nearby Hannibal, Ohio. High sulfur coal is currently delivered by barge from the nearby Shoemaker Mine of Consolidation Coal Company.

In 1994, EPA began development of an enforcement case against OPC for the Kammer Plant's failure to comply with the applicable sulfur dioxide (SO_2) emission limit in the West Virginia State Implementation Plan (SIP). On May 21, 1996, EPA and OPC entered into a modified partial consent decree which provided that a comprehensive SO_2 SIP revision be developed for the Marshall County Area by November 1998. As part of that SIP development effort, West Virginia must address the stack height provisions of the Clean Air Act as they apply to the Kammer Plant.

In the mid-1970s, OPC replaced two 600-foot stacks at the Kammer Plant with a single, 900-foot stack. According to EPA's stack height regulations, the 900-foot stack exceeds good engineering practice (GEP) design specifications. In the late 1970s and early 1980s, EPA developed stack height regulations to limit the common practice of using tall smokestacks to abate localized pollution problems without decreasing net emissions. According to the stack height rules OPC has two options with regard to this issue: (1) Accept the "grandfathered" creditable stack height of 600-feet for the Kammer Plant or (2) attempt to receive credit for some or all of the existing stack height above 600-feet. Determination of the creditable stack height is necessary for use as input into air quality dispersion modeling that will support the SIP revision establishing the allowable emission limits for the affected sources, including the Kammer Plant. OPC has chosen to seek credit for that portion of the stack that exceeds GEP in order to justify the approval of a higher allowable emission rate at the Kammer Plant.

In order to obtain such credit, Ohio Power must satisfy the requirements of the federal and state stack height regulations that allow a source to rebut the presumptive new source performance standards (NSPS) emission limit when seeking credit for stack height above that height provided by the good engineering practice (GEP) formulae. Such a rebuttal is commonly termed an "infeasibility analysis" because the affected company presents operational and economic information to justify its contention that it is unable to meet the present industry standard for new sources (the NSPS) and that the emission limit is therefore "infeasible" for its source.

On May 30, 1995, West Virginia submitted to EPA the "Kammer Plant Infeasibility Analysis" dated January 5, 1995, and supplemented on April 28, 1995, as prepared by OPC. West Virginia's submittal also included its decision to approve the analysis. On September 13 and October 20, 1995, EPA provided extensive and significant comments to West Virginia and OPC regarding the "Kammer Plant Infeasibility Analysis." EPA suggested in its comments that OPC overstated the regional economic impacts that would occur if OPC pursued emission reductions at the Kammer Plant and that it erroneously presented economic forecasts of the costs of certain control options. On June 28, 1996, West Virginia officially forwarded to EPA the "Kammer Plant Infeasibility Analysis—Revision 1, February 8, 1996," as prepared by OPC, again along with the State's decision to approve the analysis.

The original "Kammer Plant Infeasibility Analysis" and the revised analysis state that any alternative other than the status quo at the facility would be catastrophic to the regional economy and the viability of Ormet and the Shoemaker coal mines. EPA's review of the original and revised analyses indicate that West Virginia had not adequately supported this position. On October 17, 1997, EPA informed West Virginia that the June 28, 1996 Infeasibility Analysis—Revision 1 was inadequate and would not be approved as part of, or as the basis of, any SIP revision for Kammer. EPA based this decision on the fact that in September 1996 AEP and Ormet entered into a new electric supply contract whereby the Kammer Plant will supply Ormet's needs only until the end of 1999. After 1999, Kammer will market its electricity

to other customers. The Infeasibility Analysis—Revision 1 does not reflect these future operating conditions at Kammer.

On November 20, 1997, West Virginia stated to EPA that their approval of the infeasibility analysis was based upon the potential closure of the Shoemaker Mine, and the resultant loss of jobs to the local economy, as the probable result of any decision to require controls at the Kammer Plant. On January 20, 1998, West Virginia submitted AEP's Economic Analysis of Kammer Plant SO_2 Control Options to EPA. On February 6, 1998, EPA met with West Virginia, AEP, and other interested parties to present comments on the Economic Analysis of Kammer Plant SO_2 Control Options. The EPA found that AEP had incorrectly specified the base case for the analysis and had equated feasibility with least cost. The EPA concluded that both the scrubbing and alternative fuel options were feasible.

On June 29, 1998, West Virginia forwarded to EPA, along with its endorsement, a "Response to Comments by USEPA on Economic Analysis of Kammer Plant SO_2 Control Options," prepared by AEP and dated June 4, 1998. In their response, AEP revised the base costs as suggested by EPA. AEP emphasized that the most cost effective option for the Kammer Plant is to continue to use the coal from the Shoemaker Mine. AEP also stated that the incremental cost of electricity (c.o.e.) is a better indicator of the Kammer Plant's ability to remain profitable because the EPA metric of dollars per ton removed is not representative.

AEP further pointed out that there would be no net change of total emissions of SO_2 loaded to the atmosphere because of the provisions of the Acid Rain Program under Title IV of the Clean Air Act. AEP stated that the Kammer Plant would receive an allotment of 23,775 tons (of SO_2 emissions) under Phase II of the Acid Rain Program. AEP argued that if Kammer had to purchase allowances to equal the actual emissions in the future, those emissions would have to be reduced somewhere else. Or, conversely, if Kammer did not need to purchase the allowances the emissions would occur somewhere else.

AEP also provide a table of control options and the associated cost, reproduced in the table, below:

Option	Levelized annual incremental C.O.E. ($1998)	Levelized annual cost of removal ($1998)	Average annual SO_2 reduction (tons/year)	Incremental (marginal) levelized annual per ton cost of SO_2 removal ($/ton)
Shoemaker Coal (Base Case)	$0	$0	0	$0
Switch to 2.5 lb Coal in 2000	726,000	15,402,000	58,209	264
Switch to 2.5 lb Coal in 1998	3,179,000	20,593,000	71,144	401
Switch to 1.2 lb Coal	16,635,000	41,124,000	100,046	710
Wet Lime Scrubber	15,115,000	44,587,000	120,407	487
Limestone Scrubber	13,877,000	43,391,000	120,577	461
Ammonia Scrubber	12,805,000	42,320,000	120,577	440

Another point that AEP felt should be considered was the length of time to engineer, design, and install a scrubber, estimated to be three years. With a potential retirement date of 2008 there would be only eight years for capital recovery. AEP expressed concern about controlling costs in view of the possible requirement to install controls for nitrogen oxides.

In addition AEP indicated that scrubber technology cannot be considered an option because it cannot assure air quality compliance under all operating conditions. Because, AEP argued, scrubber systems are subject to start-ups, shutdowns, upsets, and malfunction there will be times when the ambient air quality standards could be violated.

Although West Virginia and AEP believe that the cost of electricity should be considered in evaluating infeasibility, by tradition and rule the EPA has relied upon an incremental cost of dollars per ton of pollutant reduced for evaluating alternative controls. The preamble to the stack height regulations states that EPA will use the use of Best Available Retrofit Technology (BART) for determining that the presumptive new source performance standard (NSPS) limitation cannot feasibly be met by an individual facility. The BART guidelines specifically identify dollars per ton removed as the metric to be used.

The levelized annual per ton cost of sulfur dioxide (SO_2) removal estimates provided by AEP indicate that any of the scrubbing options are feasible. The BART guidelines identify cost effectiveness as the relevant factors to consider in determining whether specified controls are economically and technically feasible, not what is the least cost option. Furthermore, as was stated at the February 6, 1998, meeting, costs in excess of $1,000 per ton, sometimes substantially higher, have been determined to be reasonable. A decision to install a scrubber would allow the continued use of coal from the Shoemaker Mine and would ensure the preservation of the coal miners' jobs.

As stated previously, AEP also pointed out that the total loading of sulfur would remain the same in that the allowances, under Title IV of the Clean Air Act, will be used somewhere, if not at Kammer. However, once again, the relevant inquiry according to the BART guidelines is to examine the technical and economic feasibility of controls at a particular facility. The concern here is with the feasibility of Kammer's meeting the emission rate equivalent to the presumptive NSPS. Furthermore, this analysis is ostensibly being performed to support a relaxation of the allowable SO_2 emission rate of the West Virginia SIP under Title I of the Clean Air Act. Finally the likelihood of the allowances being used more efficiently elsewhere should be noted. In terms of megawatts per ton of SO_2 the Kammer plant is, by far, the least efficient plant in all of the states which comprise EPA Region III's jurisdiction and one of the least efficient in the country. To illustrate the ineffeciency of the Kammer Plant, EPA has tabulated, in decreasing order of efficiency, the Phase I utilities in Region III. In the table below, are the rated capacity, the 1996 SO_2 emissions reported by the Acid Rain Program, the megawatts of electricity per ton, and the inverse (or tons per megawatt).

EPA Region III—Phase I Utility Plans

Plant name	Rated capacity (mw)	1996 SO_2 emissions (tons)	Generation efficiency	
			(mw/ton)	ton/mw
Kammer	712.5	119,369	0.00597	168
Armstrong	326.4	32,150	0.01015	98
Hatfields Ferry	1728.	153,413	0.01126	89
Shawville	625.	53,945	0.01159	86
Martins Creek 1&2	312.5	24,601	0.01270	79
CP Crane 1&2	399.84	28,744	0.01391	72
Cheswick	565.25	39,980	0.01414	71
Albright	140.25	9,246	0.01517	66
Mount Storm	1662.48	107,211	0.01551	64
Fort Martin	1152.	71,152	0.01619	62
Portland	426.7	25,783	0.01655	60
Morgantown	1252.	72,778	0.01720	58
Chalk Point	728.	37,211	0.01956	51
Sunbury	621.	20,450	0.03037	33
Mitchell	1632.6	53,152	0.03072	33
Brunner Island	1558.73	47,771	0.03263	31
Conemaugh	1872.	40,182	0.04659	21
Harrison	2052.	16,469	0.12460	08

There are two responses to AEP's concern that there are potentially only eight years for capital recovery of the cost of a scrubber. First, AEP could have elected to install a scrubber in 1987 when the final stack height rules were promulgated. In that case the time for capital recovery would more than double. Secondly, there is no assurance that the Kammer plant will in fact be retired in 2008.

The additional contention by AEP that scrubber technology cannot be considered because it cannot assure air quality compliance under all operating conditions has no validity. Many of the state and federal air pollution control requirements involve devices which can, and do, shutdown or malfunction and require maintenance. These instances do have the potential to result in air quality violations. Nevertheless these devices are relied upon to protect air quality. To accept AEP's argument in this regard would undermine almost all air pollution control programs.

At the time of the Congressional deliberation on the Clean Air Act Amendments of 1990, it was suggested that the stack height provisions would no longer be necessary because the acid rain control provisions would serve to reduce SO_2 emissions. The Congress rejected this notion and reaffirmed that constant emission controls were to be required versus using dispersion from tall stacks to achieve and maintain the ambient air quality goals and standards under Title I of the Act.

Therefore, the State of West Virginia has been informed by EPA that it cannot approve the analysis which seeks to demonstrate the infeasibility of Kammer's meeting the emission rate equivalent to the new source performance standard. The SIP development project for Marshall County should go forward with the Kammer plant modeled at the grandfathered stack height of 600 feet.

Dated: August 11, 1998.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 98–22340 Filed 8–18–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6147–7]

Acid Rain Program: Permit Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of permit modification.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is issuing, as a direct final action, a permit modification revising the early election plan for the Rockport plant in Indiana in accordance with the Acid Rain Program regulations (40 CFR parts 72 and 76). Because the Agency does not anticipate receiving adverse comments, the modification is being issued as a direct final action.

DATES: The permit modification issued in this direct final action will be final on September 28, 1998 or 40 days after publication of a similar notice in a local publication, whichever is later, unless significant, adverse comments are received by September 18, 1998 or 30 days after publication of a similar notice in a local publication, whichever is later. If significant, adverse comments are timely received on the permit modification, the permit modification will be withdrawn through a notice in the **Federal Register.**

ADDRESSES: Administrative Records. The administrative record for the permit, except information protected as confidential, may be viewed during normal operating hours at EPA Region 5, 77 West Jackson Blvd., Chicago, IL, 60604.

Comments. Send comments, requests for public hearings, and requests to receive notice of future actions to EPA Region 5, Air and Radiation Division, Attn: Cecilia Mijares (address above). Submit comments in duplicate and identify the permit to which the comments apply, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of all units in the plan. All timely comments will be considered, except those pertaining to standard provisions under 40 CFR 72.9 or issues not relevant to the permit modification.

FOR FURTHER INFORMATION: Cecilia Mijares (312) 886–0968.

SUPPLEMENTARY INFORMATION: Title IV of the Clean Air Act directs EPA to establish a program to reduce the adverse effects of acidic deposition by requiring reductions of nitrogen oxides (NO_x) emissions from coal-fired electric utility boilers and by issuing permits reflecting this requirement. Today, EPA is taking action to delete a provision in the early election plan in the Acid Rain permit for the Rockport plant in Indiana. Under the plan, Rockport units 1 and 2 must comply with a NOx emission limit of 0.50 lb/mmBtu from

1997 through 2007 and with a NOx emission limit of 0.46 lb/mmBtu thereafter. The eliminated provision requires Rockford units 1 and 2 to burn only Powder River Basin coal during 1997–2007. The designated representative is John McManus.

If significant, adverse comments are timely received on the permit modification, comments on the permit modification will be addressed in a subsequent notice of permit modification based on the draft permit modification that is published elsewhere in this **Federal Register** and that is identical to this direct final action.

Dated: August 11, 1998.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 98–22338 Filed 8–18–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6147–8]

Acid Rain Program: Draft Permit Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft permit modification.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is issuing for comment a draft permit modification revising the early election plan for the Rockport plant in Indiana in accordance with the Acid Rain Program regulations (40 CFR parts 72 and 76). Because the Agency does not anticipate receiving adverse comments, the permit modification is also being issued as a direct final action in the notice of permit modification published elsewhere in today's **Federal Register**.

DATES: Comments on the draft permit modification, and any request for public hearing, must be received no later than September 18, 1998 or 30 days after the date of publication of a similar notice in a local newspaper, whichever is later.

ADDRESSES: *Administrative Record.* The administrative record for the permit, except information protected as confidential, may be viewed during normal operating hours at EPA Region 5, 77 West Jackson Blvd., Chicago, IL, 60604.

Comments. Send comments, requests for public hearings, and requests to receive notices of future actions to EPA Region 5, Air and Radiation Division, Attn: Cecilia Mijares (address above). Submit comments in duplicate and identify the permit to which the comments apply, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of all units in the plan. All timely comments will be considered, except those pertaining to standard provisions under 40 CFR 72.9 or issues not relevant to the draft permit modification.

Hearings. To request a public hearing, state the issues proposed to be raised in the hearing. EPA may schedule a hearing if EPA finds that it will contribute to the decision-making process by clarifying significant issues concerning the draft permit modification.

FOR FURTHER INFORMATION: Cecilia Mijares (312) 886–0968.

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to this draft permit modification, and the permit modification issued as a direct final action in the notice of permit modification published elsewhere in today's **Federal Register** will automatically become final on the date specified in that notice. If significant, adverse comments are timely received on the draft permit modification, the permit modification in the notice of permit modification will be withdrawn and public comment received based on this notice of draft permit modification will be addressed in a subsequent notice of permit modification. Because the Agency will not institute a second comment period on this notice of draft permit modification, any parties interested in commenting should do so during this comment period.

For further information, see the information provided in the notice of permit modification published elsewhere in today's **Federal Register**.

Dated: August 11, 1998.

Brian J. McLean,

Director, Acid Rain Division,

Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 98–22339 Filed 8–18–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6148–5]

Science Advisory Board; Emergency Notification of a Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Environmental Health Committee (EHC) of the Science Advisory Board (SAB) will meet on September 8–9, 1998, beginning no earlier than 8:30 a.m. and ending no later than 6:00 p.m. on each day. All times noted are Eastern Standard Time. The meeting is open to the public; however, seating will be on a first-come basis. The meeting will be held at the Madison Room at the Quality Hotel Courthouse Plaza which is located at 1200 N. Courthouse Road, Arlington, Virginia 22201. This meeting was originally scheduled for August 18–19 and was announced in the **Federal Register** August 5, 1998 (63 FR 41820–41821). The cancellation of the August 18–19, 1998 meeting was also announced in the **Federal Register**.

Purpose: The purpose of the meeting is to conduct a technical review of the Lead 403 Rule, focusing on the proposed standards that were developed by the EPA to prioritize abatement and hazard control activities under Title X of the Lead-Based Paint Hazard Reduction Act on September 8–9, 1998. Both sessions are open to the public.

Draft Charge Questions: The EHC has been asked to respond to the following, draft Charge questions which are subject to revision:

General

1. In each of the specific areas identified below, have we used the best available data? Have we used this data appropriately? Have we fairly characterized the variability, uncertainties and limitations of the data and our analyses?

2. Are there alternative approaches that would improve our ability to assess the relative risk impacts of candidate options for paint, dust, and soil hazard standards?

3. The approach employs risk assessment models that were primarily developed for use in site-specific or localized assessments. Has the use and application of the Integrated Exposure Uptake Biokinetic Model (IEUBK) and empirical model in this context been sufficiently explained and justified? Is our use of these tools to estimate nationwide impacts technically sound?

4. Are there any critical differences in environmental lead-blood lead

relationships found in local communities that should be considered in interpreting our results at the national level?

5. In view of the issues discussed and analyzed in sensitivity analyses contained in the two documents, in what specific areas should we focus (e.g., refine our approach, gather additional data, etc.) between now and the final rule? (The timing of the final rule will be dictated by a consent agreement. We should be in a position to present a firm schedule prior to the SAB meeting.)

Specific

1. The HUD National Survey, conducted in 1989–90, measured lead levels in paint, dust, and soil in 284 privately owned houses. Does our use of this data constitute a reasonable approach to estimating the national distribution of lead in paint, dust, and soil?

2. The approach employs conversion factors to combine data from studies that used different sample collection techniques. Is this appropriate? Is the method for developing these conversion factors technically sound?

3. IQ point deficits.

(a) the approach characterizes IQ decrements in the baseline blood-lead distribution, essentially implying that any blood-lead level above zero results in IQ effects. Have we provided a sufficient technical justification for this approach? Is this approach defensible and appropriate?

(b) the characterization of IQ point loss in the population includes the summation of fractional IQ points over the entire population of children. Have we provided a sufficient technical justification for this approach? Is this approach defensible and appropriate?

(c) one of the IQ-related endpoints is incidence of IQ less than 70. Should consideration be given to what the IQ score was, or would have been, prior to the decrement (i.e., should different consideration be given to cases where a small, or even fractional, point decrement causes the <70 occurrence vs. being <70 due to larger decrements)? If so, how might this be done?

4. Are the assumptions regarding duration, effectiveness, and costs of intervention activities reasonable?

5. Are the combinations of standards used in Chapter 6 of the risk analysis reasonably employed given the potential interrelationships between levels of lead in different media? Is additional data available on the interrelationship between lead levels in paint, dust, and soil prior to and after abatement?

6. The approach for estimating health effect and blood-lead concentration endpoints after interventions is based upon scaling projected declines in the distribution of children's blood-lead concentrations to the distribution reported in Phase 2 of the National Health and Human Nutrition Examination Survey (NHANES) III. Under this approach, data collected in the HUD National Survey are utilized to generate model-predicted distributions of blood-lead concentrations prior to and after the rule making. The difference between the pre section 403 and post section 403 model predicted distributions is used to estimate the decline in the distribution of children's blood-lead concentration. This decline is then mathematically applied to the distribution reported in NHANES III. Is this adjustment scientifically defensible in general, and in the specific case where the environmental data—from the HUD Survey—and the blood lead data—from NHANES III—were collected at different times (1989–90 vs. 1991–1994)?

Background: Under Title X of the Lead-Based Paint Hazard Reduction Act, the Environmental Protection Agency (EPA) is charged with promulgating standards to identify dangerous levels of lead, which includes hazards from lead-based paint, lead-contaminated dust, and lead-contaminated soil (Toxic Substances Control Act (TSCA) Section 403). The presence of these "lead-based paint hazards" triggers various requirements (e.g., abatement workers must be certified if lead-based paint or lead-based paint hazards are present in a residence.)

The Office Prevention, Pesticides and Toxic Substance's (OPPTS) approach is to promulgate standards that can be used to prioritize abatement and hazard control activities, rather than to attempt to define health threshold levels (i.e., to target the worst cases rather than to establish "safe" levels). While this will ultimately be a risk management decision, analyses of the prevalence of environmental lead levels in U.S. residences, incremental costs and benefits (estimated reductions in children's blood lead), and implementation/enforceability issues will be used to choose between various options for dust and soil lead levels. OPPTS seeks an SAB review of its technical approach to characterizing the incremental differences in costs and benefits between various candidate dust and soil lead levels.

For Further Information: Copies of the review document and any background materials for the review are *not available* from the SAB. Requests for copies of the background material may be directed to Mr. Dave Topping by telephone (202) 260–7737, by fax (202) 260–0770 or via E-mail at: topping.dave@epa.gov. Technical questions regarding the SAB review of the TSCA Section 403 Rule may also be directed to Mr. Dave Topping. Members of the public desiring additional information about the meeting, including an agenda, should contact Ms. Wanda Fields, Management Assistant, EHC, Science Advisory Board (1400), US EPA, 401 M Street, SW, Washington DC 20460, by telephone (202) 260–5510 by fax (202) 260–7118; or via E-mail at: fields.wanda@epa.gov.

Providing Oral or Written Comments at SAB Meetings: Anyone wishing to make an oral presentation at the meeting must contact Ms. Roslyn Edson, Acting Designated Federal Officer for the EHC, *in writing,* no later than 5:00 pm Eastern Time on September 1, 1998, by fax (202) 260–7118, or via E-mail: edson.roslyn@epa.gov The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Ms. Edson no later than the time of the presentation for distribution to the Committee and the interested public.

The Science Advisory Board expects that public statements presented at its meetings 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 ten minutes. For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Information concerning the Science Advisory Board, its structure, function, and composition, may be found in The FY1997 Annual Report of the Staff Director which is available from the SAB Committee Evaluation and Support Staff (CESS) by contacting US EPA, Science Advisory Board (1400), Attention: CESS, 401 M Street, SW, Washington, DC 20460 or via fax (202) 260–1889. Additional information

concerning the SAB can be found on the SAB Home Page at: http://www.epa.gov/sab.

Dated: August 12, 1998.

Patricia Thomas,

Acting Staff Director, Science Advisory Board.

[FR Doc. 98–22318 Filed 8–18–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–821; FRL–6019–6]

Rohm and Haas Company; Pesticide Tolerance Petition Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of pesticide petitions proposing the establishment of a tolerance for residues of a certain pesticide chemical in or on various raw agricultural commodities.

DATES: Comments, identified by the docket control number [PF–821], must be received on or before September 18, 1998.

ADDRESSES: By mail, submit written comments to Information and Records Integrity Branch, Public Information and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. In person, bring comments to Rm. 119, CM #2. 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under "SUPPLEMENTARY INFORMATION." No confidential business information should be submitted through e-mail.

Information submitted as a comments concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph Tavano, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 214, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703) 305–6411; tavano.joe@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA. 19106–2399, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180.472 by establishing a tolerance for residues of tebufenozide [benzoic acid, 3,5-dimethyl-, 1–(1,1-dimethylethyl)-2–(4-ethylbenzoyl) hydrazide in or on various raw agricultural commodities. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice, as well as the public version, has been established for this notice of filing under docket control number PF–821 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (PF–821) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 21 U.S.C. 346a.

List of Subjects

Environmental Protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 6, 1998.

Arnold E. Lane,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioner and represent the views of the petitioner. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. PP 7F4815

EPA has received a pesticide petition (PP 7F4815) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106–2399, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR Part 180 by establishing a tolerance for residues of tebufenozide [benzoic acid, 3,5-dimethyl-,1–(1,1-dimethylethyl)-2–(4-ethylbenzoyl) hydrazide] in or on the raw agricultural commodity the crop group pome fruit at 1.0 parts per million (ppm) and in or on apple pomace at 3.0 ppm; fat of cattle, goats, sheep and hogs at 0.25 ppm; liver of cattle, goats, sheep and hogs at 0.075 ppm; meat and meatby-products of cattle, goats, sheep and hogs at 0.05 ppm and milk at 0.05 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of tebufenozide in plants (grapes, apples, rice and sugar beets) is adequately understood for the purposes of these tolerances. The metabolism of tebufenozide in all crops was similar and involves oxidation of the alkyl substituents of the aromatic rings primarily at the benzylic positions. The extent of metabolism and degree of

oxidation are a function of time from application to harvest. In all crops, parent compound comprised the majority of the total dosage. None of the metabolites were in excess of 10% of the total dosage.

2. *Analytical method.* High performance liquid chromatographic (HPLC) analytical methods using ultraviolet (UV) or mass selective detection have been validated for pome fruit, processed apple fractions and animal commodities (meat, organ meats, fat and milk). For all matrices, the methods involve extraction by blending with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using solid phase extraction column chromatography. The limits of quantitation is 0.02 ppm for pome fruit and processed commodities, meat, meat organs and fat and 0.01 ppm for milk.

B. Toxicological Profile

1. *Acute toxicity.* Tebufenozide has low acute toxicity. Tebufenozide Technical was practically non-toxic by ingestion of a single oral dose in rats and mice (LD_{50} > 5,000 mg/kg) and was practically non-toxic by dermal application (LD_{50} > 5,000 mg/kg). Tebufenozide Technical was not significantly toxic to rats after a 4–hr inhalation exposure with an LC_{50} value of 4.5 mg/L (highest attainable concentration), is not considered to be a primary eye irritant or a skin irritant and is not a dermal sensitizer. An acute neurotoxicity study in rats did not produce any neurotoxic or neuropathologic effects.

2. *Genotoxicty.* Tebufenozide technical was negative (non-mutagenic) in an Ames assay with and without hepatic enzyme activation and in a reverse mutation assay with *E. coli.* Tebufenozide technical was negative in a hypoxanthine guanine phophoribosyl transferase (HGPRT) gene mutation assay using Chinese hamster ovary (CHO) cells in culture when tested with and without hepatic enzyme activation. In isolated rat hepatocytes, tebufenozide technical did not induce unscheduled DNA synthesis (UDS) or repair when tested up to the maximum soluble concentration in culture medium. Tebufenozide did not produce chromosome effects *in vivo* using rat bone marrow cells or *in vitro* using Chinese hamster ovary cells (CHO). On the basis of the results from this battery of tests concluded that tebufenozide is not mutagenic or genotoxic.

3. *Reproductive and developmental toxicity.* —i. No Observable Effect Levels (NOELs) for developmental and maternal toxicity to tebufenozide were established at 1,000 mg/kg/day (Highest Dose Tested) in both the rat and rabbit. No signs of developmental toxicity were exhibited.

ii. In a 2–generation reproduction study in the rat, the reproductive/developmental toxicity NOEL of 12.1 mg/kg/day was 14–fold higher than the parental (systemic) toxicity NOEL 10 ppm 0.85 mg/kg/day. Equivocal reproductive effects were observed only at the 2,000 ppm dose.

iii. In a second rat reproduction study, the equivocal reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149–195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

4. *Subchronic toxicity.* —i. The NOEL in a 90–day rat feeding study was 200 ppm (13 mg/kg/day for males, 16 mg/kg/day for females). The Lowest Observable Effect Level (LOEL) was 2,000 ppm (133 mg/kg/day for males, 155 mg/kg/day for females). Decreased body weights in males and females was observed at the LOEL of 2,000 ppm. As part of this study, the potential for tebufenozide to produce subchronic neurotoxicity was investigated. Tebufenozide did not produce neurotoxic or neuropathologic effects when administered in the diets of rats for 3 months at concentrations up to and including the limit dose of 20,000 ppm (NOEL = 1330 mg/kg/day for males, 1,650 mg/kg/day for females).

ii. In a 90–day feeding study with mice, the NOEL was 20 ppm (3.4 and 4.0 mg/kg/day for males and females, respectively). The LOEL was 200 ppm (35.3 and 44.7 mg/kg/day for males and females, respectively). Decreases in body weight gain were noted in male mice at the LOEL of 200 ppm.

iii. A 90–day dog feeding study gave a NOEL of 50 ppm (2.1 mg/kg/day for males and females). The LOEL was 500 ppm (20.1 and 21.4 mg/kg/day for males and females, respectively). At the LOEL, females exhibited a decrease in rate of weight gain and males presented an increased reticulocyte.

iv. A 10–week study was conducted in the dog to examine the reversibility of the effects on hematological parameters that were observed in other dietary studies with the dog. Tebufenozide was administered for 6 weeks in the diet to 4 male dogs at concentrations of either 0 or 1,500 ppm. After the 6th week, the dogs receiving treated feed were switched to the control diet for 4 weeks. Hematological parameters were measured in both groups prior to treatment, at the end of the 6–week treatment, after 2 weeks of recovery on the control diet and after 4 weeks of recovery on the control diet. All hematological parameters in the treated/recovery group were returned to control levels indicating that the effects of tebufenozide on the hemopoietic system are reversible in the dog.

v. In a 28–day dermal toxicity study in the rat, the NOEL was 1,000 mg/kg/day, the highest dose tested. Tebufenozide did not produce toxicity in the rat when administered dermally for 4 weeks at doses up to and including the limit dose of 1,000 mg/kg/day.

5. *Chronic toxicity.*—i. A 1–year feeding study in dogs resulted in decreased red blood cells, hematocrit, and hemoglobin and increased Heinz bodies, reticulocytes, and platelets at the lowest-observed-effect-level (LOEL) of 8.7 mg/kg/day. The NOEL in this study was 1.8 mg/kg/day.

ii. An 18–month mouse carcinogenicity study showed no signs of carcinogenicity at dosage levels up to and including 1,000 ppm, the highest dose tested.

iii. In a combined rat chronic/oncogenicity study, the NOEL for chronic toxicity was 100 ppm (4.8 and 6.1 mg/kg/day for males and females, respectively) and the LOEL was 1,000 ppm (48 and 61 mg/kg/day for males and females, respectively). No carcinogenicity was observed at the dosage levels up to 2,000 ppm (97 mg/kg/day and 125 mg/kg/day for males and females, respectively).

6. *Animal metabolism.* The adsorption, distribution, excretion and metabolism of tebufenozide in rats was investigated. Tebufenozide is partially absorbed, is rapidly excreted and does not accumulate in tissues. Although tebufenozide is mainly excreted unchanged, a number of polar metabolites were identified. These metabolites are products of oxidation of the benzylic ethyl or methyl side chains of the molecule. These metabolites were detected in plant and other animal (rat, goat, hen) metabolism studies.

7. *Metabolite toxicology.* Common metabolic pathways for tebufenozide have been identified in both plants (grape, apple, rice and sugar beet) and animals (rat, goat, hen). The metabolic pathway common to both plants and animals involves oxidation of the alkyl substituents (ethyl and methyl groups) of the aromatic rings primarily at the benzylic positions. Extensive degradation and elimination of polar metabolites occurs in animals such that residue are unlikely to accumulate in humans or animals exposed to these residues through the diet.

8. *Endocrine disruption.* The toxicology profile of tebufenozide shows no evidence of physiological effects characteristic of the disruption of the

hormone estrogen. Based on structure-activity information, tebufenozide is unlikely to exhibit estrogenic activity. Tebufenozide was not active in a direct *in vitro* estrogen binding assay. No indicators of estrogenic or other endocrine effects were observed in mammalian chronic studies or in mammalian and avian reproduction studies. Ecdysone has no known effects in vertebrates. Overall, the weight of evidence provides no indication that tebufenozide has endocrine activity in vertebrates.

C. Aggregate Exposure

1. *Dietary exposure.* The Reference Dose (RfD) represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The RfD is determined by using the toxicological endpoint or the NOEL for the most sensitive mammalian toxicology study. To assure the adequacy of the RfD, the Agency uses an uncertainty factor, usually 100 to account for both interspecies extrapolation and intraspecies variability represented by the toxicological data. The RfD Committee of the USEPA Health Effects Division established the RfD for tebufenozide at 0.018 milligrams (mg)/kilogram (kg)/day based on the 1 year feeding study in dogs. An uncertainty factor of 100 was applied to the NOEL of 1.8 mg/kg/day.

2. *Food.* Tolerances for residues of tebufenozide are currently expressed as benzoic acid, 3,5-dimethyl-1–(1,1-dimethylethyl)-2(4-ethylbenzoyl) hydrazide. Tolerances currently exist for residues on apples at 1.0 ppm (import tolerance) and on walnuts at 0.1 ppm (see 40 CFR 180.482). In addition to this action, a request to establish tolerances for the crop group pome fruit and for livestock commodities, other petitions are pending for the following tolerances: pecans, wine grapes (import tolerance), cotton, the crop subgroups leafy greens, leaf petioles, head and stem Brassica and leafy Brassica greens, and kiwifruit (import tolerance).

i. *Acute risk.* No appropriate acute dietary endpoint was identified by the Agency. This risk assessment is not required.

ii. *Chronic risk.* For chronic dietary risk assessment, the tolerance values are used and the assumption that all of these crops which are consumed in the U.S. will contain residues at the tolerance level. The theoretical maximum residue contribution (TMRC) using existing and future potential tolerances for tebufenozide on food crops is obtained by multiplying the tolerance level residues (existing and proposed) by the consumption data which estimates the amount of those food products consumed by various population subgroups and assuming that 100% of the food crops grown in the U.S. are treated with tebufenozide. The Theoretical Maximum Residue Contribution (TMRC) from current and future tolerances is calculated using the Dietary Exposure Evaluation Model (Version 5.03b, licensed by Novigen Sciences Inc.) which uses USDA food consumption data from the 1989–1992 survey.

With the current and proposed uses of tebufenozide, the TMRC estimate represents 20.1% of the RfD for the U.S. population as a whole. The subgroup with the greatest chronic exposure is non-nursing infants (less than 1 year old), for which the TMRC estimate represents 52.0% of the RfD. Using anticipate residue levels for these crops utilizes 3.38% of the RfD for the U.S. population and 12.0% for non-nursing infants. The chronic dietary risks from these uses do not exceed EPA's level of concern.

3. *Drinking water.* An additional potential source of dietary exposure to residues of pesticides are residues in drinking water. Review of environmental fate data by the Environmental Fate and Effects Division concludes that tebufenozide is moderately persistent to persistent and mobile, and could potentially leach to groundwater and runoff to surface water under certain environmental conditions. However, in terrestrial field dissipation studies, residues of tebufenozide and its soil metabolites showed no downward mobility and remained associated with the upper layers of soil. Foliar interception (up to 60% of the total dosage applied) by target crops reduces the ground level residues of tebufenozide. There is no established Maximum Concentration Level (MCL) for residues of tebufenozide in drinking water. No drinking water health advisory levels have been established for tebufenozide.

There are no available data to perform a quantitative drinking water risk assessment for tebufenozide at this time. However, in order to mitigate the potential for tebufenozide to leach into groundwater or runoff to surface water, precautionary language has been incorporated into the product label. Also, to the best of our knowledge, previous experience with more persistent and mobile pesticides for which there have been available data to perform quantitative risk assessments have demonstrated that drinking water exposure is typically a small percentage of the total exposure when compared to the total dietary exposure. This observation holds even for pesticides detected in wells and drinking water at levels nearing or exceeding established MCLs. Considering the precautionary language on the label and based on our knowledge of previous experience with persistent chemicals, significant exposure from residues of tebufenozide in drinking water is not anticipated.

4. *Non-dietary exposure.* Tebufenozide is not registered for either indoor or outdoor residential use. Non-occupational exposure to the general population is therefore not expected and not considered in aggregate exposure estimates.

D. Cumulative Effects

The potential for cumulative effects of tebufenozide with other substances that have a common mechanism of toxicity was considered. Tebufenozide belongs to the class of insecticide chemicals known as diacylhydrazines. The only other diacylhydrazine currently registered for non-food crop uses is halofenozide. Tebufenozide and halofenozide both produce a mild, reversible anemia following subchronic/chronic exposure at high doses; however, halofenozide also exhibits other patterns of toxicity (liver toxicity following subchronic exposure and developmental/systemic toxicity following acute exposure) which tebufenozide does not. Given the different spectrum of toxicity produced by tebufenozide, there is no reliable data at the molecular/mechanistic level which would indicate that toxic effects produced by tebufenozide would be cumulative with those of halofenozide (or any other chemical compound).

In addition to the observed differences in mammalian toxicity, tebufenozide also exhibits unique toxicity against target insect pests. Tebufenozide is an agonist of 20–hydroxyecdysone, the insect molting hormone, and interferes with the normal molting process in target lepidopteran species by interacting with ecdysone receptors from those species. Unlike other ecdysone agonists such as halofenozide, tebufenozide does not produces symptoms which may be indicative of systemic toxicity in beetle larvae (Coleopteran species). Tebufenozide has a different spectrum of activity than other ecdysone agonists. In contrast to the other agonists such as halofenozide which act mainly on coleopteran insects, tebufenozide is highly specific for lepidopteran insects.

Based on the overall pattern of toxicity produced by tebufenozide in mammalian and insect systems, the compound's toxicity appears to be

distinct from that of other chemicals, including organochlorines, organophosphates, carbamates, pyrethroids, benzoylureas, and other diacylhydrazines. Thus, there is no evidence to date to suggest that cumulative effects of tebufenozide and other chemicals should be considered.

E. Safety Determination

1. *U.S. population.*Using the conservative exposure assumptions described above and taking into account the completeness and reliability of the toxicity data, the dietary exposure to tebufenozide from the current and future tolerances will utilize 20.1% of the RfD for the U.S. population and 52.0% for non-nursing infants under 1 year old. Using anticipate residue levels for these crops utilizes 3.38% of the RfD for the U.S. population and 12.0% for non-nursing infants. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebufenozide residues to the U.S. population and non-nursing infants.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of tebufenozide, data from developmental toxicity studies in the rat and rabbit and two 2–generation reproduction studies in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. Developmental toxicity was not observed in developmental studies using rats and rabbits. The NOEL for developmental effects in both rats and rabbits was 1,000 mg/kg/day, which is the limit dose for testing in developmental studies.

In the 2–generation reproductive toxicity study in the rat, the reproductive/ developmental toxicity NOEL of 12.1 mg/kg/day was 14–fold higher than the parental (systemic) toxicity NOEL (0.85 mg/kg/day). The reproductive (pup) LOEL of 171.1 mg/kg/day was based on a slight increase in both generations in the number of pregnant females that either did not deliver or had difficulty and had to be sacrificed. In addition, the length of gestation increased and implantation sites decreased significantly in F1 dams. These effects were not replicated at the same dose in a second 2–generation rat reproduction study. In this second study, reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149–195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

Because these reproductive effects occurred in the presence of parental (systemic) toxicity and were not replicated at the same doses in a second study, these data do not indicate an increased pre-natal or post-natal sensitivity to children and infants (that infants and children might be more sensitive than adults) to tebufenozide exposure. FFDCA section 408 provides that EPA shall apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety is appropriate. Based on current toxicological data discussed above, an additional uncertainty factor is not warranted and the RfD at 0.018 mg/kg/day is appropriate for assessing aggregate risk to infants and children. Rohm and Haas concludes that there is a reasonable certainty that no harm will occur to infants and children from aggregate exposure to residues of tebufenozide.

F. International Tolerances

There are no approved CODEX maximum residue levels (MRLs) established for residues of tebufenozide. At the 1996 Joint Meeting for Pesticide Residues, the FAO expert panel considered residue data for pome fruit and proposed an MRL (Step 3) of 1.0 mg/kg.

2. PP 7F4819

EPA has received a pesticide petition (PP 7F4819) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA. 19106–2399, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR Part 180 by establishing a tolerance for residues of tebufenozide [benzoic acid, 3,5-dimethyl-, 1–(1,1-dimethylethyl)-2–(4-ethylbenzoyl hydrazide] in or on the raw agricultural commodity cottonseed and cotton gin trash at 1.5 and 30 parts per million (ppm) repectively. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of tebufenozide in plants (grapes, apples, rice and sugar beets) is adequately understood for the purpose of these tolerances. The metabolism of tebufenozide in all crops was similar and involves oxidation of the alkyl substituents of the aromatic rings primarily at the benzylic positions. The extent of metabolism and degree of oxidation are a function of time from application to harvest. In all crops, parent compound comprised the majority of the total dosage. None of the metabolites were in excess of 10% of the total dosage. The metabolism of tebufenozide in goats and hens proceeds along the same metabolic pathway as observed in plants. No accumulation of residues in tissues, milk or eggs occurred. The metabolic pathway in rotation crops follows the same scheme as in other soil, plant and animal studies although a greater proportion of conjugated metabolites rather than parent were identified in these crops.

2. *Analytical method.* High performance liquid chromatographic (HPLC) analytical methods using ultraviolet (UV) or mass selective detection have been validated for cottonseed, gin trash and cottonseed processed fractions. For all matrices, the methods involve extraction by blending with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using solid phase extraction column chromatography. The limits of quantitation are 0.01 ppm for cottonseed, meal and hulls and 0.025 ppm for refined oil and gin trash.

3. *Magnitude of residues.* A total of 15 cotton residue trials were conducted in the U.S. in geographically diverse regions. Four applications of CONFIRM were made at 0.25 lb. a.i./A. Cotton was harvested 13 to 14 days after the last application. Tebufenozide residues in cottonseed ranged from 0.0405 to 1.43 ppm. The average residue from all GAP trials is 0.448. Residues of tebufenozide in gin trash ranged from 1.23 to 30.1 ppm. Residues did not concentrate in cottonseed processed fractions (hulls, meal or refined oil).

B. Toxicological Profile

1. *Acute toxicity.* Tebufenozide has low acute toxicity. Tebufenozide Technical was practically non-toxic by ingestion of a single oral dose in rats and mice (LD_{50} > 5,000 milligram/

kilogram (mg/kg)) and was practically non-toxic by dermal application (LD_{50} > 5,000 mg/kg). Tebufenozide Technical was not significantly toxic to rats after a 4–hr inhalation exposure with an LC_{50} value of 4.5 mg/L (highest attainable concentration), is not considered to be a primary eye irritant or a skin irritant and is not a dermal sensitizer. An acute neurotoxicity study in rats did not produce any neurotoxic or neuropathologic effects.

2. *Genotoxicty.* Tebufenozide technical was negative (non-mutagenic) in an Ames assay with and without hepatic enzyme activation and in a reverse mutation assay with *E. coli.* Tebufenozide technical was negative in a hypoxanthine guanine phophoribosyl transferase (HGPRT) gene mutation assay using Chinese hamster ovary (CHO) cells in culture when tested with and without hepatic enzyme activation. In isolated rat hepatocytes, tebufenozide technical did not induce unscheduled DNA synthesis (UDS) or repair when tested up to the maximum soluble concentration in culture medium. Tebufenozide did not produce chromosome effects *in vivo* using rat bone marrow cells or *in vitro* using Chinese hamster ovary cells (CHO). On the basis of the results from this battery of tests, it is concluded that tebufenozide is not mutagenic or genotoxic.

3. *Reproductive and developmental toxicity.* —i. No Observable Effect Levels (NOELs) for developmental and maternal toxicity to tebufenozide were established at 1,000 milligrams/kilogram/day (mg/kg/day) highest dose tested (HDT) in both the rat and rabbit. No signs of developmental toxicity were exhibited.

ii. In a 2–generation reproduction study in the rat, the reproductive/developmental toxicity NOEL of 12.1 mg/kg/day was 14–fold higher than the parental (systemic) toxicity NOEL 10 ppm (0.85 mg/kg/day). Equivocal reproductive effects were observed only at the 2,000 ppm dose.

iii. In a second rat reproduction study, the equivocal reproductive effects were not observed at 2,000 ppm (the NOEL, equal to 149–195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

4. *Subchronic toxicity.* —i. The NOEL in a 90–day rat feeding study was 200 ppm (13 mg/kg/day for males, 16 mg/kg/day for females). The lowest-observed-effect-level (LOEL) was 2,000 ppm (133 mg/kg/day for males, 155 mg/kg/day for females). Decreased body weights in males and females was observed at the LOEL of 2,000 ppm. As part of this study, the potential for tebufenozide to produce subchronic neurotoxicity was investigated. Tebufenozide did not produce neurotoxic or neuropathologic effects when administered in the diets of rats for 3 months at concentrations up to and including the limit dose of 20,000 ppm (NOEL = 1,330 mg/kg/day for males, 1,650 mg/kg/day for females).

ii. In a 90–day feeding study with mice, the NOEL was 20 ppm (3.4 and 4.0 mg/kg/day for males and females, respectively). The LOEL was 200 ppm (35.3 and 44.7 mg/kg/day for males and females, respectively). Decreases in body weight gain were noted in male mice at the LOEL of 200 ppm.

iii. A 90–day dog feeding study gave a NOEL of 50 ppm (2.1 mg/kg/day for males and females). The LOEL was 500 ppm (20.1 and 21.4 mg/kg/day for males and females, respectively). At the LOEL, females exhibited a decrease in rate of weight gain and males presented an increased reticulocyte.

iv. A 10–week study was conducted in the dog to examine the reversibility of the effects on hematological parameters that were observed in other dietary studies with the dog. Tebufenozide was administered for 6 weeks in the diet to 4 male dogs at concentrations of either 0 or 1,500 ppm. After the 6th week, the dogs receiving treated feed were switched to the control diet for 4 weeks. Hematological parameters were measured in both groups prior to treatment, at the end of the 6–week treatment, after 2 weeks of recovery on the control diet and after 4 weeks of recovery on the control diet. All hematological parameters in the treated/recovery group were returned to control levels indicating that the effects of tebufenozide on the hemopoietic system are reversible in the dog.

v. In a 28–day dermal toxicity study in the rat, the NOEL was 1,000 mg/kg/day (HDT). Tebufenozide did not produce toxicity in the rat when administered dermally for 4 weeks at doses up to and including the limit dose of 1,000 mg/kg/day.

5. *Chronic toxicity.* —i. A 1–year feeding study in dogs resulted in decreased red blood cells, hematocrit, and hemoglobin and increased Heinz bodies, reticulocytes, and platelets at the LOEL of 8.7 mg/kg/day. The NOEL in this study was 1.8 mg/kg/day.

ii. An 18–month mouse carcinogenicity study showed no signs of carcinogenicity at dosage levels up to and including 1,000 ppm, the highest dose tested.

iii. In a combined rat chronic/oncogenicity study, the NOEL for chronic toxicity was 100 ppm (4.8 and 6.1 mg/kg/day for males and females, respectively) and the LOEL was 1,000 ppm (48 and 61 mg/kg/day for males and females, respectively). No carcinogenicity was observed at the dosage levels up to 2,000 ppm (97 mg/kg/day and 125 mg/kg/day for males and females, respectively).

6. *Animal metabolism.* The adsorption, distribution, excretion and metabolism of tebufenozide in rats was investigated. Tebufenozide is partially absorbed, is rapidly excreted and does not accumulate in tissues. Although tebufenozide is mainly excreted unchanged, a number of polar metabolites were identified. These metabolites are products of oxidation of the benzylic ethyl or methyl side chains of the molecule. These metabolites were detected in plant and other animal (rat, goat, hen) metabolism studies.

7. *Metabolite toxicology.* Common metabolic pathways for tebufenozide have been identified in both plants (grape, apple, rice and sugar beet) and animals (rat, goat, hen). Extensive degradation and elimination of polar metabolites occurs in animals such that residues are unlikely to accumulate in humans or animals exposed to these residues through the diet.

8. *Endocrine disruption.* The toxicology profile of tebufenozide shows no evidence of physiological effects characteristic of the disruption of the hormone estrogen. Based on structure-activity information, tebufenozide is unlikely to exhibit estrogenic activity. Tebufenozide was not active in a direct *in vitro* estrogen binding assay. No indicators of estrogenic or other endocrine effects were observed in mammalian chronic studies or in mammalian and avian reproduction studies. Ecdysone has no known effects in vertebrates. Overall, the weight of evidence provides no indication that tebufenozide has endocrine activity in vertebrates.

C. Aggregate Exposure

1. *Dietary exposure.* Tolerances have been established (40 CFR 180.482) for the residues of tebufenozide, in or on walnuts at 0.1 ppm. A permanent tolerance at 1.0 ppm has also previously been established for imported apples. Risk assessments were conducted by Rohm and Haas to assess dietary exposures and risks from tebufenozide as follows:

2. *Food.* — i. *Acute exposure and risk.* No acute endpoint was identified for tebufenozide and no acute risk assessment is required.

ii. *Chronic exposure and risk.* For chronic dietary risk assessment, only permanent (walnuts and imported apples) and the proposed (cottonseed,

gin trash) tolerance values are used and the assumption that 100% of all walnuts, imported apples and cottonseed meal and oil which are consumed in the U.S. will contain residues of tebufenozide at the tolerance levels. The Reference Dose (RfD) used for the chronic dietary analysis is 0.018 mg/kg/day. Potential chronic exposures were estimated using NOVIGEN'S Dietary Exposure Evaluation Model (DDEM Version 5.03b) which uses USDA food consumption data from the 1989–1992 survey. With the current and proposed tolerances for tebufenozide, the percentage of the RfD utilized is 6.95% for the U.S. population as a whole and 46.2% for non-nursing infants less than 1 year old. The chronic dietary risks from these uses do not exceed EPA's level of concern.

3. *Drinking water.* Submitted environmental fate studies suggest that tebufenozide is moderately persistent to persistent and mobile, and could potentially leach to groundwater and runoff to surface water under certain environmental conditions. However, in terrestrial field dissipation studies, residues of tebufenozide and its soil metabolites showed no downward mobility and remained associated with the upper layers of soil. Foliar interception (up to 60% of the total dosage applied) by target crops reduces the ground level residues of tebufenozide. There is no established Maximum Concentration Level (MCL) for residues of tebufenozide in drinking water. No drinking water health advisory levels have been established for tebufenozide. There is no entry for tebufenozide in the "Pesticides in Groundwater Database" (EPA 734–12–92–001, September 1992).

Chronic exposure and risk. There are insufficient water-related exposure data to complete a comprehensive drinking water assessment for tebufenozide at this time. However, in order to mitigate the potential for tebufenozide to leach into groundwater or runoff to surface water, precautionary language has been incorporated into the product label. Also, to the best of our knowledge, previous experience with more persistent and mobile pesticides for which there have been available data to perform quantitative risk assessments have demonstrated that drinking water exposure is typically a small percentage of the total exposure when compared to the total dietary exposure. This observation holds even for pesticides detected in wells and drinking water at levels nearing or exceeding established MCLs. Considering the precautionary language on the label and based on our knowledge of previous experience with persistent chemicals, significant exposure from residues of tebufenozide in drinking water is not anticipated.

4. *Non-dietary exposure.* Tebufenozide is not currently registered for any indoor or outdoor residential uses; therefore, no non-dietary residential exposure is anticipated.

D. Cumulative Effects

The potential for cumulative effects of tebufenozide with other substances that have a common mechanism of toxicity was considered. Tebufenozide belongs to the class of insecticide chemicals known as diacylhydrazines. The only other diacylhydrazine currently registered for non-food crop uses is halofenozide. Tebufenozide and halofenozide both produce a mild, reversible anemia following subchronic/chronic exposure at high doses; however, halofenozide also exhibits other patterns of toxicity (liver toxicity following subchronic exposure and developmental/systemic toxicity following acute exposure) which tebufenozide does not. Given the different spectrum of toxicity produced by tebufenozide, there is no reliable data at the molecular/mechanistic level which would indicate that toxic effects produced by tebufenozide would be cumulative with those of halofenozide (or any other chemical compound).

In addition to the observed differences in mammalian toxicity, tebufenozide also exhibits unique toxicity against target insect pests. Tebufenozide is an agonist of 20–hydroxyecdysone, the insect molting hormone, and interferes with the normal molting process in target lepidopteran species by interacting with ecdysone receptors from those species. Unlike other ecdysone agonists such as halofenozide, tebufenozide does not produces symptoms which may be indicative of systemic toxicity in beetle larvae (Coleopteran species). Tebufenozide has a different spectrum of activity than other ecdysone agonists. In contrast to the other agonists such as halofenozide which act mainly on coleopteran insects, tebufenozide is highly specific for lepidopteran insects.

Based on the overall pattern of toxicity produced by tebufenozide in mammalian and insect systems, the compound's toxicity appears to be distinct from that of other chemicals, including organochlorines, organophosphates, carbamates, pyrethroids, benzoylureas, and other diacylhydrazines. Thus, there is no evidence to date to suggest that cumulative effects of tebufenozide and other chemicals should be considered.

E. Safety Determination

1. *U.S. population.* —i. *Acute exposure and risk.* Since no acute endpoint was identified for tebufenozide, no acute risk assessment is required.

ii. *Chronic exposure and risk.* Using the conservative exposure assumptions described above and taking into account the completeness and reliability of the toxicity data, the percentage of the RfD that will be utilized by dietary (food only) exposure to residues of tebufenozide from current (walnuts and imported apples) and proposed (cottonseed, gin trash) tolerances is 6.95% for the U.S. population. Aggregate exposure (food and water) are not expected to exceed 100%. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebufenozide residues to the U.S. population.

2. *Infants and children.* —i. *Safety factor for infants and children...In general.* In assessing the potential for additional sensitivity of infants and children to residues of tebufenozide, data from developmental toxicity studies in the rat and rabbit and 2–generation reproduction studies in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

ii. *Developmental toxicity studies* — *a. Rats.* In a developmental toxicity study in rats, the maternal (systemic) NOEL was 250 mg/kg/day. The LOEL was 1,000 mg/kg/day based on decrease body weight and food consumption. The developmental (pup) NOEL as > 1,000 mg/kg/day (HDT).

b. Rabbits. In a developmental toxicity study in rabbits, the maternal and developmental NOELs were > 1,000 mg/kg/day (HDT).

iii. *Reproductive toxicity study Rats.* In a multigeneration reproductive toxicity study in rats, the parental (systemic) NOEL was 0.85 mg/kg/day. Spleenic pigmentation changes and extramedullary hematopoiesis occurred at the LOEL of 12.1 mg/kg/day. In addition to these effects, decreased body weight gain and food consumption

occurred at 171.1 mg/kg/day. The reproductive (pup) NOEL was 12.1 mg/kg/day. The reproductive LOEL of 171.1 mg/kg/day was based on a slight increase in the number of pregnant females that did not deliver or had difficulty and had to be sacrificed. Additionally at the LOEL, in F1 dams, the length of gestation increased and implantation sites decreased significantly. In a second study, reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149–195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

iv. *Pre- and post-natal sensitivity — a. Pre-natal sensitivity.* The developmental NOELs of >1,000 mg/kg/day (HDT) from the developmental toxicity studies in rats and rabbits demonstrate that there is no developmental (prenatal) toxicity present for tebufenozide. Additionally, these developmental NOELs are greater than 500–fold higher than the NOEL of 1.8 mg/kg/day from the 1–year feeding study in dogs which was the basis of the RfD.

b. Post-natal sensitivity. In the reproductive toxicity study in rats, the reproductive NOEL (12.1 mg/kg/day from the first study; 149–195 mg/kg/day from the second study) is between 14–fold higher than the parental NOEL (0.85 mg/kg/day) in the first study and 83–fold higher than the parental NOEL (1.8–2.3 mg/kg/day) in the second study. These data indicate that post-natal toxicity in the reproductive studies occurs only in the presence of significant parental toxicity. These developmental and reproductive studies indicate that tebufenozide does not have additional post-natal sensitivity for infants and children in comparison to other exposed groups. Because these reproductive effects occurred in the presence of parental (systemic) toxicity and were not replicated at the same doses in a second study, these data do not indicate an increased pre-natal or post-natal sensitivity to children and infants (that infants and children might be more sensitive than adults) to tebufenozide exposure.

v. *Acute exposure and risk.* Since no acute endpoint was identified for tebufenozide, no acute risk assessment is required.

vi. *Chronic exposure and risk.* For chronic dietary risk assessment, tolerance values are used and the assumption that all walnuts, imported apples and cottonseed meal and oil which are consumed in the U.S. will contain residues at the tolerance levels. The Theoretical Maximum Residue Contribution (TMRC) from current and proposed food tolerances is calculated using the Dietary Exposure Evaluation Model (Version 5.03b, licensed by Novigen Sciences Inc.) which uses USDA food consumption data from the 1989–1992 survey. With the current (walnuts and imported apples) and proposed (cottonseed, gin trash) tolerances for tebufenozide, the percentage of the RfD that will be utilized by dietary (food only) exposure to residues of tebufenozide is 46.2% for non-nursing infants less than 1 year old. Aggregate exposure (food and water) are not expected to exceed 100%. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebufenozide residues to non-nursing infants.

F. International Tolerances

There are currently no CODEX or Canadian maximum residue levels (MRLs) established for tebufenozide in cottonseed or gin trash. A Mexican MRL of 0.5 ppm for cottonseed has been established.

3. PP 7F4824

EPA has received a pesticide petition (PP 7F4824) from Rohm and Haas Company, 100 Independence mall West, Philadelphia, PA 19106–2399, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR Part 180 by establishing a tolerance for residues of tebufenozide [benzoic acid, 3,5-dimethyl-, 1–(1,1-dimethylethyl)-2–(4-ethylbenzoyl) hydrazide] in or on the raw agricultural commodity leafy greens, leaf petioles, head and stem Brassica, and leafy Brassica greens at 6.0, 2.0, 2.0, and 10 parts per million (ppm) respectively. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant and Animal metabolism.* The metabolism of tebufenozide in plants (grapes, apples, rice and sugar beets) is adequately understood for the purposes of these tolerances. The metabolism of tebufenozide in all crops was similar and involves oxidation of the alkyl substituents of the aromatic rings primarily at the benzylic positions. The extent of metabolism and degree of oxidation are a function of time from application to harvest. In all crops, parent compound comprised the majority of the total dosage. None of the metabolites were in excess of 10% of the total dosage. The metabolism of tebufenozide in goats and hens proceeds along the same metabolic pathway as observed in plants. No accumulation of residues in tissues, milk or eggs occurred.

2. *Analytical method.* A high performance liquid chromatographic (HPLC) analytical method using ultraviolet (UV) detection has been validated for leafy and cole crop vegetables. For all matrices, the methods involve extraction by blending with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using solid phase extraction column chromatography. The limit of quantitation of the method is 0.01 ppm for all representative crops of these crop subgroups except for celery which is 0.05 ppm.

B. Toxicological Profile

1. *Acute toxicity.* Tebufenozide has low acute toxicity. Tebufenozide Technical was practically non-toxic by ingestion of a single oral dose in rats and mice (LD_{50} > 5,000 mg/kg) and was practically non-toxic by dermal application (LD_{50} > 5,000 mg/kg). Tebufenozide Technical was not significantly toxic to rats after a 4–hr inhalation exposure with an LC_{50} value of 4.5 mg/L (highest attainable concentration), is not considered to be a primary eye irritant or a skin irritant and is not a dermal sensitizer. An acute neurotoxicity study in rats did not produce any neurotoxic or neuropathologic effects.

2. *Genotoxicty.* Tebufenozide technical was negative (non-mutagenic) in an Ames assay with and without hepatic enzyme activation and in a reverse mutation assay with *E. coli.* Tebufenozide technical was negative in a hypoxanthine guanine phophoribosyl transferase (HGPRT) gene mutation assay using Chinese hamster ovary (CHO) cells in culture when tested with and without hepatic enzyme activation. In isolated rat hepatocytes, tebufenozide technical did not induce unscheduled DNA synthesis (UDS) or repair when tested up to the maximum soluble concentration in culture medium. Tebufenozide did not produce chromosome effects *in vivo* using rat bone marrow cells or *in vitro* using Chinese hamster ovary cells (CHO). On the basis of the results from this battery of tests, it is concluded that tebufenozide is not mutagenic or genotoxic.

3. *Reproductive and developmental toxicity.* — i. No Observable Effect

Levels (NOELs) for developmental and maternal toxicity to tebufenozide were established at 1,000 mg/kg/day (Highest Dose Tested) in both the rat and rabbit. No signs of developmental toxicity were exhibited.

ii. In a 2–generation reproduction study in the rat, the reproductive/developmental toxicity NOEL of 12.1 mg/kg/day was 14–fold higher than the parental (systemic) toxicity NOEL 10 ppm 0.85 mg/kg/day. Equivocal reproductive effects wereobserved only at the 2,000 ppm dose.

iii. In a second rat reproduction study, the equivocal reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149–195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

4. *Subchronic toxicity.* —i. The NOEL in a 90–day rat feeding study was 200 ppm (13 mg/kg/day for males, 16 mg/kg/day for females). The lowest-observed-effect-level (LOEL) was 2,000 ppm (133 mg/kg/day for males, 155 mg/kg/day for females). Decreased body weights in males and females was observed at the LOEL of 2,000 ppm. As part of this study, the potential for tebufenozide to produce subchronic neurotoxicity was investigated. Tebufenozide did not produce neurotoxic or neuropathologic effects when administered in the diets of rats for 3 months at concentrations up to and including the limit dose of 20,000 ppm (NOEL = 1,330 mg/kg/day for males, 1,650 mg/kg/day for females).

ii. In a 90–day feeding study with mice, the NOEL was 20 ppm (3.4 and 4.0 mg/kg/day for males and females, respectively). The LOEL was 200 ppm (35.3 and 44.7 mg/kg/day for males and females, respectively). Decreases in body weight gain were noted in male mice at the LOEL of 200 ppm.

iii. A 90–day dog feeding study gave a NOEL of 50 ppm (2.1 mg/kg/day for males and females). The LOEL was 500 ppm (20.1 and 21.4 mg/kg/day for males and females, respectively). At the LOEL, females exhibited a decrease in rate of weight gain and males presented an increased reticulocyte.

iv. A 10–week study was conducted in the dog to examine the reversibility of the effects on hematological parameters that were observed in other dietary studies with the dog. Tebufenozide was administered for 6 weeks in the diet to 4 male dogs at concentrations of either 0 or 1,500 ppm. After the 6th week, the dogs receiving treated feed were switched to the control diet for 4 weeks. Hematological parameters were measured in both groups prior to treatment, at the end of the 6–week treatment, after 2 weeks of recovery on the control diet and after 4 weeks of recovery on the control diet. All hematological parameters in the treated/recovery group were returned to control levels indicating that the effects of tebufenozide on the hemopoietic system are reversible in the dog.

v. In a 28–day dermal toxicity study in the rat, the NOEL was 1,000 mg/kg/day, the highest dose tested. Tebufenozide did not produce toxicity in the rat when administered dermally for 4 weeks at doses up to and including the limit dose of 1,000 mg/kg/day.

5. *Chronic toxicity.* —i. A 1 year feeding study in dogs resulted in decreased red blood cells, hematocrit, and hemoglobin and increased Heinz bodies, reticulocytes, and platelets at the Lowest Observed Effect Level (LOEL) of 8.7 mg/kg/day. The NOEL in this study was 1.8 mg/kg/day.

ii. An 18–month mouse carcinogenicity study showed no signs of carcinogenicity at dosage levels up to and including 1,000 ppm, the highest dose tested.

iii. In a combined rat chronic/oncogenicity study, the NOEL for chronic toxicity was 100 ppm (4.8 and 6.1 mg/kg/day for males and females, respectively) and the LOEL was 1,000 ppm (48 and 61 mg/kg/day for males and females, respectively). No carcinogenicity was observed at the dosage levels up to 2,000 ppm (97 mg/kg/day and 125 mg/kg/day for males and females, respectively).

6. *Animal metabolism.* The adsorption, distribution, excretion and metabolism of tebufenozide in rats was investigated. Tebufenozide is partially absorbed, is rapidly excreted and does not accumulate in tissues. Although tebufenozide is mainly excreted unchanged, a number of polar metabolites were identified. These metabolites are products of oxidation of the benzylic ethyl or methyl side chains of the molecule. These metabolites were detected in plant and other animal (rat, goat, hen) metabolism studies.

7. *Metabolite toxicology.* Common metabolic pathways for tebufenozide have been identified in both plants (grape, apple, rice and sugar beet) and animals (rat, goat, hen). The metabolic pathway common to both plants and animals involves oxidation of the alkyl substituents (ethyl and methyl groups) of the aromatic rings primarily at the benzylic positions. Extensive degradation and elimination of polar metabolites occurs in animals such that residue are unlikely to accumulate in humans or animals exposed to these residues through the diet.

8. *Endocrine disruption.* The toxicology profile of tebufenozide shows no evidence of physiological effects characteristic of the disruption of the hormone estrogen. Based on structure-activity information, tebufenozide is unlikely to exhibit estrogenic activity. Tebufenozide was not active in a direct *in vitro* estrogen binding assay. No indicators of estrogenic or other endocrine effects were observed in mammalian chronic studies or in mammalian and avian reproduction studies. Ecdysone has no known effects in vertebrates. Overall, the weight of evidence provides no indication that tebufenozide has endocrine activity in vertebrates.

C. Aggregate Exposure

1. *Dietary exposure.* Use of an agricultural pesticide may result, directly or indirectly in pesticide residues in food. These residues are determined by chemical analysis. Data from field studies are evaluated to determine the appropriate level of residue that would not be exceeded if the pesticide were used according to the label use directions.

In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency looks at include drinking water (whether from groundwater or surface water), and exposure through pesticide use in gardens, lawns or buildings (residential and other indoor uses). In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.

2. *Food.* Tolerances for residues of tebufenozide are currently expressed as benzoic acid, 3,5-dimethyl-1–(1,1-dimethylethyl)-2(4-ethylbenzoyl) hydrazide. Tolerances currently exist for residues on apples at 1.0 ppm (import tolerance) and on walnuts at 0.1 ppm (see 40 CFR 180.482). In addition to this action, a request to establish tolerances for the crop subgroups leafy greens, leaf petioles, head and stem Brassica and leafy Brassica greens, other petitions are pending for the following tolerances: pome fruit, livestock commodities, pecans, wine grapes (import tolerance), cotton, and kiwifruit (import tolerance).

i. *Acute risk.* No appropriate acute dietary endpoint was identified by the Agency. This risk assessment is not required.

ii. *Chronic risk.* For chronic dietary risk assessment, the tolerance values are used and the assumption that all of these crops which are consumed in the U.S. will contain residues at the

tolerance level. The theoretical maximum residue contribution (TMRC) using existing and future potential tolerances for tebufenozide on food crops is obtained by multiplying the tolerance level residues (existing and proposed) by the consumption data which estimates the amount of those food products consumed by various population subgroups and assuming that 100% of the food crops grown in the U.S. are treated with tebufenozide. The Theoretical Maximum Residue Contribution (TMRC) from current and future tolerances is calculated using the Dietary Exposure Evaluation Model (Version 5.03b, licensed by Novigen Sciences Inc.) which uses USDA food consumption data from the 1989–1992 survey.

With the current and proposed uses of tebufenozide, the TMRC estimate represents 20.1% of the Reference Dose (RfD) for the U.S. population as a whole. The subgroup with the greatest chronic exposure is non-nursing infants (less than 1 year old), for which the TMRC estimate represents 52.0% of the RfD. Using anticipate residue levels for these crops utilizes 3.38% of the RfD for the U.S. population and 12.0% for non-nursing infants. The chronic dietary risks from these uses do not exceed EPA's level of concern.

3. *Drinking water.* An additional potential source of dietary exposure to residues of pesticides are residues in drinking water. Review of environmental fate data by the Environmental Fate and Effects Division concludes that tebufenozide is moderately persistent to persistent and mobile, and could potentially leach to groundwater and runoff to surface water under certain environmental conditions. However, in terrestrial field dissipation studies, residues of tebufenozide and its soil metabolites showed no downward mobility and remained associated with the upper layers of soil. Foliar interception (up to 60% of the total dosage applied) by target crops reduces the ground level residues of tebufenozide. There is no established Maximum Concentration Level (MCL) for residues of tebufenozide in drinking water. No drinking water health advisory levels have been established for tebufenozide.

There are no available data to perform a quantitative drinking water risk assessment for tebufenozide at this time. However, in order to mitigate the potential for tebufenozide to leach into groundwater or runoff to surface water, precautionary language has been incorporated into the product label. Also, to the best of our knowledge, previous experience with more persistent and mobile pesticides for which there have been available data to perform quantitative risk assessments have demonstrated that drinking water exposure is typically a small percentage of the total exposure when compared to the total dietary exposure. This observation holds even for pesticides detected in wells and drinking water at levels nearing or exceeding established MCLs. Considering the precautionary language on the label and based on our knowledge of previous experience with persistent chemicals, significant exposure from residues of tebufenozide in drinking water is not anticipated.

4. *Non-dietary exposure.* Tebufenozide is not registered for either indoor or outdoor residential use. Non-occupational exposure to the general population is therefore not expected and not considered in aggregate exposure estimates.

D. Cumulative Effects

The potential for cumulative effects of tebufenozide with other substances that have a common mechanism of toxicity was considered. Tebufenozide belongs to the class of insecticide chemicals known as diacylhydrazines. The only other diacylhydrazine currently registered for non-food crop uses is halofenozide. Tebufenozide and halofenozide both produce a mild, reversible anemia following subchronic/chronic exposure at high doses; however, halofenozide also exhibits other patterns of toxicity (liver toxicity following subchronic exposure and developmental/systemic toxicity following acute exposure) which tebufenozide does not. Given the different spectrum of toxicity produced by tebufenozide, there is no reliable data at the molecular/mechanistic level which would indicate that toxic effects produced by tebufenozide would be cumulative with those of halofenozide (or any other chemical compound).

In addition to the observed differences in mammalian toxicity, tebufenozide also exhibits unique toxicity against target insect pests. Tebufenozide is an agonist of 20–hydroxyecdysone, the insect molting hormone, and interferes with the normal molting process in target lepidopteran species by interacting with ecdysone receptors from those species. Unlike other ecdysone agonists such as halofenozide, tebufenozide does not produces symptoms which may be indicative of systemic toxicity in beetle larvae (Coleopteran species). Tebufenozide has a different spectrum of activity than other ecdysone agonists. In contrast to the other agonists such as halofenozide which act mainly on coleopteran insects, tebufenozide is highly specific for lepidopteran insects.

Based on the overall pattern of toxicity produced by tebufenozide in mammalian and insect systems, the compound's toxicity appears to be distinct from that of other chemicals, including organochlorines, organophosphates, carbamates, pyrethroids, benzoylureas, and other diacylhydrazines. Thus, there is no evidence to date to suggest that cumulative effects of tebufenozide and other chemicals should be considered.

E. Safety Determination

1. *U.S. population.* Using the conservative exposure assumptions described above and taking into account the completeness and reliability of the toxicity data, the dietary exposure to tebufenozide from the current and future tolerances will utilize 20.1% of the RfD for the U.S. population and 52.0% for non-nursing infants under 1 year old. Using anticipate residue levels for these crops utilizes 3.38% of the RfD for the U.S. population and 12.0% for non-nursing infants. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebufenozide residues to the U.S. population and non-nursing infants.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of tebufenozide, data from developmental toxicity studies in the rat and rabbit and two 2–generation reproduction studies in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. Developmental toxicity was not observed in developmental studies using rats and rabbits. The NOEL for developmental effects in both rats and rabbits was 1,000 mg/kg/day, which is the limit dose for testing in developmental studies.In the 2–generation reproductive toxicity study in the rat, the reproductive/developmental toxicity NOEL of 12.1 mg/kg/day was 14–fold higher than the parental (systemic) toxicity NOEL (0.85

mg/kg/day). The reproductive (pup) LOEL of 171.1 mg/kg/day was based on a slight increase in both generations in the number of pregnant females that either did not deliver or had difficulty and had to be sacrificed. In addition, the length of gestation increased and implantation sites decreased significantly in F1 dams. These effects were not replicated at the same dose in a second 2–generation rat reproduction study. In this second study, reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149–195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

Because these reproductive effects occurred in the presence of parental (systemic) toxicity and were not replicated at the same doses in a second study, these data do not indicate an increased pre-natal or post-natal sensitivity to children and infants (that infants and children might be more sensitive than adults) to tebufenozide exposure. FFDCA section 408 provides that EPA shall apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety is appropriate. Based on current toxicological data discussed above, an additional uncertainty factor is not warranted and the RfD at 0.018 mg/kg/day is appropriate for assessing aggregate risk to infants and children. Rohm and Haas concludes that there is a reasonable certainty that no harm will occur to infants and children from aggregate exposure to residues of tebufenozide.

F. International Tolerances

There are no approved CODEX maximum residue levels (MRLs) established for residues of tebufenozide.

4. PP 7E4829

EPA has received a pesticide petition (PP 7E4829) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106–2399, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR Part 180 by establishing a tolerance for residues of tebufenozide [benzoic acid, 3,5-dimethyl-, 1–(1,1-dimethylethyl)-2–(4-ethylbenzoyl) hydrazide in or on the raw agricultural commodity kiwifruit at 0.5 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of tebufenozide in plants (grapes, apples, rice and sugar beets) is adequately understood for the purposes of these tolerances. The metabolism of tebufenozide in all crops was similar and involves oxidation of the alkyl substituents of the aromatic rings primarily at the benzylic positions. The extent of metabolism and degree of oxidation are a function of time from application to harvest. In all crops, parent compound comprised the majority of the total dosage. None of the metabolites were in excess of 10% of the total dosage. The metabolism of tebufenozide in goats and hens proceeds along the same metabolic pathway as observed in plants. No accumulation of residues in tissues, milk or eggs occurred.

2. *Analytical method.* A validated high performance liquid chromatographic (HPLC) analytical method using ultraviolet (UV) or mass selective detection is employed for measuring residues of tebufenozide in kiwifruit. The method involves extraction by blending with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using solid phase extraction column chromatography. The limit of quantitation of the method is 0.02 ppm.

B. Toxicological Profile

1. *Acute toxicity.* Tebufenozide has low acute toxicity. Tebufenozide Technical was practically non-toxic by ingestion of a single oral dose in rats and mice (LD_{50} > 5,000 mg/kg) and was practically non-toxic by dermal application (LD_{50} > 5,000 mg/kg). Tebufenozide Technical was not significantly toxic to rats after a 4–hr inhalation exposure with an LC_{50} value of 4.5 mg/L (highest attainable concentration), is not considered to be a primary eye irritant or a skin irritant and is not a dermal sensitizer. An acute neurotoxicity study in rats did not produce any neurotoxic or neuropathologic effects.

2. *Genotoxicty.* Tebufenozide technical was negative (non-mutagenic) in an Ames assay with and without hepatic enzyme activation and in a reverse mutation assay with *E. coli.* Tebufenozide technical was negative in a hypoxanthine guanine phophoribosyl transferase (HGPRT) gene mutation assay using Chinese hamster ovary (CHO) cells in culture when tested with and without hepatic enzyme activation. In isolated rat hepatocytes, tebufenozide technical did not induce unscheduled DNA synthesis (UDS) or repair when tested up to the maximum soluble concentration in culture medium. Tebufenozide did not produce chromosome effects *in vivo* using rat bone marrow cells or *in vitro* using Chinese hamster ovary cells (CHO). On the basis of the results from this battery of tests, it is concluded that tebufenozide is not mutagenic or genotoxic.

3. *Reproductive and developmental toxicity.* —i. No Observable Effect Levels (NOELs) for developmental and maternal toxicity to tebufenozide were established at 1,000 mg/kg/day (Highest Dose Tested) in both the rat and rabbit. No signs of developmental toxicity were exhibited.

ii. In a 2–generation reproduction study in the rat, the reproductive/developmental toxicity NOEL of 12.1 mg/kg/day was 14–fold higher than the parental (systemic) toxicity NOEL 10 ppm 0.85 mg/kg/day. Equivocal reproductive effects were observed only at the 2,000 ppm dose.

iii. In a second rat reproduction study, the equivocal reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149–195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

4. *Subchronic toxicity.* —i. The NOEL in a 90–day rat feeding study was 200 ppm (13 mg/kg/day for males, 16 mg/kg/day for females). The lowest-observed-effect-level (LOEL) was 2,000 ppm (133 mg/kg/day for males, 155 mg/kg/day for females). Decreased body weights in males and females was observed at the LOEL of 2,000 ppm. As part of this study, the potential for tebufenozide to produce subchronic neurotoxicity was investigated. Tebufenozide did not produce neurotoxic or neuropathologic effects when administered in the diets of rats for 3 months at concentrations up to and including the limit dose of 20,000 ppm (NOEL = 1,330 mg/kg/day for males, 1,650 mg/kg/day for females).

ii. In a 90–day feeding study with mice, the NOEL was 20 ppm (3.4 and 4.0 mg/kg/day for males and females, respectively). The LOEL was 200 ppm (35.3 and 44.7 mg/kg/day for males and females, respectively). Decreases in body weight gain were noted in male mice at the LOEL of 200 ppm.

iii. A 90–day dog feeding study gave a NOEL of 50 ppm (2.1 mg/kg/day for males and females). TheLOEL was 500 ppm (20.1 and 21.4 mg/kg/day for males and females, respectively). At the

LOEL,females exhibited a decrease in rate of weight gain and males presented an increased reticulocyte.

iv. A 10–week study was conducted in the dog to examine the reversibility of the effects on hematological parameters that were observed in other dietary studies with the dog. Tebufenozide was administered for 6 weeks in the diet to 4 male dogs at concentrations of either 0 or 1,500 ppm. After the 6th week, the dogs receiving treated feed were switched to the control diet for 4 weeks. Hematological parameters were measured in both groups prior to treatment, at the end of the 6-week treatment, after 2 weeks of recovery on the control diet and after 4 weeks of recovery on the control diet. All hematological parameters in the treated/recovery group were returned to control levels indicating that the effects of tebufenozide on the hemopoietic system are reversible in the dog.

v. In a 28–day dermal toxicity study in the rat, the NOEL was 1,000 mg/kg/day, the highest dose tested. Tebufenozide did not produce toxicity in the rat when administered dermally for 4 weeks at doses up to and including the limit dose of 1,000 mg/kg/day.

5. *Chronic toxicity.* Chronic Feeding Toxicity and Carcinogenicity:

i. A 1 year feeding study in dogs resulted in decreased red blood cells, hematocrit, and hemoglobin and increased Heinz bodies, reticulocytes, and platelets at the Lowest Observed Effect Level (LOEL) of 8.7 mg/kg/day. The NOEL in this study was 1.8 mg/kg/day.

ii. An 18–month mouse carcinogenicity study showed no signs of carcinogenicity at dosage levels up to and including 1,000 ppm, the highest dose tested.

iii. In a combined rat chronic/oncogenicity study, the NOEL for chronic toxicity was 100 ppm (4.8 and 6.1 mg/kg/day for males and females, respectively) and the LOEL was 1,000 ppm (48 and 61 mg/kg/day for males and females, respectively). No carcinogenicity was observed at the dosage levels up to 2,000 ppm (97 mg/kg/day and 125 mg/kg/day for males and females, respectively).

6. *Animal metabolism.* The adsorption, distribution, excretion and metabolism of tebufenozide in rats was investigated. Tebufenozide is partially absorbed, is rapidly excreted and does not accumulate in tissues. Although tebufenozide is mainly excreted unchanged, a number of polar metabolites were identified. These metabolites are products of oxidation of the benzylic ethyl or methyl side chains of the molecule. These metabolites were detected in plant and other animal (rat, goat, hen) metabolism studies.

7. *Metabolite toxicology.* Common metabolic pathways for tebufenozide have been identified in both plants (grape, apple, rice and sugar beet) and animals (rat, goat, hen). The metabolic pathway common to both plants and animals involves oxidation of the alkyl substituents (ethyl and methyl groups) of the aromatic rings primarily at the benzylic positions. Extensive degradation and elimination of polar metabolites occurs in animals such that residue are unlikely to accumulate in humans or animals exposed to these residues through the diet.

8. *Endocrine disruption.* Estrogenic Effects. The toxicology profile of tebufenozide shows no evidence of physiological effects characteristic of the disruption of the hormone estrogen. Based on structure-activity information, tebufenozide is unlikely to exhibit estrogenic activity. Tebufenozide was not active in a direct *in vitro* estrogen binding assay. No indicators of estrogenic or other endocrine effects were observed in mammalian chronic studies or in mammalian and avian reproduction studies. Ecdysone has no known effects in vertebrates. Overall, the weight of evidence provides no indication that tebufenozide has endocrine activity in vertebrates.

C. Aggregate Exposure

1. *Dietary exposure.* Use of an agricultural pesticide may result, directly or indirectly in pesticide residues in food. These residues are determined by chemical analysis. Data from field studies are evaluated to determine the appropriate level of residue that would not be exceeded if the pesticide were used according to the label use directions.

In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency looks at include drinking water (whether from groundwater or surface water), and exposure through pesticide use in gardens, lawns or buildings (residential and other indoor uses). In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.

2. *Food.* Tolerances for residues of tebufenozide are currently expressed as benzoic acid, 3,5-dimethyl-1–(1,1-dimethylethyl)-2(4-ethylbenzoyl) hydrazide. Tolerances currently exist for residues on apples at 1.0 ppm (import tolerance) and on walnuts at 0.1 ppm (see 40 CFR 180.482). In addition to this action, a request to establish a tolerance in or on kiwifruit, other petitions are pending for the following tolerances: pome fruit, livestock commodities, pecans, wine grapes (import tolerance), cotton, and the crop subgroups leafy greens, leaf petioles, head and stem Brassica and leafy Brassica greens.

i. *Acute risk.* No appropriate acute dietary endpoint was identified by the Agency. This risk assessment is not required.

ii. *Chronic risk.* For chronic dietary risk assessment, the tolerance values are used and the assumption that all of these crops which are consumed in the U.S. will contain residues at the tolerance level. The theoretical maximum residue contribution (TMRC) using existing and future potential tolerances for tebufenozide on food crops is obtained by multiplying the tolerance level residues (existing and proposed) by the consumption data which estimates the amount of those food products consumed by various population subgroups and assuming that 100% of the food crops grown in the U.S. are treated with tebufenozide. The Theoretical Maximum Residue Contribution (TMRC) from current and future tolerances is calculated using the Dietary Exposure Evaluation Model (Version 5.03b, licensed by Novigen Sciences Inc.) which uses USDA food consumption data from the 1989–1992 survey.

With the current and proposed uses of tebufenozide, the TMRC estimate represents 20.1% of the Reference Dose (RfD) for the U.S. population as a whole. The subgroup with the greatest chronic exposure is non-nursing infants (less than 1 year old), for which the TMRC estimate represents 52.0% of the RfD. Using anticipate residue levels for these crops utilizes 3.38% of the RfD for the U.S. population and 12.0% for non-nursing infants. The chronic dietary risks from these uses do not exceed EPA's level of concern.

3. *Drinking water.* An additional potential source of dietary exposure to residues of pesticides are residues in drinking water. Review of environmental fate data by the Environmental Fate and Effects Division concludes that tebufenozide is moderately persistent to persistent and mobile, and could potentially leach to groundwater and runoff to surface water under certain environmental conditions. However, in terrestrial field dissipation studies, residues of tebufenozide and its soil metabolites showed no downward mobility and remained associated with the upper layers of soil. Foliar

interception (up to 60% of the total dosage applied) by target crops reduces the ground level residues of tebufenozide. There is no established Maximum Concentration Level (MCL) for residues of tebufenozide in drinking water. No drinking water health advisory levels have been established for tebufenozide.

There are no available data to perform a quantitative drinking water risk assessment for tebufenozide at this time. However, in order to mitigate the potential for tebufenozide to leach into groundwater or runoff to surface water, precautionary language has been incorporated into the product label. Also, to the best of our knowledge, previous experience with more persistent and mobile pesticides for which there have been available data to perform quantitative risk assessments have demonstrated that drinking water exposure is typically a small percentage of the total exposure when compared to the total dietary exposure. This observation holds even for pesticides detected in wells and drinking water at levels nearing or exceeding established MCLs. Considering the precautionary language on the label and based on our knowledge of previous experience with persistent chemicals, significant exposure from residues of tebufenozide in drinking water is not anticipated.

4. *Non-dietary exposure.* Tebufenozide is not registered for either indoor or outdoor residential use. Non-occupational exposure to the general population is therefore not expected and not considered in aggregate exposure estimates.

D. Cumulative Effects

The potential for cumulative effects of tebufenozide with other substances that have a common mechanism of toxicity was considered. Tebufenozide belongs to the class of insecticide chemicals known as diacylhydrazines. The only other diacylhydrazine currently registered for non-food crop uses is halofenozide. Tebufenozide and halofenozide both produce a mild, reversible anemia following subchronic/chronic exposure at high doses; however, halofenozide also exhibits other patterns of toxicity (liver toxicity following subchronic exposure and developmental/systemic toxicity following acute exposure) which tebufenozide does not. Given the different spectrum of toxicity produced by tebufenozide, there is no reliable data at the molecular/mechanistic level which would indicate that toxic effects produced by tebufenozide would be cumulative with those of halofenozide (or any other chemical compound).

In addition to the observed differences in mammalian toxicity, tebufenozide also exhibits unique toxicity against target insect pests. Tebufenozide is an agonist of 20–hydroxyecdysone, the insect molting hormone, and interferes with the normal molting process in target lepidopteran species by interacting with ecdysone receptors from those species. Unlike other ecdysone agonists such as halofenozide, tebufenozide does not produces symptoms which may be indicative of systemic toxicity in beetle larvae (Coleopteran species). Tebufenozide has a different spectrum of activity than other ecdysone agonists. In contrast to the other agonists such as halofenozide which act mainly on coleopteran insects, tebufenozide is highly specific for lepidopteran insects.

Based on the overall pattern of toxicity produced by tebufenozide in mammalian and insect systems, the compound's toxicity appears to be distinct from that of other chemicals, including organochlorines, organophosphates, carbamates, pyrethroids, benzoylureas, and other diacylhydrazines. Thus, there is no evidence to date to suggest that cumulative effects of tebufenozide and other chemicals should be considered.

E. Safety Determination

1. *U.S. population.* Using the conservative exposure assumptions described above and taking into account the completeness and reliability of the toxicity data, the dietary exposure to tebufenozide from the current and future tolerances will utilize 20.1% of the RfD for the U.S. population and 52.0% for non-nursing infants under 1 year old. Using anticipate residue levels for these crops utilizes 3.38% of the RfD for the U.S. population and 12.0% for non-nursing infants. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebufenozide residues to the U.S. population and non-nursing infants.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of tebufenozide, data from developmental toxicity studies in the rat and rabbit and two 2–generation reproduction studies in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. Developmental toxicity was not observed in developmental studies using rats and rabbits. The NOEL for developmental effects in both rats and rabbits was 1,000 mg/kg/day, which is the limit dose for testing in developmental studies.

In the 2–generation reproductive toxicity study in the rat, the reproductive/ developmental toxicity NOEL of 12.1 mg/kg/day was 14–fold higher than the parental (systemic) toxicity NOEL (0.85 mg/kg/day). The reproductive (pup) LOEL of 171.1 mg/kg/day was based on a slight increase in both generations in the number of pregnant females that either did not deliver or had difficulty and had to be sacrificed. In addition, the length of gestation increased and implantation sites decreased significantly in F1 dams. These effects were not replicated at the same dose in a second 2–generation rat reproduction study. In this second study, reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149–195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

Because these reproductive effects occurred in the presence of parental (systemic) toxicity and were not replicated at the same doses in a second study, these data do not indicate an increased pre-natal or post-natal sensitivity to children and infants (that infants and children might be more sensitive than adults) to tebufenozide exposure. FFDCA section 408 provides that EPA shall apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety is appropriate. Based on current toxicological data discussed above, an additional uncertainty factor is not warranted and the RfD at 0.018 mg/kg/day is appropriate for assessing aggregate risk to infants and children. Rohm and Haas concludes that there is a reasonable certainty that no harm will occur to infants and children from aggregate exposure to residues of tebufenozide.

F. International Tolerances

There are no approved CODEX maximum residue levels (MRLs) established for residues of tebufenozide.

5. PP 7F4863

EPA has received a pesticide petition (PP 7F4863) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA. 19106–2399, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR Part 180 by establishing a tolerance for residues of tebufenozide [benzoic acid, 3,5-dimethyl-, 1–(1,1–dimethylethyl)-2–(4-ethylbenzoyl) hydrazide in or on the raw agricultural commodity sugarcane and sugarcane molasses at 0.3 and 1.0 parts per million (ppm) respectively. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of tebufenozide in plants (grapes, apples, rice and sugar beets) is adequately understood for the purposes of these tolerances. The metabolism of tebufenozide in all crops was similar and involves oxidation of the alkyl substituents of the aromatic rings primarily at the benzylic positions. The extent of metabolism and degree of oxidation are a function of time from application to harvest. In all crops, parent compound comprised the majority of the total dosage. None of the metabolites were in excess of 10% of the total dosage. The metabolism of tebufenozide in goats and hens proceeds along the same metabolic pathway as observed in plants. No accumulation of residues in tissues, milk or eggs occurred.

2. *Analytical method.* A validated high performance liquid chromatographic (HPLC) analytical method using ultraviolet (UV) detection is employed for measuring residues of tebufenozide in sugarcane, molasses and refined sugar. The method involves extraction by blending with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using solid phase extraction column chromatography. The limit of quantitation of the method for sugarcane, refined sugar and molasses is 0.01 ppm.

B. Toxicological Profile

1. *Acute toxicity.* Tebufenozide has low acute toxicity. Tebufenozide Technical was practically non-toxic by ingestion of a single oral dose in rats and mice (LD_{50} > 5,000 mg/kg) and was practically non-toxic by dermal application (LD_{50} > 5,000 mg/kg). Tebufenozide Technical was not significantly toxic to rats after a 4–hr inhalation exposure with an LC_{50} value of 4.5 mg/L (highest attainable concentration), is not considered to be a primary eye irritant or a skin irritant and is not a dermal sensitizer. An acute neurotoxicity study in rats did not produce any neurotoxic or neuropathologic effects.

2. *Genotoxicty.* Tebufenozide technical was negative (non-mutagenic) in an Ames assay with and without hepatic enzyme activation and in a reverse mutation assay with *E. coli.* Tebufenozide technical was negative in a hypoxanthine guanine phophoribosyl transferase (HGPRT) gene mutation assay using Chinese hamster ovary (CHO) cells in culture when tested with and without hepatic enzyme activation. In isolated rat hepatocytes, tebufenozide technical did not induce unscheduled DNA synthesis (UDS) or repair when tested up to the maximum soluble concentration in culture medium. Tebufenozide did not produce chromosome effects *in vivo* using rat bone marrow cells or *in vitro* using Chinese hamster ovary cells (CHO). On the basis of the results from this battery of tests, it is concluded that tebufenozide is not mutagenic or genotoxic.

3. *Reproductive and developmental toxicity.* —i. No Observable Effect Levels (NOELs) for developmental and maternal toxicity to tebufenozide were established at 1,000 mg/kg/day (Highest Dose Tested) in both the rat and rabbit. No signs of developmental toxicity were exhibited.

ii. In a 2–generation reproduction study in the rat, the reproductive/developmental toxicity NOEL of 12.1 mg/kg/day was 14–fold higher than the parental (systemic) toxicity NOEL 10 ppm 0.85 mg/kg/day. Equivocal reproductive effects were observed only at the 2,000 ppm dose.

iii. In a second rat reproduction study, the equivocal reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149–195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

4. *Subchronic toxicity.* —i. The NOEL in a 90–day rat feeding study was 200 ppm (13 mg/kg/day for males, 16 mg/kg/day for females). The lowest-observed-effect-level (LOEL) was 2,000 ppm (133 mg/kg/day for males, 155 mg/kg/day for females). Decreased body weights in males and females was observed at the LOEL of 2,000 ppm. As part of this study, the potential for tebufenozide to produce subchronic neurotoxicity was investigated. Tebufenozide did not produce neurotoxic or neuropathologic effects when administered in the diets of rats for 3 months at concentrations up to and including the limit dose of 20,000 ppm (NOEL = 1,330 mg/kg/day for males, 1,650 mg/kg/day for females).

ii. In a 90–day feeding study with mice, the NOEL was 20 ppm (3.4 and 4.0 mg/kg/day for males and females, respectively). The LOEL was 200 ppm (35.3 and 44.7 mg/kg/day for males and females, respectively). Decreases in body weight gain were noted in male mice at the LOEL of 200 ppm.

iii. A 90–day dog feeding study gave a NOEL of 50 ppm (2.1 mg/kg/day for males and females). The LOEL was 500 ppm (20.1 and 21.4 mg/kg/day for males and females, respectively). At the LOEL, females exhibited a decrease in rate of weight gain and males presented an increased reticulocyte.

iv. A 10–week study was conducted in the dog to examine the reversibility of the effects on hematological parameters that were observed in other dietary studies with the dog. Tebufenozide was administered for 6 weeks in the diet to 4 male dogs at concentrations of either 0 or 1,500 ppm. After the 6th week, the dogs receiving treated feed were switched to the control diet for 4 weeks. Hematological parameters were measured in both groups prior to treatment, at the end of the 6–week treatment, after 2 weeks of recovery on the control diet and after 4 weeks of recovery on the control diet. All hematological parameters in the treated/recovery group were returned to control levels indicating that the effects of tebufenozide on the hemopoietic system are reversible in the dog.

v. In a 28–day dermal toxicity study in the rat, the NOEL was 1,000 mg/kg/day, the highest dose tested. Tebufenozide did not produce toxicity in the rat when administered dermally for 4 weeks at doses up to and including the limit dose of 1,000 mg/kg/day.

5. *Chronic toxicity.* —i. A 1 year feeding study in dogs resulted in decreased red blood cells, hematocrit, and hemoglobin and increased Heinz bodies, reticulocytes, and platelets at the Lowest Observed Effect Level (LOEL) of 8.7 mg/kg/day. The NOEL in this study was 1.8 mg/kg/day.

ii. An 18–month mouse carcinogenicity study showed no signs of carcinogenicity at dosage levels up to and including 1,000 ppm, the highest dose tested.

iii. In a combined rat chronic/oncogenicity study, the NOEL for chronic toxicity was 100 ppm (4.8 and

6.1 mg/kg/day for males and females, respectively) and the LOEL was 1,000 ppm (48 and 61 mg/kg/day for males and females, respectively). No carcinogenicity was observed at the dosage levels up to 2,000 ppm (97 mg/kg/day and 125 mg/kg/day for males and females, respectively).

6. *Animal metabolism.* The adsorption, distribution, excretion and metabolism of tebufenozide in rats was investigated. Tebufenozide is partially absorbed, is rapidly excreted and does not accumulate in tissues. Although tebufenozide is mainly excreted unchanged, a number of polar metabolites were identified. These metabolites are products of oxidation of the benzylic ethyl or methyl side chains of the molecule. These metabolites were detected in plant and other animal (rat, goat, hen) metabolism studies.

7. *Metabolite toxicology.* Common metabolic pathways for tebufenozide have been identified in both plants (grape, apple, rice and sugar beet) and animals (rat, goat, hen). The metabolic pathway common to both plants and animals involves oxidation of the alkyl substituents (ethyl and methyl groups) of the aromatic rings primarily at the benzylic positions. Extensive degradation and elimination of polar metabolites occurs in animals such that residue are unlikely to accumulate in humans or animals exposed to these residues through the diet.

8. *Endocrine disruption.* The toxicology profile of tebufenozide shows no evidence of physiological effects characteristic of the disruption of the hormone estrogen. Based on structure-activity information, tebufenozide is unlikely to exhibit estrogenic activity. Tebufenozide was not active in a direct *in vitro* estrogen binding assay. No indicators of estrogenic or other endocrine effects were observed in mammalian chronic studies or in mammalian and avian reproduction studies. Ecdysone has no known effects in vertebrates. Overall, the weight of evidence provides no indication that tebufenozide has endocrine activity in vertebrates.

C. Aggregate Exposure

1. *Dietary exposure.* Use of an agricultural pesticide may result, directly or indirectly in pesticide residues in food. These residues are determined by chemical analysis. Data from field studies are evaluated to determine the appropriate level of residue that would not be exceeded if the pesticide were used according to the label use directions.

In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency looks at include drinking water (whether from groundwater or surface water), and exposure through pesticide use in gardens, lawns or buildings (residential and other indoor uses). In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency looks at include drinking water (whether from groundwater or surface water), and exposure through pesticide use in gardens, lawns or buildings (residential and other indoor uses). In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.

2. *Food.* Tolerances for residues of tebufenozide are currently expressed as benzoic acid, 3,5-dimethyl-1–(1,1-dimethylethyl)-2(4-ethylbenzoyl) hydrazide. Tolerances currently exist for residues on apples at 1.0 ppm (import tolerance) and on walnuts at 0.1 ppm (see 40 CFR 180.482). In addition to this action, a request to establish tolerance in or on sugarcane and sugarcane molasses, other petitions are pending for the following tolerances: pome fruit, livestock commodities, pecans, wine grapes (import tolerance), cotton, and the crop subgroups leafy greens, leaf petioles, head and stem Brassica and leafy Brassica greens and kiwifruit.

i. *Acute risk.* No appropriate acute dietary endpoint was identified by the Agency. This risk assessment is not required.

ii. *Chronic risk.* For chronic dietary risk assessment, the tolerance values are used and the assumption that all of these crops which are consumed in the U.S. will contain residues at the tolerance level. The theoretical maximum residue contribution (TMRC) using existing and future potential tolerances for tebufenozide on food crops is obtained by multiplying the tolerance level residues (existing and proposed) by the consumption data which estimates the amount of those food products consumed by various population subgroups and assuming that 100% of the food crops grown in the U.S. are treated with tebufenozide. The Theoretical Maximum Residue Contribution (TMRC) from current and future tolerances is calculated using the Dietary Exposure Evaluation Model (Version 5.03b, licensed by Novigen Sciences Inc.) which uses USDA food consumption data from the 1989–1992 survey.

With the current and proposed uses of tebufenozide, the TMRC estimate represents 28.9% of the Reference Dose (RfD) for the U.S. population as a whole. The subgroup with the greatest chronic exposure is non-nursing infants (less than 1 year old), for which the TMRC estimate represents 57.0% of the RfD. Using anticipate residue levels for these crops utilizes 5.37% of the RfD for the U.S. population and 13.0% for non-nursing infants. The chronic dietary risks from these uses do not exceed EPA's level of concern.

3. *Drinking water.* An additional potential source of dietary exposure to residues of pesticides are residues in drinking water. Review of environmental fate data by the Environmental Fate and Effects Division concludes that tebufenozide is moderately persistent to persistent and mobile, and could potentially leach to groundwater and runoff to surface water under certain environmental conditions. However, in terrestrial field dissipation studies, residues of tebufenozide and its soil metabolites showed no downward mobility and remained associated with the upper layers of soil. Foliar interception (up to 60% of the total dosage applied) by target crops reduces the ground level residues of tebufenozide. There is no established Maximum Concentration Level (MCL) for residues of tebufenozide in drinking water. No drinking water health advisory levels have been established for tebufenozide. There are no available data to perform a quantitative drinking water risk assessment for tebufenozide at this time. However, in order to mitigate the potential for tebufenozide to leach into groundwater or runoff to surface water, precautionary language has been incorporated into the product label. Also, to the best of our knowledge, previous experience with more persistent and mobile pesticides for which there have been available data to perform quantitative risk assessments have demonstrated that drinking water exposure is typically a small percentage of the total exposure when compared to the total dietary exposure. This observation holds even for pesticides detected in wells and drinking water at levels nearing or exceeding established MCLs. Considering the precautionary language on the label and based on our knowledge of previous experience with persistent chemicals, significant

exposure from residues of tebufenozide in drinking water is not anticipated.

4. *Non-dietary exposure.* Tebufenozide is not registered for either indoor or outdoor residential use. Non-occupational exposure to the general population is therefore not expected and not considered in aggregate exposure estimates.

D. Cumulative Effects

The potential for cumulative effects of tebufenozide with other substances that have a common mechanism of toxicity was considered. Tebufenozide belongs to the class of insecticide chemicals known as diacylhydrazines. The only other diacylhydrazine currently registered for non-food crop uses is halofenozide. Tebufenozide and halofenozide both produce a mild, reversible anemia following subchronic/chronic exposure at high doses; however, halofenozide also exhibits other patterns of toxicity (liver toxicity following subchronic exposure and developmental/systemic toxicity following acute exposure) which tebufenozide does not. Given the different spectrum of toxicity produced by tebufenozide, there is no reliable data at the molecular/mechanistic level which would indicate that toxic effects produced by tebufenozide would be cumulative with those of halofenozide (or any other chemical compound).

In addition to the observed differences in mammalian toxicity, tebufenozide also exhibits unique toxicity against target insect pests. Tebufenozide is an agonist of 20–hydroxyecdysone, the insect molting hormone, and interferes with the normal molting process in target lepidopteran species by interacting with ecdysone receptors from those species. Unlike other ecdysone agonists such as halofenozide, tebufenozide does not produces symptoms which may be indicative of systemic toxicity in beetle larvae (Coleopteran species). Tebufenozide has a different spectrum of activity than other ecdysone agonists. In contrast to the other agonists such as halofenozide which act mainly on coleopteran insects, tebufenozide is highly specific for lepidopteran insects.

Based on the overall pattern of toxicity produced by tebufenozide in mammalian and insect systems, the compound's toxicity appears to be distinct from that of other chemicals, including organochlorines, organophosphates, carbamates, pyrethroids, benzoylureas, and other diacylhydrazines. Thus, there is no evidence to date to suggest that cumulative effects of tebufenozide and other chemicals should be considered.

E. Safety Determination

1. *U.S. population.* Using the conservative exposure assumptions described above and taking into account the completeness and reliability of the toxicity data, the dietary exposure to tebufenozide from the current and future tolerances will utilize 28.9% of the RfD for the U.S. population and 57.0% for non-nursing infants under 1 year old. Using anticipate residue levels for these crops utilizes 5.37% of the RfD for the U.S. population and 13.0% for non-nursing infants. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebufenozide residues to the U.S. population and non-nursing infants.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of tebufenozide, data from developmental toxicity studies in the rat and rabbit and two 2–generation reproduction studies in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. Developmental toxicity was not observed in developmental studies using rats and rabbits. The NOEL for developmental effects in both rats and rabbits was 1,000 mg/kg/day, which is the limit dose for testing in developmental studies.

In the 2–generation reproductive toxicity study in the rat, the reproductive/ developmental toxicity NOEL of 12.1 mg/kg/day was 14–fold higher than the parental (systemic) toxicity NOEL (0.85 mg/kg/day). The reproductive (pup) LOEL of 171.1 mg/kg/day was based on a slight increase in both generations in the number of pregnant females that either did not deliver or had difficulty and had to be sacrificed. In addition, the length of gestation increased and implantation sites decreased significantly in F1 dams. These effects were not replicated at the same dose in a second 2–generation rat reproduction study. In this second study, reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149–195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

Because these reproductive effects occurred in the presence of parental (systemic) toxicity and were not replicated at the same doses in a second study, these data do not indicate an increased pre-natal or post-natal sensitivity to children and infants (that infants and children might be more sensitive than adults) to tebufenozide exposure. FFDCA section 408 provides that EPA shall apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety is appropriate. Based on current toxicological data discussed above, an additional uncertainty factor is not warranted and the RfD at 0.018 mg/kg/day is appropriate for assessing aggregate risk to infants and children. Rohm and Haas concludes that there is a reasonable certainty that no harm will occur to infants and children from aggregate exposure to residues of tebufenozide.

F. International Tolerances

There are no approved CODEX maximum residue levels (MRLs) established for residues of tebufenozide.

6. PP 7F4869

EPA has received PP 7F4869 from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA. 19106–2399, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR Part 180 by establishing a tolerance for residues of tebufenozide [benzoic acid, 3,5-dimethyl-, 1–(1,1-dimethylethyl)-2–(4-ethylbenzoyl) hydrazide in or on the raw agricultural commodity fruiting vegetables (except cucurbits) at 0.8 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of tebufenozide in plants (grapes, apples, rice and sugar beets) is adequately understood for the purposes of these tolerances. The metabolism of tebufenozide in all crops was similar and involves oxidation of the alkyl

substituents of the aromatic rings primarily at the benzylic positions. The extent of metabolism and degree of oxidation are a function of time from application to harvest. In all crops, parent compound comprised the majority of the total dosage. None of the metabolites were in excess of 10% of the total dosage. The metabolism of tebufenozide in goats and hens proceeds along the same metabolic pathway as observed in plants. No accumulation of residues in tissues, milk or eggs occurred.

2. *Analytical method.* A validated high performance liquid chromatographic (HPLC) analytical method using ultraviolet (UV) detection is employed for measuring residues of tebufenozide in tomatoes, peppers and tomato processed fractions. The method involves extraction by blending with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using solid phase extraction column chromatography. The limit of quantitation of the method for all matrices is 0.02 ppm.

B. Toxicological Profile

1. *Acute toxicity.* Tebufenozide has low acute toxicity. Tebufenozide Technical was practically non-toxic by ingestion of a single oral dose in rats and mice (LD_{50} > 5,000 mg/kg) and was practically non-toxic by dermal application (LD_{50} > 5,000 mg/kg). Tebufenozide Technical was not significantly toxic to rats after a 4–hr inhalation exposure with an LC_{50} value of 4.5 mg/L (highest attainable concentration), is not considered to be a primary eye irritant or a skin irritant and is not a dermal sensitizer. An acute neurotoxicity study in rats did not produce any neurotoxic or neuropathologic effects.

2. *Genotoxicty.* Tebufenozide technical was negative (non-mutagenic) in an Ames assay with and without hepatic enzyme activation and in a reverse mutation assay with *E. coli.* Tebufenozide technical was negative in a hypoxanthine guanine phophoribosyl transferase (HGPRT) gene mutation assay using Chinese hamster ovary (CHO) cells in culture when tested with and without hepatic enzyme activation. In isolated rat hepatocytes, tebufenozide technical did not induce unscheduled DNA synthesis (UDS) or repair when tested up to the maximum soluble concentration in culture medium. Tebufenozide did not produce chromosome effects *in vivo* using rat bone marrow cells or *in vitro* using Chinese hamster ovary cells (CHO). On the basis of the results from this battery of tests, it is concluded that tebufenozide is not mutagenic or genotoxic.

3. *Reproductive and developmental toxicity.* —i. No Observable Effect Levels (NOELs) for developmental and maternal toxicity to tebufenozide were established at 1,000 mg/kg/day (Highest Dose Tested) in both the rat and rabbit. No signs of developmental toxicity were exhibited.

ii. In a 2–generation reproduction study in the rat, the reproductive/developmental toxicity NOEL of 12.1 mg/kg/day was 14–fold higher than the parental (systemic) toxicity NOEL 10 ppm 0.85 mg/kg/day. Equivocal reproductive effects were observed only at the 2,000 ppm dose.

iii. In a second rat reproduction study, the equivocal reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149–195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

4. *Subchronic toxicity.* —i. The NOEL in a 90–day rat feeding study was 200 ppm (13 mg/kg/day for males, 16 mg/kg/day for females). The lowest-observable-effect-level (LOEL) was 2,000 ppm (133 mg/kg/day for males, 155 mg/kg/day for females). Decreased body weights in males and females was observed at the LOEL of 2,000 ppm. As part of this study, the potential for tebufenozide to produce subchronic neurotoxicity was investigated. Tebufenozide did not produce neurotoxic or neuropathologic effects when administered in the diets of rats for 3 months at concentrations up to and including the limit dose of 20,000 ppm (NOEL = 1,330 mg/kg/day for males, 1,650 mg/kg/day for females).

ii. In a 90–day feeding study with mice, the NOEL was 20 ppm (3.4 and 4.0 mg/kg/day for males and females, respectively). The LOEL was 200 ppm (35.3 and 44.7 mg/kg/day for males and females, respectively). Decreases in body weight gain were noted in male mice at the LOEL of 200 ppm.

iii. A 90–day dog feeding study gave a NOEL of 50 ppm (2.1 mg/kg/day for males and females). The LOEL was 500 ppm (20.1 and 21.4 mg/kg/day for males and females, respectively). At the LOEL, females exhibited a decrease in rate of weight gain and males presented an increased reticulocyte.

iv. A 10–week study was conducted in the dog to examine the reversibility of the effects on hematological parameters that were observed in other dietary studies with the dog. Tebufenozide was administered for 6 weeks in the diet to 4 male dogs at concentrations of either 0 or 1,500 ppm. After the 6th week, the dogs receiving treated feed were switched to the control diet for 4 weeks. Hematological parameters were measured in both groups prior to treatment, at the end of the 6-week treatment, after 2 weeks of recovery on the control diet and after 4 weeks of recovery on the control diet. All hematological parameters in the treated/recovery group were returned to control levels indicating that the effects of tebufenozide on the hemopoietic system are reversible in the dog.

v. In a 28–day dermal toxicity study in the rat, the NOEL was 1,000 mg/kg/day, the highest dose tested. Tebufenozide did not produce toxicity in the rat when administered dermally for 4 weeks at doses up to and including the limit dose of 1,000 mg/kg/day.

5. *Chronic toxicity.* —i. A 1 year feeding study in dogs resulted in decreased red blood cells, hematocrit, and hemoglobin and increased Heinz bodies, reticulocytes, and platelets at the Lowest Observed Effect Level (LOEL) of 8.7 mg/kg/day. The NOEL in this study was 1.8 mg/kg/day.

ii. An 18–month mouse carcinogenicity study showed no signs of carcinogenicity at dosage levels up to and including 1,000 ppm, the highest dose tested.

iii. In a combined rat chronic/oncogenicity study, the NOEL for chronic toxicity was 100 ppm (4.8 and 6.1 mg/kg/day for males and females, respectively) and the LOEL was 1,000 ppm (48 and 61 mg/kg/day for males and females, respectively). No carcinogenicity was observed at the dosage levels up to 2,000 ppm (97 mg/kg/day and 125 mg/kg/day for males and females, respectively).

6. *Animal metabolism.* The adsorption, distribution, excretion and metabolism of tebufenozide in rats was investigated. Tebufenozide is partially absorbed, is rapidly excreted and does not accumulate in tissues. Although tebufenozide is mainly excreted unchanged, a number of polar metabolites were identified. These metabolites are products of oxidation of the benzylic ethyl or methyl side chains of the molecule. These metabolites were detected in plant and other animal (rat, goat, hen) metabolism studies.

7. *Metabolite toxicology.* Common metabolic pathways for tebufenozide have been identified in both plants (grape, apple, rice and sugar beet) and animals (rat, goat, hen). The metabolic pathway common to both plants and animals involves oxidation of the alkyl substituents (ethyl and methyl groups) of the aromatic rings primarily at the benzylic positions. Extensive degradation and elimination of polar metabolites occurs in animals such that

residue are unlikely to accumulate in humans or animals exposed to these residues through the diet.

8. *Endocrine disruption.* The toxicology profile of tebufenozide shows no evidence of physiological effects characteristic of the disruption of the hormone estrogen. Based on structure-activity information, tebufenozide is unlikely to exhibit estrogenic activity. Tebufenozide was not active in a direct *in vitro* estrogen binding assay. No indicators of estrogenic or other endocrine effects were observed in mammalian chronic studies or in mammalian and avian reproduction studies. Ecdysone has no known effects in vertebrates. Overall, the weight of evidence provides no indication that tebufenozide has endocrine activity in vertebrates.

C. Aggregate Exposure

1. *Dietary exposure.* Use of an agricultural pesticide may result, directly or indirectly in pesticide residues in food. These residues are determined by chemical analysis. Data from field studies are evaluated to determine the appropriate level of residue that would not be exceeded if the pesticide were used according to the label use directions.

In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency looks at include drinking water (whether from groundwater or surface water), and exposure through pesticide use in gardens, lawns or buildings (residential and other indoor uses). In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.

2. *Food.* Tolerances for residues of tebufenozide are currently expressed as benzoic acid, 3,5-dimethyl-1–(1,1-dimethylethyl)-2(4-ethylbenzoyl) hydrazide. Tolerances currently exist for residues on apples at 1.0 ppm (import tolerance) and on walnuts at 0.1 ppm (see 40 CFR 180.482). In addition to this action, a request to establish a tolerance in or on the crop group fruiting vegetables (except cucurbits), other petitions are pending for the following tolerances: pome fruit, livestock commodities, pecans, wine grapes (import tolerance), cotton, and the crop subgroups leafy greens, leaf petioles, head and stem Brassica and leafy Brassica greens, kiwifruit (import tolerance) and sugarcane.

i. *Acute risk. No appropriate acute dietary endpoint was identified by the Agency. This risk assessment is not required.*

ii. *Chronic risk.* For chronic dietary risk assessment, the tolerance values are used and the assumption that all of these crops which are consumed in the U.S. will contain residues at the tolerance level. The theoretical maximum residue contribution (TMRC) using existing and future potential tolerances for tebufenozide on food crops is obtained by multiplying the tolerance level residues (existing and proposed) by the consumption data which estimates the amount of those food products consumed by various population subgroups and assuming that 100% of the food crops grown in the U.S. are treated with tebufenozide. The Theoretical Maximum Residue Contribution (TMRC) from current and future tolerances is calculated using the Dietary Exposure Evaluation Model (Version 5.03b, licensed by Novigen Sciences Inc.) which uses USDA food consumption data from the 1989–1992 survey.

With the current and proposed uses of tebufenozide, the TMRC estimate represents 28.9% of the Reference Dose (RfD) for the U.S. population as a whole. The subgroup with the greatest chronic exposure is non-nursing infants (less than 1 year old), for which the TMRC estimate represents 57.0% of the RfD. Using anticipate residue levels for these crops utilizes 5.37% of the RfD for the U.S. population and 13.0% for non-nursing infants. The chronic dietary risks from these uses do not exceed EPA's level of concern.

3. *Drinking water.* An additional potential source of dietary exposure to residues of pesticides are residues in drinking water. Review of environmental fate data by the Environmental Fate and Effects Division concludes that tebufenozide is moderately persistent to persistent and mobile, and could potentially leach to groundwater and runoff to surface water under certain environmental conditions. However, in terrestrial field dissipation studies, residues of tebufenozide and its soil metabolites showed no downward mobility and remained associated with the upper layers of soil. Foliar interception (up to 60% of the total dosage applied) by target crops reduces the ground level residues of tebufenozide. There is no established Maximum Concentration Level (MCL) for residues of tebufenozide in drinking water. No drinking water health advisory levels have been established for tebufenozide.

There are no available data to perform a quantitative drinking water risk assessment for tebufenozide at this time. However, in order to mitigate the potential for tebufenozide to leach into groundwater or runoff to surface water, precautionary language has been incorporated into the product label.

Also, to the best of our knowledge, previous experience with more persistent and mobile pesticides for which there have been available data to perform quantitative risk assessments have demonstrated that drinking water exposure is typically a small percentage of the total exposure when compared to the total dietary exposure. This observation holds even for pesticides detected in wells and drinking water at levels nearing or exceeding established MCLs. Considering the precautionary language on the label and based on our knowledge of previous experience with persistent chemicals, significant exposure from residues of tebufenozide in drinking water is not anticipated.

4. *Non-dietary exposure.* Tebufenozide is not registered for either indoor or outdoor residential use. Non-occupational exposure to the general population is therefore not expected and not considered in aggregate exposure estimates.

D. Cumulative Effects

The potential for cumulative effects of tebufenozide with other substances that have a common mechanism of toxicity was considered. Tebufenozide belongs to the class of insecticide chemicals known as diacylhydrazines. The only other diacylhydrazine currently registered for non-food crop uses is halofenozide. Tebufenozide and halofenozide both produce a mild, reversible anemia following subchronic/chronic exposure at high doses; however, halofenozide also exhibits other patterns of toxicity (liver toxicity following subchronic exposure and developmental/systemic toxicity following acute exposure) which tebufenozide does not. Given the different spectrum of toxicity produced by tebufenozide, there is no reliable data at the molecular/mechanistic level which would indicate that toxic effects produced by tebufenozide would be cumulative with those of halofenozide (or any other chemical compound).

In addition to the observed differences in mammalian toxicity, tebufenozide also exhibits unique toxicity against target insect pests. Tebufenozide is an agonist of 20–hydroxyecdysone, the insect molting hormone, and interferes with the normal molting process in target lepidopteran species by interacting with ecdysone

receptors from those species. Unlike other ecdysone agonists such as halofenozide, tebufenozide does not produces symptoms which may be indicative of systemic toxicity in beetle larvae (Coleopteran species). Tebufenozide has a different spectrum of activity than other ecdysone agonists. In contrast to the other agonists such as halofenozide which act mainly on coleopteran insects, tebufenozide is highly specific for lepidopteran insects.

Based on the overall pattern of toxicity produced by tebufenozide in mammalian and insect systems, the compound's toxicity appears to be distinct from that of other chemicals, including organochlorines, organophosphates, carbamates, pyrethroids, benzoylureas, and other diacylhydrazines. Thus, there is no evidence to date to suggest that cumulative effects of tebufenozide and other chemicals should be considered.

E. Safety Determination

1. *U.S. population.* Using the conservative exposure assumptions described above and taking into account the completeness and reliability of the toxicity data, the dietary exposure to tebufenozide from the current and future tolerances will utilize 28.9% of the RfD for the U.S. population and 57.0% for non-nursing infants under 1 year old. Using anticipate residue levels for these crops utilizes 5.37% of the RfD for the U.S. population and 13.0% for non-nursing infants. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebufenozide residues to the U.S. population and non-nursing infants.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of tebufenozide, data from developmental toxicity studies in the rat and rabbit and two 2–generation reproduction studies in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. Developmental toxicity was not observed in developmental studies using rats and rabbits. The NOEL for developmental effects in both rats and rabbits was 1,000 mg/kg/day, which is the limit dose for testing in developmental studies.

In the 2–generation reproductive toxicity study in the rat, the reproductive/ developmental toxicity NOEL of 12.1 mg/kg/day was 14–fold higher than the parental (systemic) toxicity NOEL (0.85 mg/kg/day). The reproductive (pup) LOEL of 171.1 mg/kg/day was based on a slight increase in both generations in the number of pregnant females that either did not deliver or had difficulty and had to be sacrificed. In addition, the length of gestation increased and implantation sites decreased significantly in F1 dams. These effects were not replicated at the same dose in a second 2–generation rat reproduction study. In this second study, reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149–195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

Because these reproductive effects occurred in the presence of parental (systemic) toxicity and were not replicated at the same doses in a second study, these data do not indicate an increased pre-natal or post-natal sensitivity to children and infants (that infants and children might be more sensitive than adults) to tebufenozide exposure. FFDCA section 408 provides that EPA shall apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety is appropriate. Based on current toxicological data discussed above, an additional uncertainty factor is not warranted and the RfD at 0.018 mg/kg/day is appropriate for assessing aggregate risk to infants and children. Rohm and Haas concludes that there is a reasonable certainty that no harm will occur to infants and children from aggregate exposure to residues of tebufenozide.

F. International Tolerances

There are no approved CODEX Maximum Residue Levels (MRLs) established for residues of tebufenozide.

[FR Doc. 98–21747 Filed 8–18–98; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–98–21–A (Auction No. 21); DA 98–1616]

Location and Monitoring Service Spectrum Auction Scheduled For December 15, 1998; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues

AGENCY: Federal Communications Commission.

ACTION: Notice; seeking comment.

SUMMARY: The Commission announces the auction of 528 multilateration Location and Monitoring Service licenses scheduled for December 15, 1998, and seeks comment on a proposed formula for calculating minimum opening bids and other auction procedural issues.

DATES: Comments are due on or before September 2, 1998. Reply comments are due on or before September 9, 1998.

ADDRESSES: To file formally, parties must submit an original and four copies to the Office of the Secretary, Federal Communications Commission, Room 222, 1919 M Street N.W., Washington, D.C. 20554. In addition, parties must submit one copy to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, Room 5202, 2025 M Street N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room, Room 239, 1919 M Street N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathy Garland, Bob Reagle or Kenneth Burnley, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–0660.

SUPPLEMENTARY INFORMATION: This public notice was released on August 13, 1998 and is available in its entirety for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, fax (202) 857–3805, 1231 20th Street, N.W., Washington, D.C. 20036.

Synopsis of the Public Notice

1. By this Public Notice, the Wireless Telecommunications Bureau ("Bureau") announces the auction of 528

multilateration Location and Monitoring Service ("LMS") licenses set to begin on December 15, 1998. Three blocks of spectrum are allocated for multilateration LMS systems:

(1) Block A 904.000–909.750 MHz and 927.750–928.000 MHz
(2) Block B 919.750–921.750 MHz and 927.500–927.750 MHz
(3) Block C 921.750–927.250 MHz and 927.250–927.500 MHz

2. One license will be awarded for each of these spectrum blocks in each of 176 Economic Areas (EAs) designated for LMS. The 176 EAs designated for the LMS auction comprise the following areas: (1) the continental United States, Hawaii and Alaska (Alaska to be licensed in a single area); (2) Guam and the Northern Mariana Islands (to be licensed in a single area); (3) Puerto Rico and the U.S. Virgin Islands (to be licensed in a single area); (4) America Samoa; and (5) the Gulf of Mexico. Thus, there are a total of 528 multilateration LMS licenses to be auctioned.

3. Future public notices will include further details regarding application filing and payment deadlines, a seminar, and other pertinent information. In this Public Notice, the Commission seeks comment on procedural issues relating to the LMS auction.

I. Reserve Price or Minimum Opening Bid

4. The Balanced Budget Act of 1997 calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction. The Bureau was directed to seek comment on the methodology to be employed in establishing each of these mechanisms. Among other factors the Bureau should consider is the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands, and any other relevant factors that reasonably could have an impact on valuation of the spectrum being auctioned. The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.

5. Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which *no bids* are accepted. It is generally used to accelerate the competitive bidding process. Also, in a minimum opening bid scenario, the auctioneer generally has the discretion to lower the amount later in the auction.

6. In anticipation of this auction and in light of the Balanced Budget Act, the Bureau proposes to establish minimum opening bids for the LMS auction, and retain discretion to lower the minimum opening bids. The Bureau believes a minimum opening bid, which has been utilized in other auctions, is an effective bidding tool. A minimum opening bid, rather than a reserve price, will help to regulate the pace of the auction and provides flexibility.

7. Specifically, the Commission proposes the following formulas for calculating minimum opening bids on a license-by-license basis in Auction No. 21:

(1) Block A $0.004*MHz*Pops (rounded up to the next dollar and no less than $2,850 per license)
(2) Block B $0.004*MHz*Pops (rounded up to the next dollar and no less than $2,500 per license)
(3) Block C $0.004*MHz*Pops (rounded up to the next dollar and no less than $2,800 per license)

Comment is sought on this proposal. If commenters believe that the formula proposed above for minimum opening bids will result in substantial numbers of unsold licenses, or is not a reasonable amount, or should instead operate as a reserve price, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. In establishing the formula for minimum opening bids, the Commission particularly seeks comment on such factors as, among other things, the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the LMS spectrum. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

II. Other Auction Procedural Issues

8. The Balanced Budget Act of 1997 requires the Commission to "ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed * * * before issuance of bidding rules, to permit notice and comment on proposed auction procedures * * *" Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific provisions that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific issues prior to the start of each auction. The Commission therefore seeks comment on the following issues.

a. Auction Sequence and License Groupings

9. Because it is most administratively appropriate, and allows bidders to take advantage of any synergies that exist among licenses, the Commission proposes to award the 528 multilateration LMS licenses in a single, simultaneous multiple-round auction. The Commission seeks comment on this proposal.

b. Structure of Bidding Rounds, Activity Requirements, and Criteria for Determining Reductions in Eligibility

10. The Commission proposes to divide the auction into three stages: Stage One, Stage Two and Stage Three. The auction will start in Stage One. The Commission proposes that the auction will generally advance to the next stage (*i.e.*, from Stage One to Stage Two, and from Stage Two to Stage Three) when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is below ten percent for three consecutive rounds of bidding in each Stage. However, the Commission further proposes that the Bureau retain the discretion to change stages unilaterally by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of bidder activity including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. The Commission seeks comment on these proposals.

11. In order to ensure that the auction closes within a reasonable period of

time, an activity rule requires bidders to bid actively on a percentage of their maximum bidding eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or use an activity rule waiver.

12. For the LMS auction, the Commission proposes that, in each round of Stage One of the auction, a bidder desiring to maintain its current eligibility is required to be active on licenses encompassing at least 60 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-thirds (5/3). In each round of the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on at least 80 percent of its current bidding eligibility. During Stage Two, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-fourths (5/4). In each round of Stage Three, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by fifty forty-ninths (50/49). The Commission seeks comment on these proposals.

c. Minimum Accepted Bids

13. Once there is a standing high bid on a license, a bid increment will be applied to that license to establish a minimum acceptable bid for the following round. For the LMS auction, the Commission proposes, as described immediately below, to use an exponential smoothing methodology to calculate minimum bid increments. The Bureau retains the discretion to change the minimum bid increment if it determines that circumstances so dictate. The exponential smoothing methodology has been used in previous auctions, including the LMDS auction, and will be used in the upcoming 220 MHz auction. The Commission seeks comment on this proposal.

Exponential Smoothing

14. The exponential smoothing formula calculates the bid increment based on a weighted average of the activity received on each license in the current and all previous rounds. This methodology will tailor the bid increment for each license based on activity, rather than setting a global increment for all licenses. For every license that receives a bid, the bid increment for the next round for that license will be established as a percentage increment that is determined using the exponential smoothing formula.

15. Using exponential smoothing, the calculation of the percentage bid increment for each license will be based on an activity index, which is calculated as the weighted average of the current activity and the activity index from the previous round. The activity index at the start of the auction (round 0) will be set at 0. The current activity index is equal to a weighting factor times the number of new bids received on the license in the current bidding period plus one minus the weighting factor times the activity index from the previous round. The activity index is then used to calculate a percentage increment by multiplying a minimum percentage increment by one plus the activity index with that result being subject to a maximum percentage increment.The Commission will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1, and the maximum percentage increment at 0.2.

Equations

$A_i=(C * B_i)+((1-C) * A_{i-1})$

I_i=smaller of $((1+A_i) * N)$ and M

Where,

A_i=activity index for the current round (round i)

C=activity weight factor

B_i=number of bids in the current round (round i)

A_{i-1}=activity index from previous round (round $i-1$), A_0 is 0

I_i=percentage bid increment for the current round (round i)

N=minimum percentage increment

M=maximum percentage increment

Under the exponential smoothing methodology, once a bid has been received on a license, the minimum acceptable bid for that license in the following round will be the new high bid plus the dollar amount associated with the percentage increment (variable I_i from above times the high bid). This result will be rounded to the nearest thousand if it is over 10,000 or to the nearest hundred if it is under 10,000.

Examples

License 1

C=0.5, N=0.1, M=0.2

Round 1 (2 new bids, high bid=$1,000,000)

1. Calculation of percentage increment using exponential smoothing:
$A_1=(0.5 * 2)+(0.5 * 0)=1$
The smaller of $I_1=(1+1) * 0.1=0.2$ or 0.2 (the maximum percentage increment)
2. Minimum bid increment using the percentage increment (I_1 from above)0.2 * $1,000,000=$200,000]
3. Minimum acceptable bid for round 2=1,200,000

Round 2 (3 new bids, high bid=2,000,000)

1. Calculation of percentage increment using exponential smoothing:
$A_2=(0.5 * 3)+(0.5 * 0)=1.5$
The smaller of $I_2=(1+1.5) * 0.1=0.25$ or 0.2 (the maximum percentage increment)
2. Minimum bid increment using the percentage increment is (I_2 from above)0.2 * $2,000,000=$400,000
3. Minimum acceptable bid for round 3=2,400,000

Round 3 (1 new bid, high bid=2,400,000)

1. Calculation of percentage increment using exponential smoothing:
$A_3=(0.5 * 1)+(0.5 * 0.5)=0.75$
The smaller of $I_3=(1+.75) * 0.1=0.175$ or 0.2 (the maximum percentage increment)
2. Minimum bid increment using the percentage increment (I_3 from above)0.175 * $2,400,000=$420,000
3. Minimum acceptable bid for round 4=2,820,000

d. Initial Maximum Eligibility for Each Bidder

16. The Bureau has delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned, taking into account such factors as the population in each geographic license area, and the value of similar spectrum. With these guidelines in mind, the Commission proposes for the LMS auction the following upfront payments:

(1) Block A $0.002*MHz*Pops (rounded up to the next dollar and no less than $2,850 per license)
(2) Block B $0.002*MHz*Pops (rounded up to the next dollar and no less than $2,500 per license)
(3) Block C $0.002*MHz*Pops (rounded up to the next dollar and no less than $2,800 per license)

The Commission seeks comment on this proposal. For the LMS auction, the Commission further proposes that the amount of the upfront payment submitted by a bidder will determine

the initial maximum eligibility (as measured in bidding units) for each bidder. Upfront payments will not be attributed to specific licenses, but instead will be translated into bidding units to define a bidder's initial maximum eligibility, which cannot be increased during the auction. Thus, in calculating the upfront payment amount, an applicant must determine the *maximum* number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. The Commission seeks comment on this proposal.

e. Activity Rule Waivers and Reducing Eligibility

17. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license.Activity waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

18. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any bidding period where a bidder's activity level is below the minimum required unless: (1) there are no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility thereby meeting the minimum requirements.

19. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the bidding period by using the reduce eligibility function in the software. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described above. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

20. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a bidding period in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids will not keep the auction open.

21. The Commission proposes that each bidder in the LMS auction be provided with five activity rule waivers that may be used in any round during the course of the auction as set forth above. The Commission seeks comment on this proposal.

f. Information Regarding Bid Withdrawal and Bid Removal

22. For the LMS auction, the Commission proposes the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bids placed in that round. By using the remove bid function in the software, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments.

23. Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids from previous rounds using the withdraw bid function. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions. The Commission seeks comment on these bid removal and bid withdrawal procedures.

24. In the *Part 1 Third Report and Order,* the Commission recently explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that in some instances bidders may seek to withdraw bids for improper reasons, including to delay the close of the auction for strategic purposes. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent strategic delay of the close of the auction or other abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

25. Applying this reasoning, the Commission proposes to limit each bidder in the LMS auction to withdrawals in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive strategic purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. The Commission seeks comment on this proposal.

g. Stopping Rule

26. For the LMS auction, the Bureau proposes to employ a simultaneous stopping approach. The Bureau has discretion "to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time." The Commission therefore has the discretion to adopt for the LMS auction an alternative stopping rule to the simultaneous stopping rule if the Commission deems it appropriate. Thus, unless circumstances dictate otherwise, bidding would remain open on all licenses until bidding stops on every license. The auction would close for all licenses when one round passes during which no bidder submits a new acceptable bid on any license, applies a proactive waiver, or withdraws a previous high bid.

27. The Commission proposes that the Bureau retain the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

28. Finally, the Commission proposes that the Bureau, reserve the right to declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The Bureau proposes to exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity, or where it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the

Bureau is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage (where bidders would be required to maintain a higher level of bidding activity), increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. The Commission seeks comment on these proposals.

h. Information Relating to Auction Delay, Suspension or Cancellation

29. For the LMS auction, the Commission proposes that, by public notice or by announcement during the auction, the Bureau may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to: resume the auction starting from the beginning of the current round; resume the auction starting from some previous round; or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. The Commission emphasizes that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. The Commission seeks comment on this proposal.

Mark Bollinger,

Deputy Division Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau.

[FR Doc. 98–22293 Filed 8–18–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2291]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding

August 11, 1998.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800. Oppositions to these petitions must be filed by September 3, 1998. See Section 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Telephone Number Portability (CC Docket No. 95–116, RM 8535).

Number of Petitions File: 17.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–22291 Filed 8–18–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Advanced Cargo Services Corp., 333 N. Marine Avenue, Wilmington, CA 90744, Officers: Douglas T. Schug, President; Bruce A. Benefiel, Exec. Director

Toriello Passarelli, Inc., d/b/a Toriello Freight International, 8538 NW 72nd Street, Miami, FL 33166, Officers: Mario Toriello, President; Elizabeth Cano, Vice President

Claudia Carolina Mayorga, 4121 W. Beverly Blvd., Los Angeles, CA 90004, Sole Proprietor

Lighthouse International Shipping, Inc., 28 Maine Avenue, Staten Island, NY 10314, Officers: Maria Grecco, President; Colleen Ferlazzo, Vice President

Mark Corneau, 20024 Schooner Drive, Cornelius, NC 28031, Sole Proprietor

Mareli International, Inc., 2642 Whitehorse Hamilton Square Rd., Hamilton, NJ 08690, Officers: Irene M. Campbell, President; Patrick K. Murray, Secretary

Dated: August 13, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–22234 Filed 8–18–98; 8:45 am]

BILLING CODE 6730–01–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Automation of Medical Standard Form 600

AGENCY: General Services Administration.

ACTION: Guideline on automating medical standard forms.

BACKGROUND: The Interagency Committee on Medical Records (ICMR) is aware of numerous activities using computer-generated medical forms, many of which are not mirror images of the genuine paper Standard Form. With GSA's approval the ICMR eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The committee proposes to set required fields standards and that activities developing computer-generated versions adhere to the required fields but not necessarily to the image. The ICMR plans to review medical Standard/Optional forms which are commonly used and/or commonly computer-generated. We will identify those fields which are required, those (if any) which are optional, and the required format (if necessary). Activities may not add data elements that would change the meaning of the form. This would require written approval from the ICMR. Using the process by which overprints are approved for paper Standard/Optional forms, activities may add other data entry elements to those required by the committee. With this decision, activities at the local or headquarters level should be able to develop electronic versions which meet the committee's requirements. This guideline controls the "image" or required fields but not the actual data entered into the field.

SUMMARY: With GSA's approval, the Interagency Committee on Medical Records (ICMR) eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The following fields must appear on the electronic version of the following form:

ELECTRONIC ELEMENTS FOR SF 600

Item	Placement*
TEXT	
Title: Chronological Record of Medical Care	Top of form.
Form ID: Standard Form 600 (Rev. 6–97)	Bottom right corner of form.
Data Entry Fields	
Date (of entry)	
Symptons	
Diagnosis	
Treatment	
Treating Organization	
Signature for each entry	
Hospital or Medical Facility	
Status	
Department/Service	
Records Maintained At	
Sponsor's Name	
Sponsor's SSN/ID No.	
Relationship to Sponsor	
Patient's Name—last, first, middle)	Bottom left corner of form.
Patient's ID No. or SSN	
Patient's Sex	
Patient's Date of Birth	
Patient's Rank/Grade	
Register No.	
Ward No.	

* If no placement indicated, items can appear anywhere on the form.

FOR FURTHER INFORMATION CONTACT:
CAPT Patricia Buss, MC, USN.

Dated: August 11, 1998.

CAPT Patricia Buss, MC, USN,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 98–22243 Filed 8–18–98; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Program Support Center; Statement of Organization, Functions and Delegations of Authority

Part P (Program Support Center) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (60 FR 51480, October 2, 1995 as amended most recently at 63 FR 20412, April 24, 1998) is amended to reflect changes in Chapter PB within Part P, Program Support Center, Department of Health and Human Services. The Human Resources Service is transferring the systems integrity and security functions within the *Systems Design and Analysis Division* and the *Systems Engineering and Maintenance Division* to the *Office of the Director, HRS.*

Program Support Center

Under *Part P, Sections P–20, Functions*, change the following:

Under *Chapter PB, Human Resources Service (PB), Office of the Director (PBA)* insert the following new items after item (8): "(9) Provides systems integrity, security and quality assurance functions including acceptance testing for all new systems/subsystems, major enhancements and systems changes for the human resource information system; and (10) Provides HRS ADP systems security services including physical security, systems back-up, file access security, access codes, adherence to Privacy and Freedom of Information Act requirements and security standards for the human resource and payroll system."

Under *Systems Design and Analysis Division (PBB)* delete item (6) in its entirety.

Under *Systems Engineering and Maintenance Division (PBC)* delete items (6) through (10) in their entirety.

Dated: August 11, 1998.

Lynnda M. Regan,

Director, Program Support Center.

[FR Doc. 98–22230 Filed 8–18–98; 8:45 am]

BILLING CODE 4168–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–98–25]

Proposed Data Collections Submitted for Public Comment and Recommendations: Correction

On August 12, 1998, the Centers for Disease Control and Prevention published: A National Registry for Surveillance of Non-Occupational Exposures to Human Immunodeficiency Virus and Post-Exposure Antiretrovial Therapy in section 2 was incorrect.

On page 43185 in the first column the title for section 2 is corrected to read Aggregate report of follow-up for contacts of tuberculosis, and Aggregate report of screening and preventive therapy for tuberculosis infection: two revised tuberculosis programs.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer at (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected: and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice. Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Projects

1. A National Registry for Surveillance of Non-Occupational Exposures to Human Immunodeficiency Virus and Post-Exposure Antiretroviral Therapy—New—The National Center for HIV, STD, and TB Prevention, Division of HIV/AIDS Prevention, Surveillance, and Epidemiology proposes to develop and implement a surveillance registry in the United States which will provide data for analysis and technical reports on the frequency and types of nonoccupational exposures to HIV, offers and acceptance rates of antiretroviral therapy to attempt interruption of transmission and clinical course and outcomes of persons with documented HIV exposure.

Studies of antiretroviral agents for preventing HIV infection in health care workers and from pregnant women to their infants have shown antiretroviral therapy to be efficacious. As a result of these findings, the Public Health Service has recommended the use of antiretroviral drugs to reduce HIV transmission among those exposed in the work place and from HIV-infected women to their infants. These findings may not be directly relevant to nonoccupational settings. Hence, further studies are needed before concluding that use of antiretroviral agents following nonoccupational exposures is clearly effective in preventing HIV infection. The surveillance system will provide data to address those issues.

The surveillance system will be a voluntary and anonymous system in which all health care providers will be encouraged to report by phone, fax, mail, or website 24 hours a day about all persons to whom they have offered antiretroviral therapy after a nonoccupational exposure to HIV. Data will be collected using an assigned unique registry number. During the initial contact, patient consent will be ascertained, data will be collected on the characteristics of the exposure event, knowledge of HIV status of the source patient, and treatment decision of the provider for patients whose HIV exposure has been documented. Follow-up information will be requested at 4–6 weeks, 6 months, and 12 months post prescription of post exposure therapy. Estimated cost to respondents and government is $200,000.00 a year.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Health Care Providers	100	5	.30	150
Total				150

2. Aggregate report of follow-up for contacts of tuberculosis, and Aggregate report of screening and prevention therapy for tuberculosis infection: two revised tuberculosis program management reports—New—National Center for HIV, STD, and TB Prevention—To ensure the elimination of tuberculosis in the United States, key program activities such as finding tuberculosis infections in recent contacts of cases and in other persons likely to be infected, and providing preventive therapy, must be monitored. The Division of Tuberculosis Elimination (DTBE), is implementing two revised program management reports for annual submission: Aggregate report of follow-up for contacts of tuberculosis, and Aggregate report of screening and preventive therapy for tuberculosis infection. The respondents for these reports are the 68 state and local tuberculosis control programs receiving federal cooperative agreement funding through (DTBE). The revised reports phase out two twice-yearly program management reports in the Tuberculosis Statistics and Program Evaluation Activity (OMB 0920–0026): Contact Follow-up (CDC 72.16) and Completion and Preventive Therapy (CDC 72.21). The revised reports, which are being submitted for an OMB approval outside of OMB 0920–0026, have several improvements over the old reports for the respondents and for DTBE, such as the emphasis on preventive therapy outcomes, the focus on high-priority target populations vulnerable to tuberculosis, and programmed electronic report generation and submission through the Tuberculosis Information Management System. The old reports, CDC 72.16 and CDC 72.21, which have been submitted at least in some form by the respondents since 1961, are tabulated by hand.

Three program management reports in the previous series already have been phased out. They are Bacteriologic Conversion of Sputum (CDC 72.14), Case Register (CDC 72.15), and Drug Therapy (CDC 72.20). These three reports have been superseded by integrated reporting in Tuberculosis Statistics and Program Evaluation Activity (OMB 0920–0026). The discontinuation of these reports has resulted in an estimated reduction in the annual response burden of 159 hours. The cost to the respondent is $6,324.

Report	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Aggregate report of follow-up for contacts of tuberculosis	68	1	2.5	170
Aggregate report of screening and preventive therapy for TB infection	68	1	2.5	170

Report	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Total				340

3. Provider Survey of Partner Notification and Partner Management Practices following Diagnosis of a Sexually-Transmitted Disease (0920–0431)—Extension—The National Center for HIV, STD and TB prevention, Division of STD Prevention, CDC is proposing to conduct a national survey of physician's partner management practices following the diagnosis of a sexually-transmitted disease. Partner notification, a technique for controlling the spread of sexually-transmitted diseases is one of the five key elements of a long standing public health strategy to control sexually-transmitted infections in the US. At present, there is very little knowledge about partner notification practices outside public health settings despite the fact that most STD cases are seen in private health care settings. No descriptive data currently exist that allow the Centers for Disease Control and Prevention to characterize partner notification practices among the broad range of clinical practice settings where STDs are diagnosed, including acute or urgent care, emergency room, or primary and ambulatory care clinics. The existing literature contains descriptive studies of partner notification in public health clinics, but no baseline data exist as to the practices of different physician specialties across different practice settings.

The CDC proposes to fill that gap through a national sample survey of 7300 office managers and physicians who treat patients with STDs in a wide variety of clinical settings; a 70% completion rate is anticipated (n=5110 surveys). This survey will provide the baseline data necessary to characterize infection control practices, especially partner notification practices, for syphilis, gonorrhea, HIV, and chlamydia and the contextual factors that influence those practices. Findings from the proposed national survey of office managers and physicians will assist CDC to better focus STD control and partner notification program efforts and to allocate program resources appropriately. Without this information, CDC will have little information about STD treatment, reporting, and partner management services provided by physicians practicing in the US. With changes underway in the manner in which medical care is delivered and the move toward managed care, clinical functions typically provided in the public health sector will now be required of private medical providers. At present, CDC does not have sufficient information to guide future STD control efforts in the private medical sector.

Data collection will involve a mail survey of practicing physicians. The questionnaire mailing will be followed by a reminder postcard after one week, a second mailing to non-respondents at three weeks, telephone follow-up with non-respondents at five weeks, and a final certified mailing of the survey to non-respondents at eight weeks. A study specific computerized tracking and reporting system will monitor all phases of the study. Receipt of the completed questionnaire or a refusal will be logged into this computerized control system to ensure that respondents who return the survey are not contacted with reminders.

The current OMB approval for this collection covers the pilot only and expires on October 31, 1998. The pilot will vary the respondent payment to equal subsections of the sample using amounts of $0, $15, and $25. The re-submission of the full information collection package will include a report from the pilot including a detailed report of the response rates overall and break down by use of the various response rates.

Estimated cost to respondents and government based on an average pay rate of $25/hour, the estimated total cost burden for office managers to answer Section 1 is $10,650. Based on an average pay rate of $70/hour, the estimated cost burden for physicians is $94,640. Thus the total cost burden for the data collection effort is estimated to be $105,290.

Respondents	Sections	Number of respondents	Number of responses/ respondent	Average burden/response (in hours)	Total burden (in hours)
Office Mangers	Section 1	7300	1	.08	584
Physicians	Sections 2–4	5110	3	.03	460
Physicians	Sections 5–10	5110	6	.20	6132
Total					7176

Charles W. Gollmar,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–22260 Filed 8–18–98; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0674]

Dover Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Dover Chemical Corp. has filed a petition proposing that the food additive regulations be amended to expand the safe use of 3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane, which may contain not more than 2 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer for olefin polymers intended to contact food.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4613) has been filed by Dover Chemical Corp., 3676 Davis Rd. NW., P.O. Box 40, Dover, OH 44622. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to expand the safe use of 3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane, which may contain not more than 2 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer in olefin polymers.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: July 28, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–22265 Filed 8–18–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the Fogarty International Center Advisory Board.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 522b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name if Committee: Fogarty International Center Advisory Board Research Awards Subcommittee.

Date: September 14, 1998.

Time: 1:00 AM to 4:00 PM.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Building 31, Room B2C07, Bethesda, MD 20892.

Contact Person: Irene W. Edwards, Information Officer, Fogarty International Center, National Institutes of Health, Building 31, Room B2C08, 31 Center Drive MSC 2220, Bethesda, MD 20892, 301–496–2075.

Name of Committee: Fogarty International Center Advisory Board.

Date: September 15, 1998.

Open: 8:30 AM to 12:00 PM.

Agenda: In addition to a report by the Director, FIC, the agenda will focus on the Fogarty International Collaboration Award (FIRCA) Program and will include presentations by FIC program staff and former and current FIRCA grantees.

Place: National Institutes of Health, Building 16, 16 Center Drive, Bethesda, MD 20892.

Closed: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Building 16, 16 Center Drive, Bethesda, MD 20892.

Contact Person: Irene W. Edwards, Information Officer, Fogarty International Center, National Institutes of Health, Building 31, Room B2C08, 31 Center Drive MSC 2220, Bethesda, MD 20892, 301–496–2075.

(Catalogue of Federal Domestic Assistance Program Nos. 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome, National Institutes of Health, HHS)

Dated: August 12, 1998.

Laverne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22328 Filed 8–18–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Initial Review Group Comparative Medicine Review Committee.

Date: October 13–14, 1998.

Open: October 13, 1998, 8:00 AM to 9:30 AM.

Agenda: To receive Director's report of Center's activities and accomplishments.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, N.W., Washington, DC 20037.

Closed: October 13, 1998, 9:30 AM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, N.W., Washington, DC 20037.

Contact Person: Raymond O'Neill, Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0822.

Name of Committee: Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities.

Date: October 13–14, 1998.

Open: October 13, 1998, 8:00 AM to 9:30 AM.

Agenda: To receive Director's report of Center's activities and accomplishments.

Place: Bethesda Ramada, 8400 Wisconsin Ave, Bethesda, MD 20814.

Closed: October 13, 1998, 9:30 AM to Adjournment.

Agenda: To reveiw and evaluate grant applications.

Place: Bethesda Ramada, 8400 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: D.G. Patel, Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–0787, 301–435–0824.

Name of Committee: National Center for Research Resources Initial Review Group General Clinical Research Centers Review Committee.

Date: October 13–15, 1998.

Open: October 13, 1998, 2:30 PM to Recess.

Agenda: To receive Director's report of Center's activities and accomplishments.

Place: Bethesda Ramada, 8400 Wisconsin Ave, Bethesda, MD 20814.

Closed: October 14, 1998, 8:00 AM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Bethesda Ramada, 8400 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Charles G. Hollingsworth, Deputy Director, Office of Review, National Center for Research Resource, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0806.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333 Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: August 13, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22325 Filed 8–18–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the pubic in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Initial Review Group, Research Centers In Minority Institutions Review Committee.

Date: September 27–30, 1998.

Closed: September 27, 1998, 7:00 PM to 10:00 PM.

Agenda: To review and evaluate grant applications.

Place: Houston Marriott West Loop, 1750 West Loop, Houston, TX 77027.

Open: September 28, 1998, 8:00 PM to 5:00 PM.

Agenda: To review report of Center's activities and accomplishments.

Place: Houston Marriott West Loop, 1750 West Loop. Houston, TX 77027.

Closed: September 28, 1998, 5:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Houston Marriott West Loop, 1750 West Loop, Houston, TX 77027.

Contact Person: John Meyer, Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0822.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: August 13, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22326 Filed 8–18–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: September 8, 1998.

Time: 10:00 AM to 11:30 AM.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd, Suite 400C, Bethesda, MD 20852 (Telephone Conference Call).

Contact Person: Richard S. Fisher, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NIDCD/NIH, 6120 Executive Blvd., Room 400C, MSC–7180, Bethesda, MD 20892 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: August 13, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22321 Filed 8–18–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel Perspectives on Productive Aging.

Date: August 26, 1998.

Time: 3:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin, Suite 502C, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary Ann Guadagno, Scientific Review Administrator.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel Regulation of Genes Necessary for Hypothalamic Function.

Date: August 27, 1998.
Time: 3:00 PM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: 7201 Wisconsin, Suite 502C, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Mary Ann Guadagno, Scientific Review Administrator.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel REVERSE SITE VISIT—Physiology of Bone Metabolism in an Aging Population.
Date: September 2–3, 1998.
Time: 7:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Chevy Chase Holiday Inn, Chevy Chase, MD 20815.
Contact Person: William A. Kachadorian, Scientific Review Administrator.

Name of Committee: National Institute on Aging Special Emphasis Panel HRCA/ Harvard Research Nursing Home.
Date: September 9, 1998.
Time: 2:30 PM to 4:30 PM.
Agenda: To review and evaluate grant applications.
Place: 7201 Wisconsin Avenue, Bethesda, MD 20814 (Telephone Conference Call).
Contact Person: William A. Kachadorian, Scientific Review Administrator.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Initial Review Group, Clinical Aging Review Committee.
Date: October 19, 1998.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: William A. Kachadorian, Scientific Review Administrator.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 13, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22322 Filed 8–18–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Diabetes and Digestive and Kidney Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDDK BSC Meeting.
Date: October 28–30, 1998.
Time: October 28, 1998, 6:00 PM to Adjournment.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: National Institutes of Health, Building 5, Room 127, Bethesda, MD 20892.
Contact Person: Allen M. Spiegel, Director, Division of Intramural Research, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 13, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22323 Filed 8–18–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Drug Abuse.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the pubic in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Drug Abuse.
Date: September 15–18, 1998.
Closed: September 15, 1998, 2:00 PM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20982.
Open: September 16, 1998, 9:00 AM to Adjournment.
Agenda: This portion of the meeting will be open to the public for announcements and reports of administrative, legislative and program developments in the drug abuse field.
Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20982.
Contact Person: Teresa Levitin, Director, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: August 13, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22324 Filed 8–18–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other

reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Arthritis and Musculoskeletal and Skin Diseases Advisory Council

Date: September 10, 1998

Open: 8:30 AM to 12:00 PM

Agenda: The meeting will be open to the public to discuss administrative details relating to Council business and special reports.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Closed: 12:00 PM to 5:00 PM

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Contact Person: Steven J. Hausman, Deputy Director, NIAMS/NIH, Bldg. 31, Room 4C–32, 31 Center DR, MSC 2350, Bethesda, MD 20892–2350.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: August 12, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22329 Filed 8–18–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development, Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel

Date: August 23–24, 1998

Time: 7:30 PM to 5:00 PM

Agenda: To review and evaluate grant applications

Place: OMNI ORRINGTON HOTEL, 1710 ORRINGTON AVENUE, EVANSTON, IL 60201.

Contact Person: Jon M. Ranhand, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: August 12, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22330 Filed 8–18–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Clinical Sciences Special Emphasis Panel.

Date: August 26, 1998.

Time: 3:00 PM to 4:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gertrude K. McFarland, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7816, Bethesda, MD 20892, (301) 435–1784.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 13, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22327 Filed 8–18–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the Center for Mental Health Services (CMHS) National Advisory Council, Center for Substance Abuse Prevention (CSAP) National Advisory Council, and Advisory Council for Women's Services in September 1998.

The Center for Mental Health Services (CMHS) National Advisory Council meeting will include a roll call, CMHS's Director's Report, discussion of the Employment Intervention Demonstration Program, report from the National Association of State Mental Health Directors on the Future of Mental Health, update from the Consumers Affairs Specialist and an update from the American Psychological Association. Public comments are welcome during the open session. Please communicate with the individual listed as contact below to make arrangements to comment or to request special accommodations for persons with disabilities.

A portion of the meeting will include the review, discussion, and evaluation of individual grant applications, contract proposals, and detailed discussion of information about the CMHS procurement plans. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance

with Title 5 U.S.C. 552b(c)(3), (4) and (6) and 5 U.S.C. App. 2, sec. 10(d).

A summary of the meeting and a roster of Council members may be obtained from: Anne Mathews-Younes, Ed.D., Executive Secretary, CMHS National Advisory Council, 5600 Fishers Lane, Room 18C–07, Rockville, Maryland 20857. Telephone: (301) 443–0554.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee name: Center for Mental Health Services National Advisory Council.

Meeting Date: September 10–11, 1998.

Place: Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, D.C. 20008.

Open: September 10, 1998, 1:30 p.m.–5:00 p.m., September 11, 1998, 9:00 a.m–1:00 p.m.

Closed: September 10, 1998, 9:00 a.m.–1:30 p.m.

Contact: Anne Mathews-Younes, Room 18–07, Parklawn Building, Telephone: (301) 443–0554 and FAX: (301) 443–7912.

The Center for Substance Abuse Prevention (CSAP) National Advisory Council meeting will include an orientation to the Council on the current and upcoming programmatic activities which will be presented by the CSAP Division Directors. Public comments are welcome during the open session. Please communicate with the individual listed as contact below to make arrangements to comment or to request special accommodations for persons with disabilities.

A portion of the meeting will also include the review, discussion and evaluation of individual grant applications, contract proposals, and detailed discussion of information about the Center's procurement plans. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3) (4) and (6) and 5 U.S.C. App. 2, sec. 10(d).

Substantive program information may be obtained from the contact listed below.

Committee Name: Center for Substance Abuse Prevention, National Advisory Council.

Meeting Dates: September 14–15, 1998.

Place: The Ramada Inn Hotel, 1775 Rockville Pike, Rockville, Maryland 20852.

Closed: September 14, 1998, 10:00 a.m.–3:00 p.m.

Opened: September 15, 1998, 8:30 a.m.–4:00 p.m.

Contact: Yuth Nimit, Ph.D., 5515 Security Lane, Rockwall II Building, Suite 901, Rockville, Maryland 20852, Telephone: (301) 443–8455.

The Advisory Committee for Women's Services meeting will include a discussion of and update on policy and program issues relating to women's substance abuse and mental health service needs at SAMHSA, SAMHSA's Knowledge Development and Application Grants; SAMHSA's Communications and Public Education Strategies and Initiatives; and managed care issues related to the Substance Abuse Prevention and Treatment Block Grant.

Public comments are welcome. Please communicate with the individual listed as contact below to make arrangements to comment or to request special accommodations for persons with disabilities.

A summary of the meeting and/or a roster of committee members may be obtained from: Pamela M. Perry, Executive Secretary, Advisory Committee for Women's Services, 5600 Fishers Lane, Room 13–99, Rockville, Maryland 20857, Telephone: (301) 443–7625, or e-mail: pperry@samhsa.gov.

Substantive information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Advisory Committee for Women's Services.

Meeting Date: September 14, 1998.

Place: Annapolis/Chesapeake Room, Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20817.

Open: September 14, 1998, 9:00 a.m.–5:00 p.m.

Contact: Pamela M. Perry, Room 13–99, Parklawn Building, Telephone (301) 443–7625.

Dated: August 13, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–22231 Filed 8–18–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Endangered Species Permit

SUMMARY: The following applicant has applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

DATES: Written data or comments on this application must be received, at the address given below, by September 18, 1998.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with this application are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: David Dell, Permit Biologist). Telephone: 404/679–7313; Facsimile: 404/679–7081.

SUPPLEMENTARY INFORMATION:

Applicant: Dr. Dennis Hardin and Carol Wooley, Goethe State Forest, Florida, PRT–841561.

The applicant requests authorization to take (capture, band, translocate, and harass during surveys and installation of cavity restrictors) the red-cockaded woodpecker, *Picoides borealis*, throughout the species range in Florida, for the purpose of enhancement of survival of the species.

Dated: August 11, 1998.

Judy Jones,

Acting Regional Director.

[FR Doc. 98–22239 Filed 8–18–98; 8:45 am]

BILLING CODE 4310–55–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirements Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collections to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for USAID, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington D.C. 20503. Copies of submission may be obtained by calling (202) 712–1365.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 12–0003.

Form Number: AID 1550–3.

Title: Annual Estimate of Requirements (AER), P.L. 480, Title II, Commodities.

Type of Submission: Renew.

Purpose: The Annual Estimate of Requirements (AER) is used by the Office of Food for Peace to obtain information critical for the planning and budgeting cycle of the P.L. 480 Title II Program. The AERs include planned recipient and ration levels, number of distributions, operating reserves that are needed and inventories on hand.

Annual Reporting Burden:

Respondents: 13.

Total annual responses: 56.

Total annual hours requested: 1,344.

Dated: August 24, 1998.

Willette L. Smith,

Chief, Information and Records Division, Bureau for Management, Office of Administrative Services.

[FR Doc. 98–22235 Filed 8–18–98; 8:45 am]

BILLING CODE 6116–01–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirements Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collections to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for USAID, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington D.C. 20503. Copies of submission may be obtained by calling (202) 712–1365.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0545.

Form Number: AID 1550–12.

Title: Request for Shipment of Commodities for Foreign Distribution (Foreign Government).

Type of Submission: Renew.

Purpose: A USAID Title III form is needed by which the specific needs of the recipient country can be communicated to U.S. Department of Agriculture by USAID. The form will be used to request food commodities for approved P.L. 480 Title III country programs overseas and to furnish procurement instruction and other pertinent information necessary to ship these commodities to destination ports.

Annual Reporting Burden:

Respondents: 13.

Total annual responses: 50.

Total annual hours requested: 60.

Dated: August 4, 1998.

Willette L. Smith,

Chief, Information and Records Division, Bureau for Management, Office of Administrative Services.

[FR Doc. 98–22237 Filed 8–18–98; 8:45 am]

BILLING CODE 6116–01–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirements Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collections to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for USAID, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington D.C. 20503. Copies of submission may be obtained by calling (202) 712–1365.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0546.

Form Number: AID 1550–12.

Title: Request for Shipment of Commodities for Foreign Distribution (Foreign Government).

Type of Submission: Renew.

Purpose: A USAID Title III form is needed by which the specific needs of the recipient country can be communicated to U.S. Department of Agriculture by USAID. The form will be used to request food commodities for approved P.L. 480 Title III country programs overseas and to furnish procurement instruction and other pertinent information necessary to ship these commodities to destination ports.

Annual Reporting Burden:

Respondents: 13.

Total annual responses: 50.

Total annual hours requested: 60.

Dated: August 24, 1998.

Willette L. Smith,

Chief, Information and Records Division, Bureau for Management, Office of Administrative Services.

[FR Doc. 98–22237 Filed 8–18–98; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–405]

Certain Automotive Scissors Jacks; Notice of a Commission Determination not to Review an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") granting a joint motion to terminate the above-captioned investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Andrea C. Casson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3105.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 15, 1997, based on a complaint filed by Universal Tool & Stamping Company, Inc. ("Universal"). Universal alleged that respondent Ventra Group, Inc. ("Ventra") violated section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by importing, selling for importation, or selling within the United States after importation certain automotive scissors jacks that infringe certain claims of Universal's U.S. Patent Reexamination Certificate No. B15,110,091. On July 14, 1998, Universal and Ventra filed a joint motion to terminate the investigation based on a settlement agreement.

On July 22, 1998, the ALJ issued an ID (Order No. 14) terminating the investigation on the basis of the settlement agreement. The ALJ found no indication that termination of the investigation on the basis of the settlement agreement would adversely impact the public interest. No party filed a petition to review the subject ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, and Commission rule 210.21, 19 CFR § 210.21. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–

205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

Issued: August 13, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–22303 Filed 8–18–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA–776–779 (Final)]

Certain Preserved Mushrooms From Chile, China, India, and Indonesia

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731–TA–776–779 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Chile, China, India, and Indonesia of certain preserved mushrooms, provided for in subheadings 0711.90.40 and 2003.10.00 (statistical reporting numbers 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, and 2003.10.0053) of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: July 31, 1998.

FOR FURTHER INFORMATION CONTACT: Olympia Hand (202–205–3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of an affirmative preliminary determinations by the Department of Commerce that imports of certain preserved mushrooms from Chile, China, India, and Indonesia are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigations were requested in a petition filed on January 6, 1998, by L.K. Bowman, Inc., Nottingham, PA; Modern Mushroom Farms, Inc., Toughkenamon, PA; Monterrey Mushrooms, Inc., Watsonville, CA; Mount Laurel Canning Corp., Temple, PA; Mushroom Canning Co., Kennett Square, PA; Sunny Dell Foods, Inc., Oxford, PA; and United Canning Corp., North Lima, OH.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on October 1, 1998, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on October 15, 1998, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 6, 1998. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 8, 1998, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit

[1] For purposes of these investigations, Commerce has defined the subject merchandise as certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under the investigations are of the specie is Agaricus bisporus and Agaricus bitorquis. "Preserved mushrooms" refers to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers, including but not limited to cans or glass jars, in a suitable liquid medium that may include, but is not limited to, water, brine, butter, or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of the investigations are "brined" mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for futher processing.

Excluded from the scope of these investigations are: (1) all other species of mushroom, including straw mushrooms (HTS statistical reporting number 2003.10.0009); (2) all fresh and chilled mushrooms (HTS subheading 0709.51.00), including "refrigerated" or "quick blanched" mushrooms; (3) dried mushrooms (HTS subheadings 0712.30.10 and 0712.30.20); (4) frozen mushrooms (HTS subheading 0710.80.20)p; and (5) "marinated," "acidified," or "pickled" mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives (HTS subheading 2001.90.39).

a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is October 8, 1998. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is October 22, 1998; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before October 22, 1998. On November 10, 1998, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 13, 1998, for the investigation concerning Chile, and January 14, 1999, for the investigations concerning China, India, and Indonesia, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. The Department of Commerce extended the date for its final determinations in the investigations concerning China, India, and Indonesia to December 17, 1998. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: August 13, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–22304 Filed 8–18–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Appointment of Individuals to Serve as Members of Performance Review Boards

AGENCY: United States International Trade Commission.

ACTION: Appointment of Individuals to serve as members of Performance Review Board.

EFFECTIVE: August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Michael J. Hillier, Director of Personnel, U.S. International Trade Commission (202) 205–2651.

SUPPLEMENTARY INFORMATION: The Chairman of the U.S. International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Board (PRB).

Chairman of PRB—Vice-Chairman Marcia E. Miller

Member—Commissioner Carol T. Crawford

Member—Commissioner Jennifer A. Hillman

Member—Commissioner Stephen Koplan

Member—Commissioner Thelma J. Askey

Member—Robert A. Rogowsky

Member—Lyn M. Schlitt

Member—Stephen A. McLaughlin

Member—Eugene A. Rosengarden

Member—Lynn Featherstone

Member—Vern Simpson

Member—Lynn I. Levine

Notice of these appointments is being published in the **Federal Register** pursuant to the requirement of 5 U.S.C. 4314(c)(4).

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Issued: August 13, 1998.

By order of the Chairman:

Donna R. Koehnke,

Secretary.

[FR Doc. 98–22302 Filed 8–18–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97–8]

Leonard E. Reaves, III, M.D., Revocation of Registration

On January 29, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Leonard E. Reaves, III, M.D., (Respondent) of Windsor, North Carolina, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AR2127377, and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f), for reason that his continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 824(a)(4).

By letter dated March 28, 1997, Respondent, through counsel, filed a request for a hearing, and following prehearing procedures, a hearing was held in Raleigh, North Carolina on September 10 and 11, 1997, before Administrative Law Judge Gail A. Randall. At the hearing, both parties called witnesses to testify and the Government introduced documentary evidence. After the hearing, counsel for both parties submitted proposed findings of fact, conclusions of law and argument. On March 11, 1998, Judge Randall issued her Opinion and Recommended Ruling, recommending that Respondent's DEA Certificate of Registration be revoked. Neither party filed exceptions to her decision, and on April 13, 1998, Judge Randall transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, with noted exceptions, the Opinion and Recommended Ruling of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions therein, or of any failure to mention a matter of fact or law.

The Acting Deputy Administrator finds that Respondent graduated from medical school in 1961 and became licensed to practice medicine in North Carolina. He has continuously maintained his North Carolina medical license since that time. In the 1960's, Respondent received some advanced

training in internal medicine in Florida. Initially, Respondent was issued a temporary Florida medical license, but subsequently took the state licensure examination and was issued a Florida medical license. Beyond his training, Respondent never practiced medicine in Florida, yet he retained his Florida medical license. Respondent entered into private practice in North Carolina in 1967.

In 1975, Respondent was suspended from participating in the North Carolina Medicaid Assistance Program, following a determination that he had received an overpayment of over $76,000.00 due to his over-utilization of extended office visit codes; over-utilization of x-rays; alteration of service dates to coincide with medicail eligibility, and over-utilization of in-patient hospital admissions for short-term stays.

On or about June 20, 1986, the South Carolina Board of Medical Examiners (South Carolina Board) received Respondent's application for licensure in that state. Respondent failed to disclose his suspension from the North Carolina Medicaid Program on his application. The South Carolina Board asked Respondent for a detailed written explanation of the findings that led to his suspension. During a hearing on the proposed denial of his application, Respondent stated that he had not been suspended from the North Carolina Medicaid Program. In October 1986, the South Carolina Board ordered the denial of Respondent's application for medical licensure in that state based upon his "total lack truthful, accurate and complete answers on his written application for licensure"; his "lack of candor when he was given the opportunity to be heard before this Board"; and his "failure to provide, as required in this Boards's letter of September 2, 1986, a detailed explanation regarding the finding of the North Carolina Medicaid audit." The South Carolina Board found that the explanation that was given by Respondent was "grossly inadequate and unacceptable * * *."

As a result of the South Carolina Board's denial, on April 12, 1988, the Florida Board of Medicine (Florida Board) revoked Respondent's Florida medical license.

Also in 1988, Respondent's privileges were revoked at a Fayetteville, North Carolina hospital because he treated a patient in the intensive care unit in violation of an agreement that he had with the hospital.

In 1991, Respondent began practicing medicine at his own clinic in Windsor, North Carolina. After several yeas, he joined a medical center in Bertie, North Carolina, where he was still practicing as of the date of the hearing. This medical center serves a poor rural community.

In August 1991, Respondent contacted the medical director of the North Carolina Physicians Health Program, and was encouraged to seek treatment for codependency, a problem where a person is addicted to approval from others. Respondent attended a 28-day inpatient treatment facility.

On March 24, 1992, Respondent submitted an application for the renewal of his DEA Certificate of Registration in North Carolina. On the application, Respondent answered "No" to a question (hereinafter referred to as the liability question) which asks in relevant part whether the applicant has "ever had a State professional license * * * revoked, suspended, denied, restricted or placed on probation." Respondent provided this response despite the 1986 denial of his application for licensure in South Carolina and the 1988 revocation of his Florida medical license. Also on this application, Respondent did not request registration with DEA in Schedules IIN, III, and IIIN. Consequently on April 2, 1992, Respondent's DEA Certificate of Registration was renewed in Schedules II, IV and V only.

When Respondent next applied to renew his DEA Certificate of Registration on April 15, 1995, he answered "Yes" to the liability question, and explained, "In 1990 or 1991, I made application to the Board of Medical Examiners of the State of South Carolina for a medical license. Because of the way I presented a dispute with NC Medicaid, the license was denied to me. By electronic mail, an earned license in Florida was revoked as I did not know how to appeal. A license to practice in NC [is] in effect and has never been revoked, suspended, et al. I have never had a DEA license revoked, suspended et al." On this application, Respondent requested registration in Schedules II, III, IV and V, but not IIN and IIIN.

In light of Respondent's affirmative answer to the liability question on his 1995 renewal application, DEA initiated an investigation of Respondent. A review of Respondent's prior renewal applications revealed that in 1988 and 1989, Respondent applied for registration in Schedules II, IIN, III, IIIN and IV, but not V. This review also revealed the negative answer to the liability question on the 1992 renewal application, as well as the fact that Respondent only applied for registration in Schedules II, IV and V.

On August 2, 1995, a DEA investigator contacted three local pharmacies and discovered that Respondent had been prescribing controlled substances in schedules that were outside the authority granted to him by his DEA Certificate of Registration. The DEA investigator then contacted Respondent and advised him that he was issuing prescriptions for controlled substances that were in schedules for which he was not registered. The investigator testified that Respondent "expressed confusion to me about the drug schedules * * * he didn't seem to understand the difference in, for instance * * * a Schedule III narcotic versus * * * a Schedule II nonnarcotic * * *."

As a result of this conversation with the investigator, Respondent asked local pharmacists to assist him in ensuring that he only issued prescriptions for controlled substances that he was authorized to handle. However, there is no evidence in the record to indicate that Respondent took any affirmative steps on his own, such as attending a continuing medical education course in the proper handling of controlled substances, to learn the difference between the schedules and what drugs fall within each schedule.

Subsequently, in October 1995, the investigator obtained printouts from the three local pharmacies of Respondent's controlled substance prescribing between January 1, 1994 and October 19, 1995. The printouts revealed that the pharmacies filled over 450 Schedule III prescriptions, including refills, issued by Respondent. In addition, one pharmacy's records revealed that Respondent issued a prescription for a Schedule IIN controlled substance and one for a Schedule IIIN controlled substance after being advised on August 2, 1995, that he was only authorized to handle controlled substances in Schedules II, IV and V.

In October 1995, the DEA investigator contacted Respondent again and advised him of the discovery of the two unauthorized prescriptions and reminded Respondent that he was only authorized to handle controlled substances in Schedules II, IV and V. At the hearing, the investigator testified that following this second conversation, he had not found any unauthorized controlled substance prescriptions issued by Respondent.

At the hearing in this matter, Respondent and the medical director of the North Carolina Physicians Health Program testified that Respondent's codependency problem resulted in difficulty with authority, as well as difficulty in accepting responsibility for his actions. The medical director

testified that Respondent had undergone some treatment for his codependency problem and was better about taking responsibility for his actions. However, he felt that Respondent would benefit from further treatment, but he did not believe that Respondent was still seeking treatment at the time of the hearing. Respondent testified that he "got the appropriate treatment" and is "doing fine now." He indicated that he was currently seeing a local psychiatrist, "[a]nd I feel good about myself and my practice and my emotional well-being."

At the hearing, Respondent did acknowledge that he falsely answered the liability question on his 1992 renewal application. When asked why he gave a false answer, Respondent replied, "[p]erhaps the emotional pain of trying to put down, yes. That was an error, and that was false. And I'm sorry about that. I made mistakes. Something made me do that. I don't know. That was not correct."

However, it appears that Respondent still has difficulty accepting responsibility for his actions. With respect to the Medicaid suspension, Respondent testified that he did not think there had been an alteration of service dates. Regarding his failure to request registration in all schedules on his DEA renewal applications, Respondent testified that filling out a renewal application is "one of those things that physicians just really hate to do * * *. And they do it in a haphazard way. And they give it to their secretary and say, copy this the way it was last year * * *. He doesn't really spend any time on it." Finally, as to his prescribing outside his authorization, Respondent blamed DEA for not sending him documentation regarding what controlled substances he was not authorized to handle.

There was testimony at the hearing by Respondent, the Chief of Staff at the hospital where Respondent has privileges, and two physician assistants who work with Respondent that Respondent is precise in his writing of medical records, in his caring for patients, and in his prescribing of controlled substances. There has never been any indication that Respondent has a substance abuse problem.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), The Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications, if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(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 or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See *Henry J. Schwarz, Jr., M.D.*, Docket No. 88–42, 54 FR 16,422 (1989).

Regarding factor one, it is undisputed that the South Carolina Board denied Respondent's application for medical licensure in that state in 1986, and that his Florida medical license was revoked in 1988. However, it is also undisputed that North Carolina has not taken any action against Respondent's North Carolina medical license.

Factors two and four, Respondent's experience in dispensing controlled substances and his compliance with applicable laws related to the handling of controlled substances, clearly are relevant in determining the public interest in this case. Pursuant to 21 U.S.C. 822(b), "[p]ersons registered by the Attorney General under this subchapter to * * * dispense controlled substances * * * are authorized to possess * * * or dispense such substances * * * to the extent authorized by their registration and in conformity with the other provisions of this subchapter." In 1992, Respondent applied for renewal of his DEA registration in Schedules II, IV and V. Thereafter, between 1994 and 1995, Respondent issued over 450 Schedule III and IIIN prescriptions. The Acting Deputy Administrator finds that the Respondent issued these prescriptions without being authorized by his registration to do so.

The Acting Deputy Administrator further finds that even after being advised of the extent of his authorization, Respondent issued two prescriptions for substances that he was not registered to handle. Judge Randall found that only one of the prescriptions was outside of Respondent's authorization. This prescription was for testosterone, a Schedule III controlled substance, and Respondent was not authorized to handle any Schedule III controlled substance. Judge Randall found however, that the other prescription for Dexedrine, a Schedule IIN controlled substance did not exceed Respondent's authority, stating that there is "no scheduling distinction between Schedule II and Schedule IIN substances * * *. Consequently, a registrant authorized to handle Schedule II substances would seem to be authorized to handle both narcotic and non-nartotic Schedule II substances, as both are designated as 'Schedule II' in the Controlled Substances Act and the regulations."

The Acting Deputy Administrator disagrees with Judge Randall's conclusion. While it is true that Schedule II substances, whether narcotic or non-narcotic substances, are all considered Schedule II substances for recordkeeping and penalty purposes under the Controlled Substances Act, DEA has historically differentiated between narcotic and non-narcotic substances for registration purposes.[1] Not all registrants wish to be registered to handle narcotic substances, and are therefore given the opportunity to apply only those substances that they wish to handle. In addition, there are occasions where a practitioner is not authorized by the state in which he/she practices to handle narcotic substances, and as a result cannot be issued a DEA registration to handle those substances. Therefore, the Acting Deputy Administrator finds that it is appropriate, as well as prudent, to differentiate between narcotic and non-narcotic substances for registration purposes. Registrants are on notice as to which substances fall within these categories. The term "narcotic drug" is defined in the Controlled Substances Abuse Act and it is clear in looking at the regulations which substances meet this definition. See 21 U.S.C. 802(17); 21 CFR 1308.12(b) and (c) and 1308.13(e).

Consequently, the Acting Deputy Administrator finds that Repondent issued a prescription for testosterone, and one for Dexedrine, without being authorized by his registration to do so. The Acting Deputy Administrator recognizes that after being advised of the extent of his authorization to handle controlled substances, Respondent substantially complied with the law. However, the fact that he issued two unauthorized prescriptions indicates that Respondent is still not aware of what schedule certain drugs fall within,

[1] The same applies for Schedule III controlled substances.

and that he is not diligent in verifying a substance's schedule.

Like Judge Randall, the Acting Deputy Administrator finds it commendable that Respondent sought the assistance of local pharmacists to ensure that he did not inadvertently issue prescriptions outside of his DEA granted authorization. However, as Judge Randall notes, "the record lacks evidence that the Respondent took any actions to enhance his own knowledge about scheduled substances, so that he could be responsible for his prescribing conduct." The responsibility for the proper prescribing of controlled substances is on the practitioner and he should not rely on others to ensure his compliance.

Under 21 U.S.C. 843(a)(4)(A), it is "unlawful for any person knowingly or intentionally—to furnish false or fraudulent material information in, or omit any material information from, any application, report, record, or other document required to be made, kept, or filed under this subchapter or subchapter II of this chapter." Answers to the renewal application's liability question are material, since DEA relies upon such answers to determine whether an investigation is needed prior to granting the application. *See Ezzat E. Majd Pour, M.D.*, 55 FR 47,547 (1990).

Here, it is undisputed that Respondent materially falsified his 1992 renewal application by answering "No" to the question which asks in relevant part whether the applicant has "ever had a State professional license * * * revoked, suspended, denied, restricted or placed on probation," despite the fact that his application for a South Carolina medical license was denied in 1986 and his Florida medical license was revoked in 1988. What makes this falsification all the more troubling is that a major reason for the denial of his application for a medical licenses in South Carolina was that he failed to disclose his prior suspension from the North Carolina Medicaid Program. If anything, Respondent should have been especially diligent in truthfully answering the questions on the DEA application, since his failure to disclose information on his South Carolina application resulted in his loss of licensure in two states.

The Acting Deputy Administrator agrees with Judge Randall that "[a]lthough the Respondent acted to correct this error in his 1995 application, the reasons he provided for the adverse state actions are disconcerting." Respondent indicated that he lost his Florida medical license because he "did not know how to appeal." As Judge Randall notes, "[t]his half-hearted attempt at disclosing adverse information raises concerns about the Respondent's continuing problem with taking responsibility for his own actions, a trait vital in a person authorized to handle controlled substances."

Regarding factor three, it is undisputed that Respondent has not been convicted of any offense relating to the manufacture, distribution or dispensing of controlled substances.

In considering factor five, other conduct threatening to the public safety, the Acting Deputy Administrator is concerned by Respondent's lack of familiarity with the schedules of drugs. While Respondent contends that his problems stem from his codependency, the Medical Director of the North Carolina Physicians Health Program testified that Respondent's lack of knowledge regarding the scheduling of drugs was not a symptom of his codependency. There is no evidence in the record that Respondent has made any attempt to educate himself regarding the scheduling of drugs. In addition, Respondent's lack of familiarity with the concept of controlled substances is further evidenced by his response to a question at the hearing about whether he had ever written an article regarding the handling of controlled substances. Respondent indicated that he had written one such article and "it had to do with alcoholism, concepts of alcoholism."

The Acting Deputy Administrator is also troubled by Respondent's lack of attention to detail. Respondent indicates that his failure to request registration in all schedules on his 1992 application was merely an "oversight." However, the Acting Deputy Administrator finds this explanation hard to believe, since Respondent had to skip over boxes in filling out the application. In addition, Respondent has exhibited a pattern of not requesting registration in all schedules on his renewal applications. In 1988 and 1989, Respondent sought registration in schedules II, IIN, III, IIIN, and IV, but not V. In 1992, he failed to request registration in Schedules IIN, III and IIIN, and in 1995, he checked the boxes for registration in Schedules II, III, IV and V, but not IIN or IIIN. The Acting Deputy Administrator concludes that at the very least Respondent has a problem with attention to detail.

Further, Respondent's less than candid responses to governmental agencies is of concern to the Acting Deputy Administrator. Not only did he fail to disclose certain information on his 1992 DEA renewal appliction, but the South Carolina Board specifically found that Respondent's "total lack of truthful, accurate and complete answers on his written application for licensure" provided the basis for denial of the application.

Finally, the Acting Deputy Administrator is concerned by Respondent's failure to accept responsibility for his actions. Respondent attributes his actions to his codependency problem for which he has received treatment. However, the Medical Director of the North Carolina Physicians Health Program testified that Respondent "still had some work to do" in recovering from his codependency problem. Even Respondent acknowledged that he was "still in a state of recovery." Yet, there is no evidence of Respondent's continuing treatment for his codependency problem.

In determining whether revocation is warranted in this case, Judge Randall stated that "[a]lthough * * * this is a close case, especially in light of the time that has elapsed since the 1992 falsification of the Respondent's DEA application, the adverse state actions in the 1980's, and the instances of mishandling of controlled substances in 1994 and 1995, * * * the totality of the circumstances does justify revoking the Respondent's Certificate of Registration." Judge Randall reached this conclusion in light of Respondent's less than truthful dealings with governmental agencies; his lack of ongoing treatment and efforts to continue his recovery from his codependency problems; his continued lack of knowledge about the scheduling of controlled substances; and his failure to take affirmative action to increase his knowledge regarding controlled substances.

Judge Randall noted that "the record contains ample evidence that the Respondent's prescribing practices are otherwise appropriate, that his treatment of his patients is well within the community standard, and that he is serving an important interest in his rural community." However, Judge Randall concluded "that until the Respondent (1) submits a complete application to the DEA for a Certificate of Registration that accurately discloses his professional licensing history and requests authority to handle the scheduled substances he needs to effectively treat his patient population, (2) includes with that application evidence of his completion of continued medical education containing instruction on scheduled drugs, and (3) provides the DEA with information concerning his ongoing treatment for his codependency problem and a medical problem and a medical prognosis as to

the impact of his condition upon his ability to accept the responsibilities inherent in a DEA registrant, it is in the public interest to revoke his DEA Certificate of Registration."

The Acting Deputy Administrator agrees with Judge Randall that this is a close case. Respondent's lack of attention to detail, knowledge regarding the scheduling of controlled substances, and evidence of ongoing treatment for his codependency problems all justify revocation of his DEA Certificate of Registration as inconsistent with the public interest. However, the Acting Deputy Administrator also recognizes that Respondent practices in a poor rural community, that he is conservative in his prescribing of controlled substances and that he correctly answered the liability question on his 1995 renewal application. As a result, the Acting Deputy Administrator concludes that the public interest would be served by giving Respondent an opportunity to become educated regarding controlled substances and to receive continued treatment for his codependency problems while still being permitted to handle controlled substances.

Therefore, the Acting Deputy Administrator will stay the revocation for six months, during which time Respondent must present evidence to the Acting Deputy Administrator of his completion of a training course regarding controlled substances, and of his ongoing treatment for his codependency problems. In addition, Respondent must request modification, if necessary, of his 1995 renewal application to accurately reflect what schedules he wishes to be registered in to effectively treat his patient population. If Respondent does not submit this information within six months of the effective date of this order, a subsequent order will be issued lifting the stay and Respondent's DEA Certificate of Registration will be revoked. If Respondent does submit the information in a timely manner, the Acting Deputy Administrator will issue a subsequent order indicating that the conditions have been met, that the DEA Certificate of Registration is reinstated and renewed without limitations, and that Respondent shall acknowledge the revocation in response to the liability question on any future applications.

Accordingly, the Acting 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, hereby orders that DEA Certificate of Registration AR2127377, issued to Leonard E. Reaves, III, M.D., be, and it hereby is, revoked, and any pending applications for renewal of such registration, be, and they hereby are, denied. It is further ordered that this order will be stayed for a period of six months from its effective date. If during the six month period, Respondent fails to provide the Acting Deputy Administrator with evidence of the completion of a course regarding controlled substances or of his ongoing treatment for his codependency problems, the stay will be removed and Respondent's DEA Certificate of Registration will be revoked and any pending application for renewal will be denied. This order is effective September 18, 1998.

Dated: August 13, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–22223 Filed 8–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review; Comment Request; Extension

AGENCY: Office of the Secretary, Labor.

ACTION: Extension of Comment period.

SUMMARY: On August 11, 1998, the Department of Labor published a **Federal Register** Notice (63 FR 42878) informing the public that the Department was utilizing emergency review procedures for review and clearance of the Business-to-Business Mentoring Initiative on Child/Dependent Care information collection request (ICR). This notice erroneously stated that the Office of Management and Budget approval has been requested by August 8, 1998. The Department had intended to request clearance by August 18, 1998. In order to allow the public, additional time to comment on this information collection, the Department has requested that OMB approval be granted by August 25, 1998.

DATES: Written comments on the Business-to-Business Mentoring Initiative on Child/Development Care ICR should be submitted by August 25, 1998.

ADDRESSES: Comments and questions about the Mentoring Program should be forwarded to the Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for the Women's Bureau, Office of Management and Budget, Room 10235, Washington, D.C. 20503. (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Todd R. Owen, Departmental Clearance Officer, U.S. Department of Labor, Room N–1301, 200 Constitution Avenue, N.W. Washington, D.C. 20210. (202) 219–5095 x 143. Copies of this information collection request with applicable supporting documentation, will be provided upon request.

SUPPLEMENTARY INFORMATION: The Department of Labor's Women' Bureau (WB), through its 10 regional offices, will provide technical assistance to businesses and other employers and facilitate a Mentoring initiative by linking employers who are willing to mentor others on cutting edge child care programs with employers that wish to receive Mentoring services. Utilizing the WB Internet web site as a matching mechanism, employers willing to mentor can be located by those who need these services. A report of the program's activities will be prepared approximately one year from program implementation.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–22310 Filed 8–18–98; 8:45 am]

BILLING CODE 4510–23–M

National Archives and Records Administration

Information Security Oversight Office

National Industrial Security Program Policy Advisory Committee: Notice of Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2) and implementing regulation 41 CFR 101.7, announcement is made for the following committee meeting:

Name of Committee: National Industrial Security Program Policy Advisory Committee (NISPPAC).

Date of Meeting: September 17, 1998.

Time of Meeting: 1 p.m. to 3 p.m.

Place of Meeting: The Center for Community Cooperation 2900 Live Oak Street, Dallas, Texas 75204.

Purpose: To discuss National Industrial Security Program policy matters.

This meeting will be open to the public. However, due to space limitations and access procedures, the names and telephone numbers of non-NISPPAC members planning to attend should be submitted to the Information Security Oversight Office (ISOO) no later than September 11, 1998.

FOR FURTHER INFORMATION CONTACT: Steven Garfinkel, Director, Information Security Oversight Office, National Archives Building, 700 Pennsylvania Avenue, NW, Room 100, Washington, DC 20408, telephone 202–219–5250.

Dated: August 12, 1998.

John W. Carlin,

Archivist of the United States.

[FR Doc. 98–22294 Filed 8–18–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following reinstatement with change for an expired information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until October 19, 1998.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0015.

Form Numbers: NCUA 4000, 4001, 4008, 4012, 4015, 4401, 9500, 9501, and 9600.

Type of Review: Reinstatement with changes of a previously approved collection for which approval has expired.

Title: Federal Credit Union Charter Application, Community Charter Conversion/Expansion Application, and Field of Membership Amendments.

Description: The Federal Credit Union (FCU) Act and Credit Union Membership Access (CUMA) Act set forth the requirements for establishing a credit union based on a type of field of membership. The data collection is necessary to determine that the application for the new charter/amendment is in compliance with the FCU and CUMA Acts.

Respondents: Individuals or groups wishing to charter a credit union and credit unions wishing to expand their field of membership or convert their current type of field of membership to another.

Estimated No. of Respondents/Recordkeepers: 9,080.

Estimated Burden Hours Per Response: 2.75 hours.

Frequency of Response: On occasion as required.

Estimated Total Annual Burden Hours: 24,400.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on August 13, 1998.

Becky Baker,

Secretary of the Board.

[FR Doc. 98–22315 Filed 8–18–98; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–607]

McClellan Air Force Base; Notice of Issuance of Facility Operating License No. R–130

The U.S. Nuclear Regulatory Commission (the Commission or the NRC) has issued Facility Operating License No. R–130 for the United States Air Force, McClellan Air Force Base (the licensee), to operate the training reactor and isotopes production, General Atomics (TRIGA) research reactor located on the licensee's site in Sacramento, California.

Facility Operating License No. R–130 authorizes a power level not in excess of 2300 kilowatts (thermal) and in the pulse mode, with pulse step reactivity insertion not in excess of $1.75 (1.23 percent Δk/k.) The license will expire 20 years from its date of issuance.

The license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I. Those findings are set forth in the license. An opportunity for a hearing was afforded in the notice of the Proposed Issuance of Facility Operating License in the **Federal Register** on October 1, 1997 (62 FR 51491). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The facility has been inspected by representatives of the Commission who have determined that the facility was constructed in substantial conformity with the terms and conditions of the application, as amended.

The Commission has prepared a Safety Evaluation Report (NUREG–1630) regarding the operating license for the McClellan Air Force Base and, on the basis of that report, has concluded that the facility can be operated by the licensee without endangering the health and safety of the public.

The Commission also prepared an Environmental Assessment and Finding of No Significant Environmental Impact, which was published in the **Federal Register** on April 6, 1998 (63 FR 16830), for the operation of the reactor and has concluded that this action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see (1) the application for operating license of October 23, 1996, as supplemented; (2) Facility Operating License No. R–130; (3) the related Safety Evaluation Report (NUREG–1630); and (4) the Environmental Assessment and Finding of No Significant Environmental Impact of April 6, 1998. These items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, D.C. 20037.

Copies of NUREG–1630 may be purchased by writing the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, D.C. 20013–7982.

Dated at Rockville, Maryland, this 13th day of August 1998.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–22333 Filed 8–18–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–54]

Cintichem, Inc. Research Reactor; Environmental Assessment and Finding of No Significant Impact Regarding Termination of Facility License No. R–81

The U.S. Nuclear Regulatory Commission (NRC) is considering

issuance of an Order terminating Facility License No. R–81 for the Cintichem, Inc. (the licensee) Research Reactor located in Tuxedo, New York.

Environmental Assessment

Identification of Proposed Action

By application dated October 19, 1990, as supplemented January 11, 14, 28, February 19, March 8, April 24, May 21, June 25, July 17, August 6, and October 2, 1991, the licensee requested authorization to dismantle the 5 Megawatt Research Reactor, dispose of the component parts in accordance with the proposed decommissioning plan, and terminate Facility License No. R–81. An "Order Authorizing Dismantling of Facility and Disposition of Component Parts," dated November 21, 1991, was published in the **Federal Register** on November 27, 1991 (56 FR 60124). In addition, NRC required Cintichem to develop residual soil contamination criteria for use as unrestricted release criteria for the facility. These were submitted on October 22, 1992, and approved on August 26, 1993. On February 1, 1994, Cintichem requested approval of residual contamination criteria for five additional radionuclides that were not included in the original submittal. NRC approved the criteria for the five additional radionuclides on October 17, 1994. Unrestricted release criteria for surfaces were those described in NRC Regulatory Guide 1.86. These criteria were modified in October 1994 to increase the limits for tritium (H–3) and iron-55 (Fe-55) in accordance with NRC guidance. Cintichem was also required to demonstrate that the dose to a critical member of the public from all residual radioactive material on site did not exceed 10 millirem per year. In addition, the dose via the water pathway alone could not exceed 4 millirem per year.

Due to the large geographical size of the site and the considerable number of radiation survey data points recorded, the final radiation surveys were divided into five sequential phases. For each phase, Cintichem conducted radiation surveys using techniques recommended in NUREG/CR–5849, "Manual for Conducting Radiological Surveys in Support of License Termination", to show that unconditional release criteria were satisfied. The licensee completed the dismantlement and submitted final survey reports and addenda for the five phases dated January 26, 1995, March 3, 1995, March 26, April 19 and June 7, 1996, June 6 and 27, 1997, July 3 and 30, 1997, and September 22, 1997.

Representatives of the Oak Ridge Institute for Science and Education (ORISE), under contract to NRC, conducted five surveys of the Cintichem facility during the period April 1995 through August 1997. The surveys are documented in the following ORISE reports.

1. Confirmation Survey of the Exterior Areas of Buildings 1 and 2, May 1995
2. Confirmation Survey of the Phase 2 Areas of the Reactor Building, September 1996
3. Confirmation Survey of the Unaffected Land Areas, September 1996
4. Confirmation Survey of the Phase 4 Areas, May 1997
5. Confirmation Survey of the Phase 5 Areas, April 1998

In addition, an Addendum to the Phase 5 Confirmatory Survey Report, "Bedrock Dose Assessment Report", was submitted to the NRC on June 2, 1998.

NRC finds that the ORISE reports support the data developed in the licensee's final survey report, and that all measurements indicate the remaining facilities are suitable for unconditional release.

On May 27, 1998, Cintichem affirmed that all radioactive material stored on site had been removed from the facility. This was confirmed by inspection of the site by NRC and the State of New York on June 15, 1998.

The Need for Proposed Action

The proposed action is to release the facility for unrestricted access and use, and Facility License No. R–81 must be terminated.

Environmental Impact of License Termination

Results of Cintichem's surveys and the ORISE confirmatory surveys demonstrate that the facility meets the criteria for unrestricted use prescribed in the approved decommissioning plan as supplemented. The NRC finds that since these criteria have been met there is no significant impact on the environment and the facility can be released for unrestricted use.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in environmental impacts and would deny release of the site for unrestricted use and require continuance of facility license. The environmental impacts of the proposed action and the alternative action are similar. Since the reactor and component parts have been dismantled and disposed of in accordance with NRC regulations and guidelines, there is no viable alternative to termination of Facility License No. R–81.

Agencies and Persons Consulted

The NRC staff consulted with the Director, Bureau of Pesticides and Radiation, Division of Solid and Hazardous Materials, New York State Department of Environmental Conservation regarding the proposed action, and the official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the issuance of the Order will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this proposed action, see the licensee's submittal on decommissioning the facility, dated October 19, 1990 as supplemented. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20003–1527.

Dated at Rockville, Maryland this 13th day of August 1998.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactor and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–22332 Filed 8–18–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Assessment and Recommendations for Fissile Material Packaging Exemptions and General Licenses; Availability of NUREG/CR

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of NUREG/CR–5342, "Assessment and Recommendations for Fissile Material Packaging Exemptions and General Licenses Within 10 CFR Part 71," dated July 1998.

ADDRESSES: Copies of NUREG/CR–5342 may be obtained by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box

37082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161–0002. A copy is also available for inspection and copying, for a fee, at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: Philip G. Brochman, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–8592, e-mail PGB@nrc.gov.

SUPPLEMENTARY INFORMATION: NRC is announcing the availability of NUREG/CR–5342, "Assessment and Recommendations for Fissile Material Packaging Exemptions and General Licenses Within 10 CFR Part 71." This final report contains an assessment of the technical and regulatory bases for the NRC's regulations in Part 71 related to the transport of fissile material under general license or fissile exemption limits and provides recommendations on potential changes to the regulations.

I. Background

In September 1996, an NRC licensee identified that the fissile material exemption standards in § 71.53 do not provide adequate criticality safety for certain shipments of fissile material [1] (i.e., highly-enriched uranium in the presence of beryllium oxide). The NRC licensee determined through calculation, that a planned shipment, which contained large amounts of low-concentration, highly-enriched uranium'which met the fissile exemption material limits in § 71.53(d)—and which was also mixed with a large amount of beryllium, could result in a nuclear criticality [2] under certain conditions. As a consequence, the Commission issued an emergency final rule to revise the fissile material exemption limits in Part 71 (62 FR 5907; February 10, 1997). The Commission also requested that the public submit comments on the final rule, during a 30-day period following the rule's publication.

In developing the emergency final rule, the NRC staff noted that the regulatory and technical bases for the fissile material exemption limits and general license provisions of Part 71 were not internally consistent nor well documented. Additionally, all seven of the commenters on the final rule objected to parts of the rule as being unduly burdensome and overly restrictive. The NRC determined that further evaluation into the regulatory and technical bases for these regulations was necessary.

Subsequently, the NRC contracted with Oak Ridge National Laboratory (ORNL) to: (1) perform an independent evaluation of the regulations related to the transport of fissile material under the fissile material exemption and general license limits of Part 71; (2) review the technical issues raised by public comments on the emergency final rule; (3) perform independent calculations of the minimum critical mass limits for different combinations of fissile material and moderating material; and (4) identify potential changes to the fissile material exemption and general license limits of Part 71 which may be warranted.

The results of ORNL's study are contained in NUREG/CR–5342 and are available for public review. The NRC is currently reviewing the recommendations contained in this report.

II. Electronic Access

NUREG/CR–5342 is also available electronically in the Reference Library area of the NRC's Home Page under Technical Reports (http://www.nrc.gov).

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Act of 1996, NRC has determined that this action is not a major rule and has verified this determination with Office of Information and Regulatory Affairs of the Office of Management and Budget.

Dated at Rockville, Maryland, this 17th day of July 1998.

For the U.S. Nuclear Regulatory Commission.

Susan F. Shankman,

Deputy Director, Licensing and Inspection Directorate, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–22331 Filed 8–18–98; 8:45 am]

BILLING CODE 7590–01–P

[1] Fissile material is defined in Part 71 as: plutonium-238, plutonium-239, plutonium-241, uranium-233, uranium-235, or any combination of these radionuclides. Transportation packages used for shipment of materials containing these radionuclides must meet specific standards and operating limits designed to preclude nuclear criticality during transport, unless excepted by specific regulations.

[2] For transportation purposes, nuclear criticality means a condition in which an uncontrolled, self-sustaining, and neutron-multiplying fission chain reaction occurs. Nuclear criticality is generally a concern when sufficient concentrations and masses of fissile material and neutron moderating material exist together in a favorable configuration. Neutron moderating material cannot achieve criticality by itself in any concentration or configuration. However, It can enhance the ability of fissile material to achieve criticality by slowing down neutrons or reflecting neutrons.

OFFICE OF PERSONNEL MANAGEMENT

[3206–0082]

Submission for OMB Review; Comment Request; Review of a Revised Information Collection; Presidential Management Intern Program Application

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management has submitted to the Office of Management and Budget a request for clearance of a revised information collection. The Office of Personnel Management is requesting OMB to authorize procession of collection of information associated with the Presidential Management Intern Program Application. Processing and approval of the 1998 Presidential Management Intern Program Application is necessary to facilitate the timely nomination, selection and placement of Presidential Management Intern Finalists in Federal agencies.

We estimate 2000 applications will be received and processed in 1998. Each application takes approximately 2 hours to complete (one hour for applicants (nominees) and one hour for nominating school officials). The annual estimated burden is 4000 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey at (202) 606–8358, or e-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before August 26, 1998.

ADDRESSES:

Kathleen A. Keeney, Presidential Management Intern Program, U.S. Office of Personnel Management, William J. Green, Jr., Federal Building, 600 Arch Street, Philadelphia, PA 19106.

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235 Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Kathleen A. Keeney (215) 597–1920.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–22397 Filed 8–17–98; 1:14 pm]

BILLING CODE 6325–01–P

RAILROAD RETIREMENT BOARD

Sunshine Act Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on August 26, 1998, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Organizational Placement of the Bureau of Quality Assurance

(2) Restructuring Plan for Office of Programs—Assessment and Training Component

(3) Fiscal Year 2000 Budget and Future Budgets

(4) Year 2000 Issues

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Date: August 14, 1998.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 98–22403 Filed 8–17–98; 11:25 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23388; 812–10668]

SIT Mutual Funds, Inc., et al.; Notice of Application

August 13, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 ("Act") for an exemption from section 12(d)(1) (A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants, SIT Mutual Funds, Inc., SIT Mutual Funds II, Inc., SIT Mid Cap Growth Fund, Inc., SIT Large Cap Growth Fund, Inc., SIT U.S. Government Securities Fund, Inc., SIT Money Market Fund, Inc. ("Money Market Fund") (collectively, the "Funds"), and SIT Investment Associates, Inc. ("Adviser") seek an order to permit certain registered open-end investment companies to invest uninvested cash in an affiliated money market fund. The requested order would extend to current and subsequently created series of the Funds and any other registered open-end investment company advised by the Adviser. The requested order would supersede an existing order.[1]

FILING DATES: The application was filed on May 14, 1997, and amended on July 13, 1998. Applicants undertake to file a amendment during the notice period, the substance of which is incorporated in the notice.

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 10, 1998, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC 450 Fifth Street, NW., Washington, DC 20549. Applicants, Mary K. Stern, 4600 Norwest Center, Minneapolis, MN 55402. Counsel, Robert A. Kukuljan, Esq., Dorsey & Whitney, LLP., 220 South Sixth Street, Minneapolis, MN 55402.

FOR FURTHER INFORMATION CONTACT: Edward P. Macdonald, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

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, 450 Fifth Street, NW., Washington, DC 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Funds are open-end management investment companies registered under the Act and organized as Minnesota corporations. The Adviser is registered under the Investment Advisers Act of 1940 and serves as the investment adviser for each of the series of the Funds ("Series"). Certain of the Series also have investment subadvisers (together with the Adviser, "Advisers"). The Money Market Fund, a series of the Funds, is subject to rule 2a–7 under the Act.

2. The Series may have, or may be expected to have, uninvested cash ("Uninvested Cash") held by their custodian. Uninvested cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, reserves held for investment strategy purposes, scheduled maturity of investments, liquidation of investment securities to meet anticipated redemptions, dividend payments, or new monies received from investors. Currently, the Series may invest Uninvested Cash directly in individual short term money market instruments.

3. The Series (the "Investing Funds") wish to have the flexibility to invest their Uninvested Cash in the Money Market Fund. Any investment of Uninvested Cash in shares of the Money Market Fund will be in accordance with each Investing Fund's investment restrictions and will be consistent with each Investing Funds' policies as set forth in its prospectuses and statements of additional information. Applicants believe that the proposed transactions may reduce transaction costs, create more liquidity, increase returns, and diversify holdings.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent the exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(J) to permit the Investing Funds to use Uninvested Cash to acquire shares of the Money Market Fund in excess of the percentage limitations in section 12(d)(1)(A), provided however, that in all cases the Investing Fund's aggregate investment of Uninvested Cash in shares of the Money Market Fund will not exceed 25% of the Investing Fund's

[1] Investment Company Act Release No. 20420 (July 21, 1994) (Notice) and 20482 (August 16, 1994) (Order).

total assets at any time. Applicants also request relief to permit the Money Market Fund to sell its securities to an Investing Fund in excess of the percentage limitations in section 12(d)(1)(B). Applicants represent that the Money Market Fund will not acquire securities of any other investment company in excess of the limitations contained in section 12(d)(1)(A) of the Act.

3. Applicants believe that the proposed arrangement does not result in the abuses that sections 12(d)(1) (A) and (B) were intended to prevent. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Money Market Fund sold to the Investing Funds will not be subject to a sales load, redemption fee, asset-based distribution fee or service fee. In addition, the Advisers will waive their investment advisory fees for each Investing Fund in an amount that offsets the amount of the advisory fees of the Money Market Fund incurred by the Investing Fund.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the company. Because each Series may be deemed to be under common control with the other Series, it may be an "affiliated person," as defined in section 2(a)(3) of the Act, of the other Series. Accordingly, applicants state that the sale of shares of the Money Market Fund to the Investing Funds, would be prohibited under section 17(a) of the Act.

5. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) of the act if the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each investment company concerned, and with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt persons or transactions from any provision of the Act, if 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 Act.

6. The Investing Funds will retain their ability to invest their cash balances directly into money market instruments if they believe that they can obtain a higher return. The Money Market Fund has the right to discontinue selling shares to any of the Investing Funds if its board of trustees determines that such sales would adversely affect the portfolio management and operations of the Money Market Fund. In addition, applicants state that shares of the Money Market Fund will be purchased and redeemed at their net asset value, the same consideration paid and received for these shares by any other shareholder. Therefore, applicants believe that the proposal satisfies the standards for relief in sections 17(b) and 6(c) of the Act.

7. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Applicants state that each Investing Fund, by purchasing shares of the Money Market Fund; each Adviser of an Investing Fund, by managing the assets of the Investing Funds invested in the Money Market Fund; and the Money Market Fund, by selling shares to the Investing Funds, could be participants in a joint enterprise within the meaning of section 17(d)(1) of the Act and rule 17d–1 under the Act.

8. Rule 17d–1 under the Act permits the Commission to approve a joint transaction covered by the terms of section 17(d). In determining whether to approve a transaction, the Commission considers whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participants. Applicants submit that the Series will participate in the proposed transactions on a basis not different from or less advantageous than that of any other participant and that the transactions will be consistent with the Act.

Appicants' Conditions

Applicants agree that the order granting requested relief will be subject to the following conditions:

1. Shares of the Money Market Fund sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830 of the NASD's Conduct Rules).

2. The Advisers will waive their advisory fee for each Investing Fund in an amount that offsets the amount of the advisory fees of the Money Market Fund incurred by the Investing Funds. Any of these fees remitted or waived will not be the subject to recoupment by the Advisers at a later date.

3. Each Investing Fund will invest Uninvested Cash in, and hold shares of, the Money Market Fund only to the extent that the Investing Fund's aggregate investment in the Money Market Fund does not exceed 25% of the Investing Fund's total assets. For purposes of this limitation, each Investing Fund will be treated as a separate investment company.

4. Investment in shares of the Money Market Fund will be in accordance with each Investing Fund's respective investment restrictions and will be consistent with each Investing Fund's policies as set forth in its prospectuses and statements of additional information.

5. Each Investing Fund and any future fund that may rely on the order requested will be advised by the Adviser or an entity controlling, controlled by, or under common control with the Adviser.

6. The Money Market Fund will not acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–22295 Filed 8–18–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23389; 812–11244]

Zurich Insurance Company, et al.; Notice of Application

August 14, 1998.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act.

SUMMARY OF THE APPLICATION: The requested order would permit the implementation, without prior shareholder approval, of new investment advisory and sub-advisory agreements for a period of up to 150 days following the later of: (i) consummation of the merger between Zurich Insurance Company ("Zurich") and B.A.T Industries p.l.c. ("B.A.T"), or (ii) the date on which the requested

order is issued (but in no event later than March 31, 1999) (the "Interim Period"). The order also would permit, following shareholder approval, Scudder Kemper Investments, Inc. ("Scudder Kemper") to receive all fees earned during the Interim Period.

APPLICANTS: Zurich and Scudder Kemper.

FILING DATES: The application was filed on August 4, 1998, and amended on August 14, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 3, 1998, 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 who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Zurich Financial Services, Mythenquai 2, 8022 Zurich, Switzerland. Scudder Kemper Investments, Inc., 345 Park Avenue, New York, NY 10154.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. Zurich, A Swiss corporation, is engaged directly and through its subsidiaries and affiliates in various financial services businesses. Zurich, through its subsidiaries, owns approximately 70% of the outstanding voting securities of Scudder Kemper. The remaining 30% is owned by officers and employees of Scudder Kemper. Scudder Kemper, a Delaware corporation, is an investment adviser registered under the Investment Advisers Act of 1940 and currently serves as investment adviser or sub-adviser to various investment companies registered under the Act ("Funds").[1]

2. On December 22, 1997, Zurich and B.A.T entered into a merger agreement ("Merger Agreement"), pursuant to which the financial services businesses of B.A.T will be combined with Zurich's financial services businesses, through a series of transactions (collectively, the "Transaction"). In the Transaction, Zurich intends to establish a holding company, Zurich Allied AG, a Swiss corporation ("Zurich Allied"), the shares of which will be exchanged for Zurich shares by way of a public exchange offer to the Zurich shareholders. Zurich Allied will then contribute all of the Zurich shares exchanged by the Zurich shareholders to Zurich Financial Services ("ZFS"), a newly formed Swiss corporation, and receive in exchange securities representing 57% of the voting capital stock of ZFS. B.A.T will establish a new holding company, Allied Zurich p.l.c., a United Kingdom corporation ("Allied Zurich"). B.A.T shareholders will receive shares of Allied Zurich in exchange for their shares of B.A.T. Allied Zurich will then contribute all the B.A.T shares to ZFS in exchange for securities representing the remaining 43% of the voting capital stock of ZFS. Zurich Allied, Allied Zurich, and ZFS initially will have separate boards of directors.

3. Applicants state that the acquisition by Allied Zurich of the 43% interest in ZFS upon consummation of the Transaction may constitute a change in control of Scudder Kemper under the Act. Applicants thus state that the Transaction may therefore result in an assignment of Scudder Kemper's existing advisory and subadvisory agreements with the Funds ("Existing Advisory Agreements") and their automatic termination. Applicants expect the Transaction to be consummated in early September, 1998 ("Closing Date").

4. Applicants request an exemption to permit the implementation prior to obtaining shareholder approval, of new investment advisory and sub-advisory agreements between Scudder Kemper and the Funds ("New Advisory Agreements"). The requested exemption would cover the Interim Period; which would begin on the later of the Closing Date, or the date on which the requested order is issued and would continue through the earlier of (i) 150 days or (ii) the date on which the New Advisory Agreement is approved or disapproved by the Fund's shareholders (but in no event later than March 31, 1999).[2] The requested exemption also would permit Scudder Kemper to receive all fees that it earns under the New Advisory Agreements during the Interim Period, upon approval of the New Advisory Agreements by the Fund's shareholders. Applicants represent that the New Advisory Agreements will have the same terms and conditions as the

[1] Scudder Kemper serves as investment adviser to the following Funds: Kemper Adjustable Rate U.S. Government Fund, Kemper Aggressive Growth Fund, Kemper Asian Growth Fund, Kemper Blue Chip Fund, Kemper Diversified Income Fund, Kemper Equity Trust, Kemper Europe Fund, Kemper Global Income Fund, Kemper Global/International Series, Inc., Kemper Growth Fund, Kemper High Income Trust, Kemper High Yield Series, Kemper Horizon Fund, Kemper Income and Capital Preservation Fund, Kemper International Fund, Kemper National Tax-Free Income Series, Kemper Portfolios, Kemper Quantitative Equity Fund, Kemper Securities Trust, Kemper Small Capitalization Equity Fund, Kemper State Tax-Free Income Series, Kemper Target Equity Fund, Kemper Technology Fund, Kemper Total Return Fund, Kemper U.S. Government Securities Fund, Kemper Value Series, Inc., Kemper Value+Growth Fund, Tax-Exempt California Money Market Fund, Zurich Money Funds, Zurich YieldWise Money Fund, AARP Cash Investment Funds, AARP Income Trust, AARP Tax Free Income Trust, AARP Growth Trust, AARP Managed Investment Portfolios Trust, Global/International Fund, Inc., Investment Trust, Scudder California Tax Free Trust, Scudder Cash Investment Trust, Scudder Fund, Inc., Scudder Funds Trust, Scudder GNMA Fund, Scudder Institutional Fund, Inc., Scudder International Fund, Inc., Scudder Municipal Trust, Scudder Mutual Funds, Inc., Scudder Pathway Series, Scudder Portfolio Trust, Scudder Securities Trust, Scudder State Tax Free Trust, Scudder Tax Free Money Fund, Scudder Tax Free Trust, Scudder U.S. Treasury Money Fund, Scudder Variable Life Investment Fund, The Japan Fund, Inc., Value Equity Trust, The Growth Fund of Spain, Inc., Kemper Strategic Income Fund, Kemper Strategic Municipal Income Trust, Kemper Intermediate Government Trust, Kemper Multi-Market Income Trust, Kemper Municipal Income Trust, The Argentina Fund, Inc., Montgomery Street Income Securities, Scudder Global High Income Fund, Inc., Scudder New Asia Fund, Inc., Scudder New Europe Fund, Inc., Scudder Spain & Portugal Fund, Inc., The Brazil Fund, Inc., The Korea Fund, Inc. Scudder Kemper serves as sub-adviser to the following Funds: Alameda-Contra Costa Medical Association Collective Investment Trust Retirement Plans, Portfolio Partners, Inc.'s Scudder International Growth Portfolio, Pacific Innovations Managed Bond Fund, The Horace Mann Mutual Funds, Managers International Equity Fund, Managers Income Equity Fund, Metropolitan Series Fund, Inc., Touchstone Growth & Income Fund A, Touchstone Growth & Income Fund C, Global Advisory Network Trust, Portfolios Select Advisors Variable Insurance Trust, John Hancock Variable Series Trust I, The Legends Fund, Inc., Rodney Square Strategic Equity Fund.

[2] Applicants state that if the Closing Date precedes the issuance of the order, Scudder Kemper will serve as investment adviser after the Closing Date and prior to the issuance of the order in a manner consistent with its fiduciary duty to provide investment advisory services to the funds even though approval of the New Advisory Agreements has not yet been secured from the Funds' respective shareholders. Applicants submit that in such event Scudder Kemper will be entitled to receive from the Funds, with respect to the period from the Closing Date until the receipt of the order, no more than the actual out-of-pocket cost to Scudder Kemper for providing investment advisory services to the Funds.

Existing Advisory Agreements, except for the dates of execution and termination and, as applicable, the addition of certain break points in the fee structure.[3]

5. Applicants state that the board of directors of the Funds (collectively, "Boards") will hold a meeting prior to the Closing Date to consider and evaluate the New Advisory Agreements and determine whether the terms of the New Advisory Agreements are in the best interest of the Funds and their respective shareholders. Applicants state that at this meeting the Boards will receive from applicants all information reasonably necessary to evaluate whether the terms of the New Advisory Agreements are in the best interests of the Funds and their respective shareholders. Applicants state that each New Advisory Agreement will not be implemented unless (i) the respective Board, including in each case a majority of the board members who are not "interested persons," as that term is defined in section 2(a)(19) of the Act ("Independent Directors"), votes in accordance with section 15(c) of the Act, to approve the New Advisory Agreement; and (ii) the Board votes to recommend that shareholders of the Fund approve the New Advisory Agreement.[4]

6. Fees earned under the New Advisory Agreements during the Interim Period will be maintained in an interest-bearing escrow account with an unaffiliated bank. The escrow agent will release the amounts held in the escrow account (including any interest earned): (i) to Scudder Kemper, only upon approval of the New Advisory Agreements by the shareholders of the relevant Fund; or (ii) to the relevant Fund, in absence of approval by its shareholders. Before amounts are released from the escrow account, the Board will be notified.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as investment adviser of a registered investment company except pursuant to a written contact that has been approved by the vote of a majority of the outstanding voting securities of the registered investment company. Section 15(a) further requires that the written contract provide for its automatic termination in the event of its "assignment." Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a contract by the assignor, or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

2. Applicants state that the acquisition of voting securities of ZFS by Allied Zurich could be deemed to result in a change of control of Scudder Kemper. Applicants believe, therefore, that the Transaction may result in the "assignment" of the existing agreements, thus terminating the agreements pursuant to their terms and the Act.

3. Rule 15a–4 under the Act provides, in pertinent part, that if an investment advisory contract with a registered investment company is terminated by assignment, the adviser may continue to serve for 120 days under a written contract that has not been approved by the company's shareholders, provided that: (1) the new contract is approved by that company's board of directors (including a majority of non-interested directors); (ii) the compensation to be paid under the new contract does not exceed the compensation that would have been paid under the contract most recently approved by the company's shareholders; and (iii) neither the adviser nor any controlling person of the adviser "directly or indirectly receives money or other benefit" in connection with the assignment. Applicant state that they nay not be entitled to rely on rule 15a-4 because of the benefits that Zurich and Scudder Kemper will receive from the Transaction.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or traction from any provision of the Act, if and 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.

5. Applicants request an exemption under section 6(c) from section 15(a) to permit the implementation, prior to shareholder approval, of New Advisory Agreements. Applicants state the timing of the Transaction was determined in response to a number of business concerns substantially unrelated to the Funds or Scudder Kemper. Applicants also state that there is not a sufficient opportunity prior to the Closing Date to secure prior approval of the New Advisory Agreements by the Funds' shareholders. Applicants assert that the granting of the requested order will ensure the continuity of investment advisory services to the Funds, and permit applicants to obtain sufficient shareholder response to proxy solicitations.

6. Applicants submit that they take all appropriate actions to prevent any diminution in the scope of quality of services provided to the Funds during the Interim Period. Applicants state that the Existing Advisory Agreements were approved by the Boards and the shareholders of the Funds. Applicants represent that the New Advisory Agreements will have the same terms and conditions as the Existing Advisory Agreements, except for the dates of execution and termination, and as applicable, the addition of certain break points in the fee structure. Accordingly, applicants assert that each Fund will receive, during the Interim Period, substantially identical investment advisory and/or sub-advisory services, provided in the same manner, as it received prior to the Closing Date. Applicants state that, in the event there is any material change in the personnel providing services under the New Advisory Agreements during the Interim Period, Scudder Kemper will apprise and consult the Board of the affected Fund to assure that the Board, including a majority of Independent Directors, are satisfied that the services provided by Scudder Kemper will not be diminished in scope or quality.

7. Applicants contend that to deprive Scudder Kemper of its customary fees during the Interim Period would be an unduly harsh and unreasonable penalty. Applicants note that the fees payable to Scudder Kemper under the New Advisory Agreements will not be released to Scudder Kemper by escrow agent without the approval of the Fund shareholders.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The New Advisory Agreements will contain the same terms and conditions as the Existing Advisory Agreements, except for the dates of execution and termination and, as applicable, the addition of certain break points in the fee structure.

2. Fees earned by Scudder Kemper during the Interim Period will be maintained in an interest-bearing escrow account with an unaffiliated escrow agent, and amounts in the account (including interest earned on

[3] Applicants have determined that the addition of break points to certain of Scudder Kemper's Existing Advisory Agreements need not be approved by the shareholders of the affected Funds as the break points will only reduce the advisory fees otherwise payable by those Funds as each Fund's assets increase. *See Limited Term Municipal Fund, Inc.* (pub. avail. Nov. 17, 1992).

[4] To the extent that a Fund's Board cannot meet prior to the Closing Date, applicants acknowledge that the Fund may not rely on the exemptive relief requested in the application.

such amounts) will be paid (a) to Scudder Kemper only upon approval of each New Advisory Agreement by a Fund's shareholder or (b) in the absence of such approval prior to the expiration of the Interim Period, to the Fund.

3. Each Fund will promptly schedule a meeting of shareholders to vote on the approval of the New Advisory Agreements to be held within 150 days following the commencement of the Interim Period (but in no event later than March 31, 1999).

4. Applicants will pay the costs of preparing and filing the application and the costs relating to the solicitation of approval of Fund shareholders of the New Advisory Agreements necessitated by the Transaction.

5. Applicants will take all appropriate steps to ensure that the scope and quality of investment advisory and other services provided to the Funds by Scudder Kemper during the Interim Period will be at least equivalent, in the judgment of the Boards, including a majority of Independent Directors, to the scope and quality of services currently provided by Scudder Kemper. In the event of any material change in the personnel providing services pursuant to the New Advisory Agreements, Scudder Kemper will apprise and consult with the Board of the affected Funds, to ensure that the Boards, including a majority of Independent Directors, are satisfied that the services provided will not be diminished in scope or quality.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–22296 Filed 8–18–98; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before September 18, 1998. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW, 5th Floor, Washington, DC 20416; and OMB Reviewer, Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–6629.

SUPPLEMENTARY INFORMATION:

Title: Disaster Survey Worksheet.
Form No.: 987.
Frequency: On Occasion.
Description of Respondents: Individuals, Businesses and Public Officials within an area requesting a Disaster Declaration.
Annual Responses: 4,000.
Annual Burden: 332.

Title: Transaction Report on Loans Serviced by Lenders.
Form No: 172.
Frequency: Monthly.
Description of Respondents: Small Business Administration Participating Lenders.
Annual Responses: 25,284.
Annual Burden: 3,865.

Dated: August 10, 1998.

Vanessa Smith,

Acting Chief, Administrative Information Branch.

[FR Doc. 98–22274 Filed 8–18–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3057]

State of California; Amendment #6

In accordance with a notice from the Federal Emergency Management Agency dated August 3, 1998, the above-numbered Declaration is hereby amended to include Del Norte County, California as a disaster area due to damages caused by severe winter storms and flooding beginning on February 2, 1998 and continuing April 30, 1998.

In addition, applications for economic injury loans from small businesses located in the contiguous Counties of Curry and Josephine in the State of Oregon may be filed until the specified date at the previously designated location. Any counties contiguous to the above-named primary county and not listed herein have been previously declared.

Applications for physical damages for victims in Del Norte County will be accepted through October 2, 1998. The dateline for filing applications for economic injury is November 9, 1998.

The economic injury number for Oregon is 997200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 11, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–22271 Filed 8–18–98; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3121]

State of Indiana

Bartholomew County and the contiguous counties of Brown, Decatur, Jackson, Jennings, Johnson, and Shelby in the State of Indiana constitute a disaster area as a result of damages caused by severe storms and flooding that occurred on July 20, 1998. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 5, 1998 and for economic injury until the close of business on May 5, 1999 at the address listed below or other locally announced locations:

Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta GA 30308

The interest rates are;

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere.	6.875
Homeowners without credit available elsewhere.	3.437
Businesses with credit available elsewhere.	8.000
Businesses and non-profit organizations without credit available elsewhere.	4.000
Others (including non-profit organizations) with credit available elsewhere.	7.125
For Economic Injury:	
Business and small agricultural cooperatives without credit available elsewhere.	4.000

The numbers assigned to this disaster are 312106 for physical damage and 996500 for economic injury.

(Catalog for Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 5, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–22273 Filed 8–18–98; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3094]

Commonwealth of Massachusetts; Amendment #1

In accordance with information received from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended to include Plymouth and Worcester Counties in the Commonwealth of Massachusetts as a disaster area due to damages caused by heavy rains and flooding. This declaration is further amended to establish the incident period for this disaster as beginning on June 13, 1998 and continuing through July 6, 1998.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Barnstable, Franklin, Hampden, and Hampshire in Massachusetts may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 22, 1998 and for economic injury the termination date is March 23, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 7, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–22272 Filed 8–18–98; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9966]

Commonwealth of Massachusetts and a Contiguous County in the State of New Hampshire

Middlesex County and the contiguous counties of Essex, Norfolk, Suffolk, and Worcester in the Commonwealth of Massachusetts, and Hillsborough County in the State of New Hampshire constitute an economic injury disaster loan area as a result of a fire on July 26, 1998 on Winslow Avenue, in Somerville. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on May 10, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd, South 3rd Floor, Niagara Falls, NY 14303.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent. The numbers assigned for economic injury for this disaster are 996600 for Massachusetts and 996700 for New Hampshire.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: August 10, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–22268 Filed 8–18–98; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3107]

State of New Hampshire, Amendment #1

In accordance with a notice from the Federal Emergency Management Agency dated July 28, 1998, the above-numbered Declaration is hereby amended to include Hillsborough County, New Hampshire as a disaster area due to damages caused by severe storms and flooding beginning on June 12, 1998 and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Cheshire, Hew Hampshire may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary county and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is September 12, 1998 and for economic injury the termination date is April 14, 1999.

(Catalog of Federal domestic Assistance Program Nos. 59002 and 59008)

Dated: August 5, 1998.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98–22269 Filed 8–18–98; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3102]

State of West Virginia, Amendment #2

In accordance with a notice from the Federal Emergency Management Agency dated July 27, 1998, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on June 26, 1998 and continuing through July 27, 1998.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 30, 1998 and for economic injury the termination date is April 1, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 11, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–22270 Filed 8–18–98; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board; Public Meeting

The U.S. Small Business Administration National Small Business Development Center Advisory Board will hold a public meeting on Sunday, October 11, 1998, from 1:00 pm to 5:00 pm at the Marriott Savannah Riverfront Hotel in Savannah, Georgia, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, please write or call Ellen Thrasher, U.S. Small Business Administration, 409 Third Street, SW, Fourth Floor, Washington, DC 20416, telephone number (202) 205–6817.

Dated: August 13, 1998,

Shirl Thomas,

Director, External Affairs.

[FR Doc. 98–22275 Filed 8–18–98; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice No. 2849]

Office of Defense Trade Controls; Notifications to the Congress of Proposed Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to section 36(c) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. 2776).

EFFECTIVE DATE: As shown on each of the thirteen letters.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State {(703) 875–6644}.

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to section 36(c) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: July 21, 1998.

William J. Lowell,

Director, Office of Defense Trade Commission.

BILLING CODE 4710–25–M

United States Department of State

Washington, D.C. 20520

MAY 20 1998

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services related to the operation, training, maintenance and system enhancements for Saudi Arabia's "Peace Shield" command, control and communications system.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC-31-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

MAY 20 1998

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of 20 U-125A Aircraft for end-use by the Japanese Air Self Defense Force.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 51-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

MAY 20 1998

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of major defense equipment or defense services sold under a contract in the amount $14,000,000 or more.

The transaction contained in the attached certification involves the export of Rolling Airframe Missile technical data and hardware to Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC -53-98

The Honorable
Newt Gingrich, Speaker,
House of Representatives.

United States Department of State

Washington, D.C. 20520

MAY 20 1998

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, hardware and services related to thermal sight and fire control system upgrades for the Kuwaiti BMP-3 and M-84 combat vehicles.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 56-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

APR 28 1998

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves a manufacturing license agreement with Turkey for the manufacture of F110 aircraft engine components for use in U.S. and Turkish F-16 aircraft, as well as the assembly of kits into complete F110 engines for use in Turkish F-16 aircraft.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC-60-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

JUN 23 1998

Dear Mr. Speaker:

Pursuant to section 36(c) and (d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for defense articles and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the amendment of a manufacturing license agreement with Turkey for the production of the ESCORT Short-Range Thermal Surveillance System.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 72-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

JUN 23 1998

Dear Mr. Speaker:

Pursuant to section 36(c)&(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Manufacturing License Agreement with Japan for the production of Harpoon Missile Shipboard Command and Launch Subsystems (HSCLS) and Encapsulated Harpoon Command and Launch Subsystems (EHCLS).

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC-75-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

JUN 25 1998

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Manufacturing License Agreement with Israel and the United Kingdom for the manufacture and test of F-15 structural components.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC-76-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

JUN 25 1998

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Manufacturing License Agreement with Israel for the manufacture and test of F-15 structural components.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC-77-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

JUN 25 1998

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Manufacturing License Agreement with Israel for the manufacture and test of F-15 structural components.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC-78-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

JUN 23 1998

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the manufacture in Germany of F414 and F110-129EFE aircraft engine parts.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 81-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington. D.C. 20520

JUN 23 1998

Dear Mr. Speaker:

Pursuant to section 36(c) and 36(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for defense articles and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the amendment of a manufacturing license agreement with Germany for the production of tank fire control systems.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 84-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

JUL 16 1998

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export to Japan of technical information and defense services to provide logistics support for the AN/APY-2 radar used on the E-767 AWACS.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 87-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

[FR Doc. 98–22238 Filed 08–18–98; 8:45 am]
BILLING CODE 4710–25–C

DEPARTMENT OF STATE

Bureau of Economic and Business Affairs

[Public Notice 2869]

Finding of No Significant Impact: Lakehead Pipe Line Company, Pipeline at Neche, North Dakota

AGENCY: Department of State.

ACTION: Notice of a finding of no significant impact with regard to an application to construct, connect, operate and maintain a pipeline to transport crude oil and natural gas liquids across the U.S.-Canada border.

SUMMARY: The Department of State has conducted an environmental assessment of the proposed construction by Lakehead Pipe Line Company of an oil pipeline across the international boundary at Neche, North Dakota. Based on the environmental assessment, the Department of State has concluded that issuance of a Presidential Permit authorizing construction of the proposed pipeline will not have a significant effect on the human environment within the United States. In accordance with the National Environmental Policy Act, 42 U.S.C. Section 4321 et seq., Council on Environmental Quality Regulations, 40 CFR 1501.4 and 1508.13 and Department of State Regulations, 22 CFR 161.8(c), an environmental impact statement will not be prepared.

FOR FURTHER INFORMATION ON THE PIPELINE PERMIT APPLICATION, CONTACT: Daniel L.Martinez, Office of International Energy Policy, Room 3535, U.S. Department of State, Washington, DC 20520, (202) 647–4557.

FOR FURTHER INFORMATION ON THE ENVIRONMENTAL ASSESSMENT, CONTACT: Pam Pearson, Office of Ecology and Terrestrial Conservation, Room 4325, U.S. Department of State, Washington, DC 20520, (202) 647–1123.

SUPPLEMENTARY INFORMATION: Lakehead Pipe Line Company, Limited Partnership has applied for a Presidential Permit to authorize construction, connection, operation and maintenance of a 36 inch diameter pipeline to convey crude oil and natural gas liquids across the border with Canada at Neche, North Dakota. The proposed pipeline would be constructed in the same right of way presently occupied by four oil pipelines owned and operated by the same company. The existing pipelines are operating at full capacity and are unable to transport the volume of oil demanded by U.S. markets in the midwest. The purpose of the proposed new pipeline is to eliminate this capacity constraint.

On April 21, 1998, the Department of State published a Notice of Application for a Presidential Permit in the **Federal Register**. No public comments were received and concerned agencies expressed no opposition to issuing the permit. The Department of State prepared an environmental assessment for the Pipeline Permit. Based on that assessment, the Department of State has concluded that issuance of the permit will not have a significant effect on the quality of the human environment within the United States. A finding of no significant impact is adopted, and an environmental impact statement will not be prepared.

Dated: July 23, 1998.

Stuart E. Eizenstat,

Under Secretary of State for Economic, Business and Agricultural Affairs.

[FR Doc. 98–22307 Filed 8–18–98; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF STATE

[Public Notice 2870]

Bureau of Economic and Business Affairs; National Interest Determination Concerning a Pipeline Operated on the Border of the United States at Neche, North Dakota by Lakehead Pipe LIne Company

Pursuant to the authority vested in me under Executive Order 11423 of August 16, 1968 as amended by Executive Order 12847 of May 17, 1993, and Department of State Delegation of Authority No. 118–1 of April 11, 1973, and subject to satisfaction of the requirements of sections 1(d) and 1(f) of the said Executive Order, I hereby determine that issuance of a permit to Lakehead Pipe Line Company, a Delaware limited partnership, to construct, connect, operate and maintain a pipeline for the transportation of crude oil and natural gas liquids across the international boundary between the United States and Canada near Neche, North Dakota would serve the national interest.

This determination shall become final fifteen days after the Secretaries of Defense, Treasury, Interior, Commerce, Transportation, the Attorney General, the Chairman of the Surface Transportation Board, and the Director of the Federal Emergency Management Agency has been notified of this proposed determination, unless the matter must be referred to the President for consideration and final decision pursuant to section 1(f) of said Executive Order.

Dated: July 23, 1998.

Stuart E. Eizenstat,

Under Secretary of State for Economic, Business and Agricultural Affairs.

[FR Doc. 98–22308 Filed 8–18–98; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF STATE

[Public Notice 2868]

Bureau of Oceans and International Environmental and Scientific Affairs; Certification Pursuant to Section 609 of Public Law 101–162

SUMMARY: On July 21, 1998, the Department of State certified, pursuant to Section 609 of Public Law 101–162 ("Section 609"), that that Venezuela and Nigeria have adopted programs governing the incidental capture of sea turtles in their commercial shrimp fisheries comparable to the program in effect in the United States. Previously, on May 1, 1998, the Department certified that 15 other nations have adopted programs to reduce the incidental capture of sea turtles in their shrimp fisheries comparable to the program in effect in the United States. The Department of State also certified on May 1, 1998, that the fishing environments in 24 countries do not pose a threat of the incidental taking of sea turtles protected under Section 609. Shrimp imports from any nation not certified were prohibited effective May 1, 1998 pursuant to Section 609.

EFFECTIVE DATE: August 19, 1998.

FOR FURTHER INFORMATION CONTACT: William Gibbons-Fly, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520–7818; telephone: (202) 647–3940.

SUPPLEMENTARY INFORMATION: Section 609 of Public Law 101–162 prohibits imports of certain categories of shrimp unless the President certifies to the Congress not later than May 1 of each year either: (1) that the harvesting nation has adopted a program governing the incidental capture of sea turtles in its commercial shrimp fishery comparable to the program in effect in the United States and has an incidental take rate comparable to that of the United States; or (2) that the fishing environment in the harvesting nation does not pose a threat of the incidental taking of sea turtles. The President has delegated the authority to make this certification to the Department of State. Revised State Department guidelines for

making the required certifications were published in the **Federal Register** on April 19, 1996 (61 FR 17342).

The Department did not previously certify Venezuela and Nigeria because the governments of those countries had not demonstrated that their respective sea turtle protection programs were comparable to that of the United States, or that their specific fishing environments did not pose a threat to sea turtles. Although both governments have adopted programs comparable to the U.S. program, requiring shrimp trawl vessels to use seat turtle excluder devices, initial evidence this year indicated that neither government was enforcing its program sufficiently to warrant certification. However, in both cases, more recent evidence demonstrates that each government has taken the necessary steps to improve enforcement of its program. Accordingly, the Department of State hereby certifies Venezuela and Nigeria pursuant to Section 609(b)(2)(A) and (B).

As with the other countries currently certified, the Department of State will remain in close contact with the governments of Venezuela and Nigeria in order to ensure that their shrimp harvesting methods do not threaten sea turtles.

Dated: August 10, 1998.

R. Tucker Scully,

Acting Deputy Assistant Secretary for Oceans and Space.

[FR Doc. 98–22306 Filed 8–18–98; 8:45 am]

BILLING CODE 4710–09–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by Pub. L. 104–13; Proposed Collection, Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed Collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR Section 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (WR 4Q), Chattanooga, Tennessee 37402–2801; (423) 751–2523. Comments should be sent to the Agency Clearance Officer no later than October 19, 1998.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission.

Title of Information Collection: Economic Assessment of Waterway Docks and Terminals in the Tennessee Valley and Parts of the Surrounding National Inland Waterway Network.

Frequency of Use: Occasional.

Type of Affected Public: Federal, State and Local Governments, and Private Industry.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 450.

Estimated Number of Annual Responses: 1700.

Estimated Total Annual Burden Hours: 3400 hours.

Estimated Average Burden Hours Per Response: 2 hours.

Need For and Use of Information: The information collection is necessary to assess the service capability of waterway docks and terminals located in the Tennessee Valley and surrounding States. The data will be used to help potential industrial clients with decisions regarding transportation information and the handling capabilities of waterway facilities located on various river segments. This is vital information for industry when deciding where the most economical location is for a new plant site or project. In addition the data collection surrounding the waterway terminals located on the Tennessee River is necessary for use in updating TVA's river performance indicator.

William S. Moore,

Senior Manager, Administrative Services.

[FR Doc. 98–22311 Filed 8–18–98; 8:45 am]

BILLING CODE 8120–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Solicitation of Public Comment Regarding U.S. Preparations for the World Trade Organization's Ministerial Meeting, Fourth Quarter 1999

SUMMARY: The Trade Policy Staff Committee (TPSC) is providing notice of the U.S. intention to develop proposals and positions concerning the agenda of the third Ministerial Conference of the World Trade Organization (WTO). The TWO General Council has been instructed to prepare recommendations regarding the launch of further trade negotiations and work in the WTO, which will be considered and approved by WTO Members meeting at their next Ministerial to be held in the United States during the fourth quarter of 1999. The TPSC invites public comment regarding the development of the agenda, scope, content and timetables for negotiations or further work in the WTO, including additional consultations with non-governmental stakeholders. The Administration seeks views on the broadcast possible range of issues for considerations, including possible subject matter and approaches to any new negotiations or future work in the WTO. The deadline for written comments is Friday, October 16, 1998.

The General Council's instructions are contained in WTO Ministerial Declarations WT/MIN(98)/DEC/1 and DEC/2 agreed on May 20, 1998, at the WTO's second ministerial meeting. In September 1998, the General Council will begin holding special sessions to prepare recommendations. Recommendations will be developed on the basis of consensus of WTO Members. The General Council is expected to review issues, at least initially, in the order presented in WT/MIN(98)/DEC/1, as well as to review the results of work carried out in accordance with WT/MIN(98)/DEC/2. This solicitation is intended to facilitate the Administration's participation in the General Council's consideration of issues, preparation of U.S. proposals and positions regarding eventual recommendations, and acceptance of such proposals by consensus of WTO Members.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments contact Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, (202) 395–3475. General inquiries should be made to the Office of WTO and Multilateral Affairs at (202) 395–6843; calls on individual subjects will be transferred within USTR as appropriate. Information about the WTO can be obtained via the Internet on www.ustr.gov, or the WTO website (www.wto.org). Attention is drawn, in particular, to the Ministerial Declarations (WT/Min(98)/DEC/1 and DEC/2 of May 20, 1998 regarding preparation of the WTO's forward agenda and electronic commerce) and the Ministerial Declaration resulting from the WTO's first ministerial meeting held in Singapore in December, 1996 (WT/Min(96)/DEC), which are available on the USTR and WTO websites. In addition, a detailed review of the WTO Agreements, the work of the various WTO committees and bodies and the WTO "built-in agenda" are contained in

the "1998 Trade Policy Agenda and 1997 Annual Report of the President on the Trade Agreements Program," also available on the USTR website. On May 26, 1998, the TPSC published a notice in the **Federal Register** requesting public comments with respect to the review of the WTO's Dispute Settlement Understanding (DSU).

SUPPLEMENTARY INFORMATION: On May 18–20, the World Trade Organization (WTO) held its second ministerial conference in Geneva, Switzerland, along with a commemoration of the 50th anniversary of the post-World War II multilateral trading system. President Clinton and 13 other heads of state or government addressed the gathering, and WTO Members accepted the U.S. invitation to host the third ministerial conference in late 1999. The general Ministerial Declaration, agreed on May 20, 1998, instructs the WTO's General Council to begin preparation for the launch of negotiations and consideration of the WTO's forward agenda for approval at its 1999 ministerial meeting. A second Declaration, also agreed on May 20, 1998, commits Members to not impose customs duties on electronic transmissions and calls for the establishment by the General Council of a work program in the WTO on the trade-related aspects of electronic commerce.

These processes will start officially at a special meeting of the General Council on September 24, 1998. By prior agreement, the post-1999 negotiating agenda will, at a minimum, encompass those broad-ranging and substantial area where existing WTO Agreements now call for further negotiations an deliberlization, such as in agriculture, services and intellectual property. However, without prejudice to the initiation of negotiations on the above topics already called for the WTO's "build-in agenda," the preparatory process will also examine whether other topics may be ripe for negotiations or further study. This is consistent with U.S. calls for flexibility and creativity in structuring the WTO's future work.[1]

Consideration will be given to various options for structuring the negotiations and work program, including timetables for any negotiations, as well as more effective means of engaging the wide range of non-governmental stakeholders in the preparation of the agenda and subsequent negotiations.

PUBLIC COMMENTS REQUESTED: To prepare for U.S. participation in the General Council meetings, the TPSC invites written comments on U.S. objectives with respect to the various categories of issues identified in the two Declarations mentioned above, including the agenda, scope, content and timetables for work and negotiations. Comments submitted should clearly indicate the category or categories of issues outlined in the submission. USTR will seek additional public comment later in the year on details of certain agenda items (e.g., market access and agriculture, involving product-specific concerns). For purposes of this notice, comments should address the following issue areas:

I. Implementation of Existing Agreements and Work Programs

Comments are requested with respect to experience in implementation, including where the Agreements have been successful in addressing U.S. interests, and in areas where changes would facilitate better enforcement and adherence to rules and commitments, or otherwise advance U.S. policy objectives. Particular attention is drawn to the various rule encompassed in the GATT 1994 (all GATT Articles), the Marrakesh Protocol to the General Agreement, the Agreements on Agriculture, Sanitary and Phytosanitary Measures, Textiles and Clothing, Technical Barriers to Trade, Trade-Related Investment Measures (TRIMS), Antidumping Practices, Customs Valuation, Preshipment Inspection, Import Licensing, Subsidies and Countervailing Measures, Agreement on Safeguards, General Agreement on Trade in Services, Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Understanding on the Rules and Procedures Governing the Settlement of Disputes, Trade Policy Review Mechanism and Ministerial Decisions and Declarations, including those undertaken at Marrakesh.

II. Mandated Negotiations

Comments are requested regarding U.S. priorities for the Agreements concluded as part of the Uruguay Round that contain express agreement to conduct further negotiations. The Agreement on Agriculture contains provisions for further negotiations and identifies issues for consideration, including market access, domestic support and export subsidies. The General Agreement on Trade in Services provides for further negotiations on specific commitments to liberalize trade in services. The Agreement on Trade-Related Intellectual Property Rights (TRIPS) provides for negotiations in certain areas. For all of these mandated negotiations, particular attention should be given to the range of additional issues not mentioned in the Agreements that should be considered, and the modalities for conducting further negotiations.

III. Reviews of Existing Agreements and Work Programs

Comments are requested regarding U.S. priorities pursuant to the Agreements from the Uruguay Round that specifically provide for reviews and other work as part of their individual work programs: Agriculture, Antidumping, Customs Valuation, Dispute Settlement Understanding, Import Licensing, Preshipment Inspection, Rules of Origin, Trade and the Environment, Sanitary and Phytosanitary Measures, Safeguards, Subsidies and Countervailing Measures, Technical Barriers to Trade, Textiles and Clothing, Trade Policy Review Mechanism, Trade-Related Aspects of Intellectual Property Rights (TRIPS), Trade-Related Investment Measures (TRIMS), and the General Agreement on Trade in Services. The Dispute Settlement Understanding (DSU) and the Agreement on Subsidies and Countervailing Measures, for example, contain review provisions as a first step in taking further decisions with respect to the Agreements. Particular attention should be given to the improvements, if any, that might be sought as a result of the reviews or conclusions of the work programs.

IV. Singapore Ministerial Work Program

Comments are requested on what, if any, next steps should be taken with respect to the issues raised in the context of the work of the working groups established on trade and investment, trade and competition policy, transparency in government procurement and the exploratory work undertaken by the WTO regarding trade facilitation. Particularly relevant are next steps in the above-mentioned areas, including the nature and scope of any

[1] On the future agenda, pursuant to the Declaration, the Council is to make* * * "(a) recommendations concerning: (i) the issues, including those brought forward by Members, relating to implementation of existing agreements and decisions; (ii) the negotiations already mandated at Marrakesh, to ensure that such negotiations begin on schedule; (iii) future work already provided for under other existing agreements and decisions taken at Marrakesh; (b) recommendations concerning other possible future work on the basis of the work programme initiated at Singapore; (c) recommendations on the follow-up to the High-Level Meeting on Least-Developed Countries; (d) recommendations arising from consideration of other matters proposed and agreed to by Members concerning their multilateral trade relations* * *."

future work. In the case of procurement, these has already been agreement to identify the elements for a multilateral transparency agreement. With respect to the work on investment and competition, attention is drawn to the fact the both working groups are to complete reports to the General Council before the end of 1998.

V. Integration of Least-Developed Countries

Comments are requested on ways to facilitate the participation of least developed countries in the WTO, taking into account work that has been conducted to integrate the technical assistance provided by various international organizations, including the WTO. Areas for comment could include provision of additional capacity building and market access opportunities, and the possible graduation of countries from preferences.

VI. Other Trade Matters of Interest

Consistent with the Ministerial Declaration, comments are also solicited with respect to the range of issues where the United States might choose to seek, or be asked to join a consensus, to add additional items to the WTO's post-1999 agenda for negotiations or further work. The Administration is interested in considering the broadest range of issues as the agenda for the next century is developed. The issues identified thus far include:

(a) *Industrial market access:* comments are requested with respect to the overall desirability of conducting further tariff negotiations and possible modalities for such negotiations (e.g., pursuit of additional sectoral initiatives to reduce or harmonize duties, the application of formula or request/offer approaches and related issues). It should be noted that further negotiations on market access are already envisioned for products covered by the Agricultural Agreement.

(b) *Consultations with Non-Governmental Stakeholders:* comments are requested as to possible approaches that the WTO could undertake. In his speech to the WTO, President Clinton challenged the WTO to consider improving the opportunities for the public to participate in the development of the WTO's forward agenda, and to develop a more regular mechanism for consultation. The WTO has begun to take steps to broaden the interaction with non-governmental organizations in this regard, including the dissemination of information received from such organizations to the WTO's membership. Similarly, a number of steps have been taken by the United States to promote greater transparency in the operation of the WTO that would be of benefit to stakeholders (e.g., with respect to making WTO documents more available to the public).

(c) *Relationship Between Trade and Labor:* comments are requested regarding various approaches to be considered in developing a consensus for further consideration of this issue on the WTO's forward agenda. WTO Ministers at Singapore renewed their commitment to the observance of internationally recognized core labor standards, noting that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of core labor standards. At the same time, they recognized the important role of the International Labor Organization (ILO) in this area and rejected the use of labor standards for protectionist purposes, and agreed that the comparative advantages of countries, particularly low-wage developing countries, must not be put into question. Attention is drawn to Section 131 of the Uruguay Round Agreements Act, addressing U.S. activity in the WTO in this area.

(d) *Institutional Issues:* comments are invited on the general institutional improvements that the United States should be contemplating for the WTO, particularly as its membership expands to nearly 160 early in the next century. Achieving greater transparency in the WTO's operation has already been identified as a priority issue for the Administration. The United States has consistently sought to expand the range of WTO documents available to the public, and is continuing to promote broader derestriction of documents in a more timely fashion, including in the area of access to dispute settlement panel reports. Similarly, as the membership expands to include Members with less experience operating as market economies, new challenges arise to the WTO's system of operations and its decision-making process. As a result of the Uruguay Round, the WTO entered into cooperation agreements with the International Monetary Fund (IMF) and the World Bank to ensure greater coherence in international economic policy; further cooperation may be desirable.

VII. Electronic Commerce

Consistent with the Declaration issued at the May 1998 WTO Ministerial Conference, comments are also solicited with respect to the commitment by WTO Members not to impose customs duties on electronic commerce and agreement to establish a work program for further consideration of the relationship between trade and electronic commerce. The initial work program will be put in place by the General Council's special session in September 1998. The United States has proposed that the work program require the Councils on Goods, Services, and the Trade-Related Aspects of Intellectual Property and the Committee on Trade and Development, and request the Committee on Government Procurement, to undertake work on electronic commerce. (The U.S. proposal is available in the "What's New" section of USTR's website, "www.ustr.gov.")

Submission of Written Comments: Those persons wishing to submit written comments should provide twenty (20) copies (in English) no later than October 16, 1998, to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, Room 501, 600 17th Street Northwest, Washington, DC., 20508. Comments should state clearly the position taken and should describe the specific information supporting that information.

It the submission contains business confidential information, twenty copies of a confidential version, and twenty copies of a public version that does not contain confidential information, must be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, any submissions containing business confidential information must be clearly marked "Confidential" at the top and bottom of the cover page (or letter) and each succeeding page of the submission. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, "public version" or "non-confidential."

Written comments submitted in connection with this request, except for information granted "business confidential" status pursuant to 15 CFR 2003.6, will be available for public inspection in the USTR Reading Room, Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC. An appointment to review the file may be made by calling Brenda Webb at (202) 395–6186. The Reading Room is open to the public from 9:30 a.m. to 12 noon, and from 1 p.m. to 4 p.m. Monday through Friday.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 98–22279 Filed 8–18–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending August 7, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–4279.
Date Filed: August 4, 1998.
Parties: Members of the International Air Transport Association.
Subject: COMP Telex 024f/033f—Papua New Guinea, Local Currency Fare/Rate Changes, Intended effective date: August 25, 1998.

Docket Number: OST–98–4287.
Date Filed: August 6, 1998.
Parties: Members of the International Air Transport Association.
Subject: PTC 12 CAN–EUR 0031 dated August 4, 1998, Canada-Europe Expedited Resos 076jj(rl) & 078c (r2), Intended effective date: September 1, 1998.

Dorothy W. Walker,
Federal Register Liaison.

[FR Doc. 98–22284 Filed 8–18–98; 8:45 am]
BILLING CODE 4910–62–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending August 7, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–98–4269.
Date Filed: August 3, 1998.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: August 31, 1998.
Description: Appication of Asiana Airlines pursuant to 49 U.S.C. 41301 and Subpart Q, applies for an amendment to its foreign air carrier permit to engage in foreign air transportation service from points behind the Republic of Korea via the Republic of Korea and intermediate points to a point in the United States and beyond as provided in the 1998 Air Transport Agreement between the Republic of Korea and the United States and charter foreign air transportation pursuant to the Bilateral Agreement.

Docket Number: OST–98–4288.
Date Filed: August 6, 1998.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: September 3, 1998.
Description: Appication of Continental Airlines, Inc. pursuant 49 U.S.C. 41102, 41108 and Subpart Q, requests a certificate of public convenience and necessity authorizing it to conduct foreign air transportation of persons, property and mail between points in the United States, on the one hand, and Johannesburg, South Africa, on the other hand; and (2) the additional U.S. carrier designation for U.S.-South Africa third-country code-share services which becomes effective on November 1, 1998. Continental will use the designation for U.S.-South Africa code-share service with Air France.

Docket Number: OST–98–4290.
Date Filed: August 7, 1998.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope. September 4, 1998.
Description: Application of Russia Airlines aka Rossiya State Transport Company pursuant to 49 U.S.C. Section 41302 and Subpart Q, requests an initial foreign air carrier permit to provide foreign air transportation of persons, property and mail between points in the Russia Federation and points in the United States.

Docket Number: OST–98–4291.
Date Filed: August 7, 1998.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: September 4, 1998.
Description: Application of Aero Continente, S.A. pursuant to 49 U.S.C. 41305 and Subpart Q, applies for a foreign air carrier permit authorizing it to engage in scheduled foreign air transportation of passengers, property and mail between Lima, Peru and Miami, Florida, and in on and off route charter services as may be authorized pursuant to Part 212 of the Department's Regulations.

Dorothy W. Walker,
Federal Register Liaison.

[FR Doc. 98–22283 Filed 8–18–98; 8:45 am]
BILLING CODE 4910–62–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 1998–4327]

Agency Information Collection Activities Under OMB Review

AGENCY: Coast Guard, DOT.
ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to request the approval of the Office of Management and Budget (OMB) of the renewal of ten Information Collection Requests (ICR). These ICR's include the: 1. Claims Under The Oil Pollution Act of 1990; 2. State Access to the Oil Spill Liability Trust Fund For Removal Costs Under the Oil Pollution Act of 1990; 3. Official Logbook; 4. Security Zones, Regulated Navigation Areas, and Safety Zones; 5. Advance Notice and Adequacy Certification for Reception Facilities; 6. Commercial Fishing Vessel Regulations; 7. Application for a permit to transport municipal or commercial waste; 8. 33 CFR 140.15 Equivalent and Approved Equipment; 9. Marine Portable Tanks (MPT's); Alteration Non-specification Portable Tanks; Approval; and 10. Plan Approval and Records For Vessels Carrying Oil in Bulk. Before submitting the ICR's to OMB, the Coast Guard is asking for comments on the collections described below.

DATES: Comments must reach the Coast Guard on or before October 19, 1998.

ADDRESSES: You may mail comments to the Docket Management Facility, (USCG–1998–), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this document. Comments will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

Copies of the complete Information Collection Request are available through this docket on the Internet at http://dms.dot.gov and also from Commandant (G–SII–2), U.S. Coast Guard

Headquarters, room 6106, (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: For questions on this document, contact Barbara Davis, Office of Information Management, 202–267–2326. For questions on this docket, contact Pat Chesley, Coast Guard Dockets Team Leader, or Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–9330.

Request for Comments

The Coast Guard encourages interested persons to submit written comments. Persons submitting comments should include their names and addresses, identify this document (USCG–1998–) and the specific Information Collection Request (ICR) to which each comment applies, and give the reason(s) for each comment. Please submit all comments and attachments in a unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comment should enclose stamped, self-addressed postcards or envelopes.

Information Collection Requests

1. *Title:* Claims Under the Oil Pollution Act of 1990.

OMB Control Number: 2115–0596.

Summary: The information collected will be used to determine if claims submitted to the Oil Spill Liability Trust Fund are compensable and where compensable, ensure that the correct amount of reimbursement for damages are made from the Fund.

Need: Coast Guard will ensure that fair and reasonable payments are made to claimants and will protect the interest of the Federal Government. Claims that are submitted must be fully substantiated and the procedures for advertising and presentation of claims must be followed as directed by OPA 90 (33 U.S.C. 2713 and 2714).

Respondents: Claimants and responsible parties of oil spills.

Frequency: Once.

Burden Estimate: The estimated burden is 10,163 hours annually.

2. *Title:* State Access To The Oil Spill Liability Trust Fund For Removal Costs Under The Oil Pollution Act of 1990.

OMB Control Number: 2115–0597.

Summary: The information provided by the State to the Coast Guard National Pollution Funds Center will be used to determine whether expenditures submitted by the state to the Fund are compensable and, where compensable, ensure that the correct amount of funding is made from the Fund.

Need: Under the authority of 33 U.S.C. 2712, Coast Guard has promulgated regulations detailing the manner in which to obligate the Oil Spill Liability Trust Fund (or the Fund). In order to ensure fair and reasonable payments to States and to protect the interests of the Federal Government, all expenditures submitted by a state must be fully substantiated and the procedures for presentation of those expenditures to the Fund must be followed.

Respondents: State Governments.

Frequency: On occasion.

Burden: The estimated burden in 2 hours annually.

3. *Title:* Official Logbook.

OMB Control Number: 2115–0071.

Summary: The information collected from the official logbook will be used by the: (a) Coast Guard inspectors to determine compliance with various laws and to examine incidents of shipboard misconduct, and (b) various federal agency maritime casualty investigators of Federal and Civil courts in instances of injury or litigation between a seaman and his shipping company. The logbook entries are made by the master of the vessel and signed and witnessed by the chief mate or another seaman.

Need: The official logbook is required by both statute and regulation (46 CFR 35.07). The official logbook provides the vehicle through which many Coast Guard recordkeeping requirements are maintained. Of particular interest to the Coast Guard are the records kept of all safety related drills and inspections.

Respondents: U.S. Merchant Mariners and Shipping Companies.

Frequency: On occasion.

Burden: The estimated burden is 1,750 hours annually.

4. *Title:* Security Zones, Regulated Navigation Areas, and Safety Zones.

OMB Control Number: 2115–0076.

Summary: The information for this report is only collected when a security zone, regulated navigation area or safety zone is requested. The information collected will be used to assess the need to establish a security zone, safety zone or regulated navigation area.

Need: 33 CFR, Parts 6 and 165 gives the Coast Guard Captain of the Port (COTP), the authority to designate security zones in the U.S. for a period of time he deems necessary to prevent damage or injury. 33 U.S.C. 1223 authorized the Coast Guard to prescribe regulations to control vessel traffic in areas which are determined to be hazardous due to conditions of reduced visibility, adverse weather or vessel congestion. 33 U.S.C. 1225 authorized the Coast Guard to establish regulations to allow the designation of safety zones where access is limited to authorized persons, vehicles, or vessels to protect the public from hazardous situations.

Respondents: States, Local Government Agencies, Vessels and facilities.

Frequency: On occasion.

Burden: The estimated burden is 394 hours annually.

5. *Title:* Advance Notice and Adequacy Certification for Reception Facilities.

OMB Control Number: 2115–0543. (2115–0554 Advance Notice of Need for Reception Facilities, is combined into this collection).

Summary: Persons in charge of ports and terminals will submit information necessary for the Coast Guard to determine whether their reception facility is adequate. Ships in need of a reception facility will be required to give a 24 hour notice.

Need: 33 U.S.C. 1905 gives Coast Guard the authority to certify the adequacy of reception facilities at ports and terminals. Reception facilities are needed to receive wastes which ships may not discharge at sea. Under these regulations, there are discharge limitations for oil and oily wastes, noxious liquid substances, plastics and other garbage.

Respondents: Reception Facility Owners and Operators of Ports and Terminals.

Frequency: On occasion.

Burden: The burden estimate is 1,634 hours annually.

6. *Title:* Commerical Fishing Industry Vessel Safety Regulations.

OMB Control Number: 2115–0582.

Summary: The reporting requirements for this information collection are intended to improve safety on board commercial fishing industry vessels. The requirements apply to all commercial fishing vessels and seamen on such vessels. The information collections require: (a) the posting of a placard to inform individuals on board of their duties, (b) that new fish processing vessels meet all classification and survey requirements of the American Bureau of Shipping, (c) that stability information for each vessel in detail be submitted, (d) marking of lifesaving equipment, (e) that letters of acceptance for instructors and the course curriculum being proposed to ensure that the instructors and the course being taught meet minimum standards and (f) that letters approving exemptions are being proposed to ensure that the master and individual in

charge knew that the vessel is exempted from particular regulations.

Need: Under the authority of 46 U.S.C. 6104, the U.S. Coast Guard has developed regulations in which to reduce the unacceptably high level of fatalities and accidents in the commercial fishing industry. The regulations will also act as means of verifying compliance and to enhance safe operation of fishing vessels.

Respondents: Underwriters of Insurance Co., Owners, Agents and Individuals-in-charge of commercial fishing vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden is 79,670 hours annually.

7. Application For A Permit To Transport Municipal or Commercial Waste.

OMB Control Number: 2115–0579.

Summary: The information collected under this report provides the basis for issuing or denying a permit for the transportation of municipal or commercial waste in the coastal waters of the United States.

Need: In accordance with 33 U.S.C. 2601, the U.S. Coast Guard issued regulations requiring owners or operations of vessels to apply for a permit to transport municipal or commercial waste in the United States and to display an identification number or other markings on their vessels.

Respondents: Owners or Operators of Municipal and Commercial Vessels transporting waste.

Frequency: Every three years.

Burden Estimate: The estimated burden is 376 hours annually.

8. *Title:* 33 CFR 140.15 Equivalents and Approved Equipment.

OMB Control Number: 2115–0553.

Summary: This collection of information is necessary to implement the Best Available and Safest Technology concept of Section 21 of the Outer Continental Shelf (OCS) Act.

Need: The information is used by the Coast Guard for comparison with existing standards or procedures to ensure that at least an equivalent level of safety is maintained as provided for in the regulations.

Respondents: Owner and/or operators of Outer Continental Shelf (OCS) facilities.

Frequency: On occasion.

Burden Estimate: The estimated hour burden is 100 hours annually.

9. *Title:* Marine Portable Tanks (MPT's): Alteration Non-Specification Portable Tanks; Approval.

OMB Control Number: 2115–0585.

Summary: The information collected under 46 CFR subpart 98.33–1 specifies that the Commandant of the Coast Guard may approve the design of portable tanks for the transport of certain Grade E combustible liquids and other low hazard materials when the tanks does not meet a DOT design standard.

Need: Approval of the Coast Guard for alterations to MPT's ensures that the altered tank retains the level of safety to which it was originally designed. In addition, rules that allow the approval of non-specification portable tanks assure that innovation and new designs are not frustrated by the regulation.

Respondents: Owners of MPT's.

Frequency: On occasion.

Burden Estimate: The estimated burden is 53 hours annually.

10. *Title:* Plan Approval and Records For Vessels Carrying Oil In Bulk.

OMB Control Number: 2115–0503 (2115–0520—Plan Approval and Records for Existing Tank Vessels of 20,000 to 40,000 Deadweight Tons Carrying Oil in Bulk and 2115–0106—Plan Approval and Records for Foreign Vessels Carrying Oil in Bulk, are combined into this collection.

Summary: Title 46 U.S.C. 3703 provides the Coast Guard with general authority to regulate the design, construction, alteration, repair, maintenance, operation and equipping of vessels carrying oil in bulk.

Need: The purpose of the collection is to provide sufficient information to the Coast Guard to determine that a vessel complies with the minimum mandated standards as promulgated by regulations.

Respondents: Owners and operators of vessels carrying oil in bulk.

Frequency: On occasion.

Burden Estimate: The estimated burden is 315 hours annually.

Dated: August 12, 1998.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Director of Information and Technology.

[FR Doc. 98–22262 Filed 8–18–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting, Working Group on Reserve Duty/Rest Requirements

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Working Group on Flight Crewmember Reserve Duty/Rest Requirements under the Federal Aviation Administration Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on September 1 and 2, 1998, beginning at 9:00 a.m.

ADDRESSES: The meeting will be held at Helicopter Association International, 1635 Prince Street, Alexandria, Virginia; telephone: (703) 683–4646.

FOR FURTHER INFORMATION CONTACT: Linda Williams, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267–9685.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee, Working Group on Flight Crewmember Reserve Duty/Rest Requirements, to be held on September 1 and 2, 1998.

The Working Group on Flight Crewmember Reserve Duty/Rest Requirements is made up of 16 members of the industry with an interest in the regulations regarding flight crewmember flight/duty limitations and rest requirements: pilot associations and unions, air carriers and air carrier associations, all-cargo operators, a helicopter association, a business aircraft association, and associations representing air taxi and on-demand operations.

The agenda for this meeting will include a briefing on the Canadian regulations on reserve duty/rest requirements and a review of the draft concept as developed at the initial meeting of the Working Group on August 11 and 12. Attendance is open to the interested public but may be limited by the space available. Members of the public are reminded that, in accordance with the protocols, only members of the working group have the right to sit at the negotiating table and to speak during the negotiations except that any member of the Working Group may call upon a member of the public to clarify or elaborate on a particular point. In addition, any member of the public may present an oral statement for consideration of the Working Group, as time permits. Written statements may also be presented for consideration by the Working Group. The final report of the Working Group will be made available to the public when it is presented to the ARAC on Air Carrier Operations.

Dates and locations of future meetings of the Working Group may be

announced at the meeting on September 1 and 2.

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 5 calendar days before the meeting.

Issued in Washington, DC, on August 13, 1998.

Kent Stephens,

Federal Aviation Administration, Representative to the Reserve Duty/Rest Requirements Working Group.

[FR Doc. 98–22258 Filed 8–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Air Carrier and General Aviation Maintenance Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public of a meeting of the FAA Aviation Rulemaking Advisory Committee to discuss Air Carrier and General Aviation Maintenance Issues.

DATES: The meeting will be held on September 10, 1998, from 9:00 a.m. to 1:00 p.m. Arrange for presentations by September 3, 1998.

ADDRESSES: The meeting will be held at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Carolina E. Forrester, Federal Aviation Administration, Office of Rulemaking (ARM–206), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9690; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on September 10, 1998, from 9:00 a.m. to 1:00 p.m. at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314. The agenda will include:

1. Opening remarks;
2. Committee Administration;
3. Status report from the General Aviation Maintenance Working Group;
4. Status report from the Clarification of Major/Minor Repairs or Alterations Working Group;
5. A discussion of future meeting dates, locations, activities, and plans.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by September 3, 1998, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies tot he Executive Director, or by bringing the copies to the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTRACT.**

Issued in Washington, DC, on August 12, 1998.

Ava L. Mims,

Assistance Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 98–22259 Filed 8–18–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before September 3, 1998.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW, Washington, DC.

Application number	Docket number	Applicant	Modification of exemption
8602–M	.....	MVE, Inc. New Prague, MN (See Footnote 1)	8602
8650–M	.....	Ethyl Corporation, Richmond, VA (See Footnote 2)	8650
11054–M	.....	Welker Engineering Company, Sugar Land, TX (See Footnote 3)	11054
11294–M	.....	University of Vermont Environmental Safety Fac., Burlington, VT (See Footnote 4).	11294
12062–M	RSPA–1998–4142	Vulcan Chemicals, Birmingham, AL (See Footnote 5)	12062
12113–M	RSPA–1998–3790	Bemis Company, Inc., Omaha, NE (See Footnote 6)	12113

(1) To modify the exemption to provide for alternative testing criteria to be consistent with cryogenic MC–338 cargo tanks.

(2) To modify the exemption to provide for Class 3 as an additional class of material for transportation in a non-DOT specification steel portable tank.

(3) To modify the exemption to waive the requirement for inspection by an independent inspection agency by authorizing use of a competent manufacturer's inspector.

(4) To modify the exemption to allow for a shortened buffer zone for the transportation of certain lab pack quantities of hazardous materials with other materials in lab packs, with partial relief from certain segregation requirements.
(5) To reissue the exemption originally issued on an emergency basis to continue to use a non-DOT specification tank to transport a 6.1 material.
(6) To reissue the exemption originally issued on an emergency basis for the transportation in commerce of bags (UN5M2) which were not marked to correct size specifications.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on August 13, 1998.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 98–22263 Filed 8–18–98; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1–Motor vehicle, 2–Rail freight, 3–Cargo vessel, 4–Cargo aircraft only, 5–Passenger-carrying aircraft.

DATES: Comments must be received on or before September 18, 1998.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW. Washington, DC 20590.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on August 13, 1998.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

NEW EXEMPTIONS

Application number	Docket number	Applicant	Regulation(s) affected	Nature of exemption thereof
12114–N	RSPA–1998–4244.	GPU Nuclear, Inc. Middletown, PA.	49 CFR 173.403, 173.427.	To authorize transportation in commerce of a nuclear steam generator and pressurizer. (mode 2)
12115–N	RSPA–1998–4266.	GPU Nuclear, Inc. Middletown, PA.	49 CFR 173.403, 173.427.	To authorize transportation in commerce of a nuclear reactor vessel. (mode 2)
12116–N	RSPA–1998–4206.	Proserv (North Sea) Ltd. Aberdeen, UK.	49 CFR 178.36	To authorize transportation in commerce of certain flammable gases, Division 2.1, in non-DOT specification cylinder used for oil well sampling. (modes 1, 2, 3, 4)
12117–N	RSPA–1998–4319.	Phibro-Tech, Inc. Joliet, IL	49 CFR 174.67(i)(j) & (k).	To authorize rail cars containing chlorine, Division 2.3, to remain connected during unloading operation without the physical presence of an unloader. (mode 2)
12118–N	RSPA–1998–4210.	Taylor-Wharton Theodore, AL	49 CFR 177.834 (i) (2), 178.316(c) (1) & (2).	To authorize the manufacture, marking, sale and use of DOT Specification 4L welded insulated cylinders and assemblies mounted to handling skid for use in transporting Division 2.2 material. (mode 1)
12120–N	RSPA–1998–4312.	The Sherwin-Williams Co. Cleveland, OH.	49 CFR 172	To authorize transportation in commerce of Class 3 and Division 4.1 hazardous materials in DOT-specification and non-DOT specification drums for intra-plant shipments as essentially unregulated. (mode 1)
12121–N	RSPA–1998–4310.	Lufthansa Cargo D–60546 Frankfurt/Main, GR.	49 CFR 175.75(a)(2)(i).	To authorize transportation in commerce of hazardous materials classed in Division 2.2 in quantities that exceed the weight limitation permitted aboard passenger-carrying aircraft. (mode 1)
12122–N	RSPA–1998–4313.	Atlantic Research Corp. Knoxville, TN.	49 CFR 173.301(h) 173.302, 173.306(d)(3).	To authorize the manufacture, mark, sale and use of non-DOT specification cylinders for use as components of automotive vehicle safety systems. (modes 1, 2, 3, 4, 5)
12123–N	RSPA–1998–4314.	Eastman Chemical Co. Kingsport, TN.	49 CFR 172. 203(a), 172.302(c), 174.67(i).	To authorize railcars to remain connected during unloading of liquid hazardous materials not under pressure, Classes 3, 6, 8, and 9 without the physical presence of an unloader and without required marking on shipping paper. (mode 2)

NEW EXEMPTIONS—Continued

Application number	Docket number	Applicant	Regulation(s) affected	Nature of exemption thereof
12124–N	RSPA–1998–4309.	Albermarle Corp. Baton Rouge, LA.	49 CFR 173.242, 178.245–1(c), 178.245–1(d)(4).	To authorize transportation in commerce of a non-DOT specification portable tank comparable to a specification DOT 51 portable tank equipped with bottom outlet and no internal shutoff valve for use in transporting various hazardous materials classed in Divisions 4.2 and 4.3. (modes 1, 3)
12125–N	RSPA–1998–4311.	Mayo Foundation Rochester, MN.	49 CFR 173.197, 173.24, 173.24a.	To authorize transportation in commerce of a bagged regulated medical waste that meet FDA guidelines overpackaged in molded plastic leak-proof plastic carts. (mode 1)
12126–N	RSPA–1998–4307.	LaRoche Industries Inc. Atlanta, GA.	49 CFR 179.13	To authorize transportation in commerce of rail tank cars containing Class 8 hazardous materials that exceed the quantity limitation presently authorized. (mode 2)

[FR Doc. 98–22264 Filed 8–18–98; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33641]

Gulf & Ohio Railways Holding Co., Inc.—Continuance in Control Exemption—Laurinburg & Southern Railroad Co., Inc.

Gulf & Ohio Railways Holding Co., Inc. (GORH), a noncarrier, has filed a notice of exemption to continue in control of Laurinburg & Southern Railroad Co., Inc. (L&S), upon L&S becoming a Class III railroad.

The transaction was scheduled to be consummated on or shortly before July 30, 1998.

This proceeding is related to STB Finance Docket No. 33640, *Laurinburg & Southern Railroad Co., Inc.—Acquisition and Operation Exemption—Line of L&S Holding Company*, wherein L&S seeks to acquire and operate a rail line from L&S Holding Company.

In addition to L&S, GORH controls nine existing Class III railroads: Albany Bridge Company, operating in Georgia; Georgia & Florida Railroad Co., Inc., operating in Georgia and Florida; Gulf & Ohio Railways, Inc., operating in Mississippi and Georgia; Knoxville & Holston River Railroad Co., Inc., operating in Tennessee; Lexington & Ohio Railroad Co., operating in Kentucky; Live Oak, Perry & Georgia Railroad Company, Inc., operating in Georgia and Florida; Piedmont & Atlantic Railroad, Inc., operating in North Carolina; Rocky Mount & Western Railroad Co., Inc., operating in North Carolina; and Wiregrass Central Railroad Company, Inc., operating in Alabama.[1]

Applicant states that: (i) The railroads do not connect with each other or any railroad in their corporate family; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the ten railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33641 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Mark H. Sidman, Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue,, N.W., Suite 800, Washington, DC 20005–4797.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: August 12, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–22317 Filed 8–18–98; 8:45 am]
BILLING CODE 4915–00–P

[1] H. Peter Claussen and Linda C. Claussen, who wholly own GORH also own and control H&S Railroad, Inc., which operates in Alabama.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33640]

Laurinburg & Southern Railroad Co., Inc.—Acquisition and Operation Exemption—Line of L&S Holding Company

Laurinburg & Southern Railroad Co., Inc. (L&S), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire from L&S Holding Company (LSHC) and to operate approximately 28.2 miles of rail line in North Carolina extending from the end of the line near Johns to the interchange with Aberdeen and Rockfish Railroad Co. near RaeFord. The notice states that the rail assets of LSHC may be conveyed to an affiliate of LSHC and then reconveyed from the affiliate to L&S, in contemporaneous transactions, and that because of the contemporaneous nature of the transactions, the common carrier obligation will transfer immediately from LSHC to L&S.[1]

[1] L&S certifies that its projected revenues will not exceed those that would qualify it as a Class III rail carrier and its revenues are not projected to exceed $5 million.

The transaction was expected to be consummated on or shortly after July 30, 1998.

This proceeding is related to *Gulf & Ohio Railways Holding Co., Inc.—Continuance in Control Exemption—Laurinburg & Southern Railroad Co., Inc.*, STB Finance Docket No. 33641, wherein Gulf & Ohio Railways Holding Co., Inc., a noncarrier, has concurrently filed a notice of exemption to continue in control of L&S and nine other rail carriers upon L&S becoming a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33640, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Mark H. Sidman, Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, NW., Suite 800, Washington, DC 20005–4797.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: August 12, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–22316 Filed 8–18–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–23: OTS No. 3874]

Iberville Building and Loan Association, Plaquemine, Louisiana, Approval of Conversion Application

Notice is hereby given that on August 5, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the Application of The Iberville Building and Loan Association, Plaquemine, Louisiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039–2010.

Dated: August 13, 1998.

By the Office of Thrift Supervision,

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 98–22232 Filed 8–18–98; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–24: OTS Nos. H–2248 and 05106]

Pulaski Bancshares, M.H.C., St. Louis, Missouri; Approval of Conversion Application

Notice is hereby given that on August 11, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Pulaski Bancshares, M.H.C., St. Louis, Missouri, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039–2010.

Dated: August 13, 1998.

By the Office of Thrift Supervision,

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 98–22233 Filed 8–18–98; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES INFORMATION AGENCY

Performance Review Board Members

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: This Notice is issued to revise the membership of the United States Information Agency (USIA) Performance Review Board.

DATES: Effective: August 19, 1998.

FOR FURTHER INFORMATION CONTACT:

Ms. Kathleen Kelly (Co-Executive Secretary), Supervisory Personnel Management Specialist, Office of Personnel, International Broadcasting Bureau, U.S. Information Agency, 330 Independence Avenue, SW., Washington, DC 20547, Tel.: (202) 618–2102.

or

Ms. Patricia H. Noble (Co-Executive Secretary), Chief, Civil Service Division, Office of Human Resources, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547, Tel.: (202) 619–4617,

SUPPLEMENTARY INFORMATION: In accordance with Section 4314(c) (1) through (5) of the Civil Service Reform Act of 1978 (Pub. L. 95–454), the following list supersedes the U.S. Information Agency Notice (62 FR 795, January 6, 1997).

Chairperson: Associate Director for Management Henry Howard, Jr. (Presidential Appointee).

Deputy Chairperson: Director, International Broadcasting Bureau (IBB). Kevin Klose (Non-Career SES).

Career SES Members and Alternates:

Hattie Baldwin, Director, Office of Civil Rights

Eileen Binns, Director, Office of Administration

Dr. Rolando E. Bonachea, Deputy Director, Office of Cuba Broadcasting

Janice H. Brambilla, Director, Office of Human Resources

Daniel S. Campbell, Director, Office of Technology

Brian T. Conniff, Director of Evaluations and Analysis, Broadcasting Board of Governors

Alfred Davidson, Deputy of Network Operations, Office of Engineering, IBB.

Bernard C. Dowling, Director, Declassification Unit, Office of the General Counsel

James Hulen, Strategic Planning Director, Office of Budget and Planning, IBB.

Donald M. Jacques, Jr., Chief Negotiator, IBB.

Robert E. Kamosa, Director for Spectrum Management, IBB.

Lisa A. Keathley, Chief, Worldnet Production Directorate, IBB.

Earl Klitenci, Director, Office of Business Development, IBB.

John Lennon, Deputy Director, Office of Worldnet TV and Film Service, IBB.

John Lindburg, Legal Counsel, Broadcasting Board of Governors

Ronald Linz, Deputy, Systems Engineering Directorate, IBB.

Thomas Morgan, Director, Office of Broadcasting Operations, IBB.

Steven C. Munson, Director, Office of Policy, IBB.

Jean Peelen, Chief of Staff, Office of the Director, IBB.

Rick Ruth, Deputy Chief of Staff, Office of the Director

Judith S. Siegel, Director Office of Thematic Programs, Bureau of Information

Stanley Silverman, Director, Office of the Comptroller
R. Wallace Stuart, Deputy General Counsel
James D. Whitten, Executive Director, Bureau of Educational and Cultural Affairs
Myrna R. Whitworth, Director, Office of Affiliate Relations and Media Training, IBB.
George R. Woodard, Director, Office of Engineering and Technical Operations, IBB.

This supersedes the previous U.S. Information Agency Notice (62 FR 795, January 6, 1997)

Henry Howard, Jr.,

Assoicate Director for Management, U.S. Information Agency.

[FR Doc. 98–22297 Filed 8–18–98; 8:45 am]

BILLING CODE 8230–01–M

Federal Register

Wednesday
August 19, 1998

Part II

Environmental Protection Agency

40 CFR Parts 141 and 142
National Primary Drinking Water Regulation: Consumer Confidence Reports; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL–6145–3]

RIN 2040–AC 99

National Primary Drinking Water Regulations: Consumer Confidence Reports

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today, EPA is promulgating a final rule that requires community water systems to prepare and provide to their customers annual consumer confidence reports on the quality of the water delivered by the systems. This action is mandated by the 1996 amendments to the Safe Drinking Water Act (SDWA). These reports will provide valuable information to customers of community water systems and allow them to make personal health-based decisions regarding their drinking water consumption.

These reports are the centerpiece of public right-to-know in SDWA. The information contained in consumer confidence reports can raise consumers' awareness of where their water comes from, help them understand the process by which safe drinking water is delivered to their homes, and educate them about the importance of preventative measures, such as source water protection, that ensure a safe drinking water supply. Consumer confidence reports can promote dialogue between consumers and their drinking water utilities, and can encourage consumers to become more involved in decisions which may affect their health. The information in the reports can be used by consumers, especially those with special health needs, to make informed decisions regarding their drinking water. Finally, consumer confidence reports are a key that can unlock more drinking water information. They will provide access through references and telephone numbers to source water assessments, health effects data, and additional information about the water system.

DATES: The effective date for this final rule is September 18, 1998.

The information collection requirements contained in subpart O of part 141 have not been approved by the Office of Management and Budget (OMB) and are not effective until OMB has approved them. EPA will publish a final rule announcing the effective date when OMB approves the information collection requirements.

ADDRESSES: Copies of the public comments received, EPA responses, and all other supporting documents are available for review at the U.S. EPA Water Docket (4101), Docket W–97–18, 401 M Street, SW, Washington DC 20460. For an appointment to review the docket, call 202–260–3027 between 9 a.m. and 3:30 p.m. and refer to Docket W–97–18.

FOR FURTHER INFORMATION CONTACT: the Safe Drinking Water Hotline, toll free 800–426–4791 for general information about, and copies of, this document. For technical inquiries, contact: Françoise M. Brasier 202–260–5668 or Rob Allison 202–260–9836.

SUPPLEMENTARY INFORMATION:

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Regulated persons. Potentially regulated persons are community water systems (CWSs).

Category	Example of regulated entities
Publicly-owned CWSs	Municipalities; County Governments; Water districts; Water and Sewer Authorities.
Privately-owned CWSs	Private water utilities; homeowners associations.
Ancillary CWSs	Persons who deliver drinking water as an adjunct to their primary business (e.g., trailer parks, retirement homes).

The table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 141.151 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult one of the people listed in the **FOR FURTHER INFORMATION CONTACT** section.

I. Statutory Authority

Section 114 of the Safe Drinking Water Act Amendments of 1996 (Pub. L. 104–182), enacted August 6, 1996, amends section 1414(c) of the SDWA (42 U.S.C. 300g–3(c)). A new section 1414(c)(4) provides for annual consumer confidence reports by community water systems to their customers. Section 1414(c)(4)(A) mandates a number of actions by the Administrator of the Environmental Protection Agency, who is required to develop and issue regulations within 24 months of the date of enactment (i.e., by August 1998). The regulations must be developed in consultation with public water systems, environmental groups, public interest groups, risk communication experts, the States, and other interested parties. The regulations must, at a minimum, require each community water system to mail to each customer of the system at least once annually a report on the level of contaminants in the drinking water purveyed by that system. The regulations are required by section 1414(c)(4)(A) to provide a "brief and plainly worded" definition of four terms: "maximum contaminant level goal," "maximum contaminant level," "variances," and "exemptions." In addition, section 1414(c)(4)(A) requires the regulations to contain brief statements in plain language regarding the health concerns that resulted in regulation of each regulated contaminant, and a brief and plainly-worded explanation regarding contaminants that may reasonably be expected to be present in drinking water, including bottled water. Finally, section 1414(c)(4)(A) requires the regulations to provide for an EPA toll-free hotline that consumers can call for more information and further explanation.

Section 1414 of SDWA, as amended, also provides, in a new section 1414(c)(4)(B) of the Act, additional specific requirements for the contents of

the consumer confidence reports. The reports are required to include, but need not be limited to, the following information:

- The source of the water purveyed. (Section 1414(c)(4)(B)(i).)
- A brief and plainly-worded definition of the terms "maximum contaminant level goal," "maximum contaminant level," "variances," and "exemptions," as provided in regulations by the Administrator. (Section 1414(c)(4)(B)(ii).)
- If any regulated contaminant is detected in the water purveyed by the community water system, a statement setting forth: (1) The maximum contaminant level goal, (2) the maximum contaminant level, (3) the level of such contaminant in the water system, and (4) for any regulated contaminant for which there has been a violation of the maximum contaminant level during the year covered by the report, a brief statement in plain language regarding the health concerns that resulted in regulation of that contaminant, as provided by the Administrator in regulations under section 1414(c)(4)(A). (Section 1414(c)(4)(B)(iii).)
- Information on compliance with National Primary Drinking Water Regulations (NPDWR), as required by the Administrator, and a notice if the system is operating under a variance or exemption and the basis on which the variance or exemption was granted. (Section 1414(c)(4)(B)(iv).)
- Information on the levels of unregulated contaminants for which monitoring is required under section 1445(a)(2) (including levels of Cryptosporidium and radon where States determine they may be found.) (Section 1414(c)(4)(B)(v).)
- A statement that the presence of contaminants in drinking water does not necessarily indicate that the drinking water poses a health risk and that more information about contaminants and potential health effects can be obtained by calling the Safe Drinking Water Hotline. (Section 1414(c)(4)(B)(vi).)

Section 1414(c)(4)(B) also provides that a community water system may include any additional information that it deems appropriate for public education. In addition, the Administrator may require, through regulation, a consumer confidence report to include, for not more than three regulated contaminants, a brief statement in plain language regarding the health concerns that resulted in regulation of the contaminant even if there has not been a violation of the maximum contaminant level during the year concerned.

Section 1414(c)(4)(C) authorizes the Governor of a State to determine not to apply the mailing requirement to community water systems serving fewer than 10,000 persons. Such systems then would be required to inform their customers that the system will not be mailing the report; make the report available on request to the public; and publish the report annually in one or more local newspapers serving the areas in which the system's customers are located.

Section 1414(c)(4)(D) allows those community water systems that are not required to meet the mailing requirements, and which serve 500 persons or fewer, to meet their consumer confidence report obligation by preparing an annual report, making it available upon request, and providing notice of its availability at least once per year to each customer by mail, by door-to-door delivery, by posting, or by any other means authorized in the regulations.

Section 1414(c)(4)(E) provides that a State exercising primary enforcement responsibility may establish by rule, after public notice and comment, alternative requirements with respect to the form and content of the consumer confidence reports.

This rule is intended to fulfill the rulemaking requirements outlined in section 1414(c)(4).

II. Regulatory Background

The rule promulgated today was proposed on February 13, 1998. As required by SDWA, the Agency met extensively with a broad range of groups in the development of the proposal. In particular, EPA formed a working group under the aegis of the National Drinking Water Advisory Council (NDWAC) to analyze and debate issues related to the proposal. In addition, EPA convened a one-day meeting of a panel of experts in public health and communication of risk-related information. These consultations are described in detail in the preamble to the proposed rule (63 FR 7606, February 13, 1998). These consultations helped EPA draft proposed rule language which was then reviewed by NDWAC. The provisions contained in the proposal included all the provisions for which NDWAC reached consensus.

After it proposed the rule, EPA had a series of four focus groups conducted by a contractor. The purpose of the focus groups was to test various alternatives for the definitions of MCL and MCLG and to gauge the public's reactions to health effects statements. In addition, focus group participants were asked to give their reaction to two consumer confidence reports that had actually been issued by community water systems. The availability of a report on the results of these focus groups was announced in the **Federal Register** on May 15,1998 with a request for comments to be submitted to EPA no later than June 15,1998. The Agency received a few comments and considered them, along with all other comments received on the proposal, in developing this final rule.

III. Significant Decisions Affecting the Final Rule

The proposed rule discussed, but did not include, regulatory language addressing two issues which were discussed during the consultation process. EPA believed additional input through the comment process was necessary in order to make informed decisions.

The first issue was the request by some stakeholders that reports include a general warning that drinking water may pose a special health risk for pregnant women and children. The second issue concerned the Administrator's statutory authority to require in the reports health effects language for not more than three regulated contaminants detected at levels below the MCL. Both of these issues relate to providing additional health information and commenters were asked to consider the link between these issues. The Agency has also considered this link when making decisions in today's rulemaking.

A. Health Warning for Pregnant Women and Children

During the development of the proposal, some stakeholders advocated requiring all consumer confidence reports to include language alerting consumers to the dangers posed to pregnant women and children by certain contaminants in drinking water, such as nitrate, lead, and certain unspecified pesticides. The Agency stated in the proposal that inclusion of such a warning in all reports did not seem warranted but requested comments in order to reconsider this issue for the final rule. The Agency also requested data on pesticides and other contaminants which would support the need for a special warning for pregnant women and children.

Most commenters argued that a general health warning for pregnant women and children was unnecessary, and would confuse and needlessly scare consumers. These commenters agreed with the Agency that the MCL for nitrate and the action level for lead protect at-risk populations. Other commenters

argued that some form of warning was necessary, particularly to address lead and nitrate, but they agreed that such a warning should only be included in reports of systems which detected these contaminants.

No data were submitted on special risks presented by pesticides. The only data that commenters submitted were studies on the impact of lead on children and of trihalomethanes on pregnant women and fetuses. In addition, some commenters requested changes to the health effects language proposed in appendix B regarding the potential impacts of some contaminants on pregnant women, children, and at-risk populations. These comments are addressed in section G of this preamble.

Some commenters suggested lead and nitrate as two of the contaminants for which the Administrator should use her authority to require health effects language even when systems are in compliance with the regulations. As explained below, the Agency believes that it can better use this authority for other contaminants.

B. Educational Information for Lead, Nitrate, and Arsenic

The Agency sees merit in providing additional information on lead and nitrate under certain circumstances since these are contaminants for which a special risk for children has been clearly established. EPA also believes that consumers may require additional information about arsenic.

In the case of nitrate, there is only a small margin of safety provided by the MCL, and the amount of nitrate in drinking water is subject to seasonal fluctuations beyond water systems' control. Although any recorded violations of the MCL would require public notification, it is possible due to monitoring frequency that in areas where nitrate levels are generally high, short-term spikes above the MCL could occur and not be detected. Therefore, EPA believes that it is prudent to require systems which detect nitrate above 5 mg/l (50% of the MCL) to include some educational information in their reports regarding the risk posed by nitrates for infants. This information will help parents to understand fully the potential effects of nitrate exposure above the MCL.

For lead, the Agency's concern is that while the sampling is designed to look for the worst conditions, it is possible that a significant number of households could have high lead levels even though a system is technically in compliance with the lead rule. The closer a system is to exceeding the action level in more than 10% of the sampling sites, the higher that likelihood. Lead poses a substantial risk to infants and children, but it is easy for parents to take the small precautions necessary to reduce this risk. The Agency believes that incorporating educational information about lead in the reports of systems which detect lead above the action level in more than 5% of homes sampled (50% of the action level) is warranted.

Other commenters expressed concerns about the adequacy of the MCL for arsenic because it does not take into account the contaminant's carcinogenicity. EPA is required to promulgate a revised arsenic standard by January 2001. In the meantime, EPA has decided that it is appropriate for systems that detect arsenic above 25 µg/l (50% of the existing MCL) to include additional information about arsenic in their reports. As with nitrate, EPA is using a threshold of 50% of the MCL to trigger this requirement based on comments received regarding the appropriate threshold for risk-related information. This requirement will be deleted from this rule when a revised arsenic MCL is promulgated. EPA is including an example of acceptable language in the regulation to help systems provide accurate information to customers. The regulations also provide that systems can use this language or develop their own in consultation with the primacy agency.

Inclusion of this information on arsenic, lead, and nitrate is mandatory, and EPA is including an example of acceptable language in the regulation to help systems provide accurate information to customers. However, EPA believes that water systems should have the flexibility to tailor their information to specific local circumstances. Therefore, the regulations provide that systems can use the language provided by EPA or develop their own in consultation with the primacy agency. The Agency is using 50% of the MCL or action level as the threshold for this requirement because commenters generally agreed that additional warnings should only be required where systems actually detect the contaminants. Many commenters agreed that half the MCL would be an appropriate threshold for requiring additional risk-related information (even if they expressed strong reservations about the need to do so).

The requirement for these informational statements is based on EPA's authority to require information in the reports other than that detailed in SDWA section 1414(c). See section 1414(c)(4)(B).

C. Health Information for Additional Contaminants

The 1996 SDWA Amendments authorize the Administrator to require inclusion of language describing health concerns in reports for "not more than three regulated contaminants" other than those detected at levels above the MCL. In the preamble to the proposal, the Agency stated its intent to use the authority provided by the statute in a judicious manner and requested comments on two options.

Option I was to require health effects language whenever a regulated contaminant, for which EPA has proposed to lower the MCL or has promulgated a revised MCL for which the effective date has not yet occurred, is detected at a level above the revised level. The Agency noted that the immediate impact of this option would be that water systems that detect Total Trihalomethanes (TTHMs) above the proposed revised MCL of 80 µg/l would have to include in their reports the language of the proposed rule's appendix B describing the health effects of TTHMs. Further, the preamble explained that the Agency would make decisions on additional revised MCLs on a case-by-case basis and that a likely candidate for future requirements under this scheme would be arsenic.

Option II was to select three carcinogens for which the MCL allows a risk level in the range of 10^{-4} to 10^{-5}. The Agency requested comments on which of these contaminants would be the most significant from a health standpoint if detected in the finished water. The Agency also requested comments on whether it should select a threshold for reporting on these contaminants, such as detection ≥50% of the MCL.

Most commenters believed that providing health effects language for any contaminant detected below its MCL would be confusing and urged EPA to not do so. Stakeholders that commented on the proposed options generally preferred Option I but only for newly promulgated MCLs, not for proposed MCLs. They expressed the belief that a promulgated MCL establishes a clear threshold for triggering the requirement. Also, by the time EPA promulgates an MCL, it has carefully documented the health effects which are the basis for the regulation and from which it can craft a short health effects statement.

The Agency finds these arguments persuasive and will use this authority in future rulemaking to require health effects language for contaminants when MCLs are promulgated or revised. This

health effects language will be included in the reports of systems which are not technically in violation of the regulations because the MCL is not yet effective, but which detect the contaminant above the new or revised MCL.

As noted in the proposal, the first rulemaking in which EPA will implement this authority will be the revision of the MCL for TTHMs (currently scheduled for promulgation later this year). In that rulemaking, EPA will amend 40 CFR part 141, subpart O (today's rule) to add a new paragraph (e) to § 141.154 that will require systems detecting TTHMs at levels above the revised MCL to include in their reports the health effects information for TTHMs in appendix C prior to the effective date of the new MCL. EPA will make decisions about additional uses of this authority (for two additional contaminants) in later MCL rulemakings.

IV. Description of Today's Action

This section explains the elements of the regulation and the changes from the proposal. In response to comments received, EPA has made several significant changes to the proposal, clarified some requirements, and slightly reorganized the regulatory language. EPA evaluated all the comments it received, and has prepared a document explaining EPA's responses to those public comments. That document in available in the Water Docket. The Agency also considered the results of the focus group study as it shaped this final rule.

A. Purpose and Applicability

Section 141.151 establishes the purpose and applicability of this rule. Today's rule establishes the minimum requirements for the content of consumer confidence reports. The rule applies to existing and new community water systems as defined in § 141.2.

In response to comments, EPA has made several changes to this section. First, some commenters expressed concerns that the language of § 141.151(a), which sets a performance standard for the reports, could be construed as requiring systems to include information on non-detected contaminants. EPA is clarifying that systems only need to address the risks (if any) from detected contaminants by adding the word "detected" to qualify the word "contaminants."

Second, commenters suggested that the term "hook-ups," used in the definition of customers, was not generally recognized by the industry and that "service connection" should be used instead. The Agency has made that change.

Third, many commenters believed that the word "detected" needed to be further defined by referring to detection limits specified elsewhere in the regulations. EPA agrees and has added § 141.151(d) to clarify the meaning of "detected" for this subpart.

Fourth, some commenters expressed concerns that States might exercise the flexibility to adopt alternative requirements for the form and content of the reports in ways that would undermine the intent of the Statute. EPA's intent in proposed § 141.151(d) was to clearly define this flexibility consistent with the statutory language and intent. EPA has expanded this section (now codified as § 141.151(e)) to clarify its meaning.

Finally, several commenters pointed out that the first reports would be due before States would have time to adopt their own regulations. These commenters stated their opinion that this meant these reports would have to be mailed to EPA even though the proposal stated that reports should be mailed to the States. EPA is clarifying its intent by using the term "primacy agency" in this final rule at § 141.151(f) and defining it as: the agency in the State or the tribal government which has jurisdiction over, and primary enforcement responsibility for, public water systems, even if that agency does not have interim or final primacy enforcement authority over this rule. Except in Wyoming, in the District of Columbia, and on tribal lands, the primacy agency is a state agency. EPA intends to enter into Memoranda of Understanding (MOU) with these state agencies to share information about water systems that fail to prepare and deliver reports. EPA will enforce the regulations until States get primacy for this regulation.

B. Effective Dates

Section 141.152 establishes the time line for implementation of this rule. Today's rule becomes effective 30 days after publication in the **Federal Register**. Community water systems must deliver the first report to their customers within 13 months of the regulation's effective date. This represents no change from the proposal, which was supported by most of the comments.

However, in response to comments, EPA is making two significant changes to this section. Many commenters believed that the timing of the reports should coincide with other reporting required by the statute, such as annual compliance reports, and that all reports should be due on the same specific date. However, a significant number of commenters also believed that systems should be given flexibility to deliver reports as their billing cycle would allow, and that systems already delivering reports should be able to stay on their current schedule. Most commenters also believed that reports should contain calendar-year data. EPA's proposal would have allowed systems to choose any 12-month period for their reports as long as the period was consistent from report to report. Commenters argued that calendar-year data would allow States to assess report accuracy and evaluate compliance more easily.

EPA agrees with this second point and therefore is requiring in § 141.152(b) that the first report contain calendar year 1998 data, and that each report thereafter cover the succeeding calendar year. As far as the timing of delivery, EPA continues to believe that some flexibility is essential to avoid burdening systems with additional mailings, or severely disrupting the schedule of systems which already provide consumer confidence reports to their customers. However, since reports are now required for calendar-year data, it makes sense to require delivery of the report as close to the end of the calendar year as feasible, taking into account the fact that some data are second-hand (from wholesaler to retailer) and that each of these entities should be provided sufficient time. Therefore, while the first report continues to be due no later than 13 months after this regulation becomes effective, the regulations now provide in § 141.152(b) that the second report will be due by July 1, 2000 and subsequent reports by July 1 of each year thereafter. Systems may choose to deliver their reports earlier than these dates.

EPA also agrees with commenters that new systems should report data on a calendar-year basis and on the same schedule as existing systems. EPA has revised § 141.152(c) accordingly. It now requires new community water systems to deliver their first report by July 1 following their first full calendar year in operation.

Finally, as suggested by commenters, EPA is adding § 141.152(d) to require drinking water wholesalers to deliver data to the retailers by a date certain. The first set of data will have to be provided six months before retailers must deliver their first reports, to give retailers adequate time to prepare the reports. In following years, data will have to be delivered by April 1, unless the wholesaler and the retailer agree in a contract to a different date. EPA

believes that this flexibility is appropriate since the wholesalers might prepare the bulk of the CCRs for their customers, in which case the customers would not need the data so far in advance.

C. Content of the Reports

In the proposal, the Agency generally limited the requirements for the content of reports, found in §§ 141.153 and 141.154, to a clarification and explanation of the requirements in section 114 of the 1996 SDWA Amendments. In addition to today's rule, EPA is preparing detailed guidance that will provide supplementary information and examples of ways in which systems can prepare and present the data in consumer confidence reports. The Agency is also developing a computerized fill-in-the-blank template that water systems will be able to use if they are unable or do not choose to develop their own consumer confidence report format. The Agency is aware of two organizations preparing similar templates, the American Water Works Association (AWWA) and the National Rural Water Association (NRWA).

1. Information on the Source of the Water Purveyed

In § 141.153(b), EPA proposed that reports identify the sources of the water delivered by the community water system by providing information on the type of water (that is, whether the source is ground water, surface water, a combination of the two, or water obtained from another system) and the commonly-used name or names (if any) and location of the body or bodies of water.

One issue on which the Agency specifically requested comment was the extent to which reports should discuss sources of contamination that may have an impact on the quality of a system's drinking water sources. The Agency proposed that when a source water assessment has been completed for the water system, that system's consumer confidence report must notify customers of the availability of this information and the means to obtain it. Some commenters offered persuasive arguments for the need to take advantage of these reports to raise consumers' awareness of the importance of source water protection. They noted that in addition to source water assessments, information is available through sanitary surveys and reports prepared under section 305(b) of the Clean Water Act. Therefore, in the final rule, EPA is continuing to mandate in § 141.153(b) a notice of the availability of source water assessments. In addition, EPA is encouraging systems that have information at hand regarding contamination sources, to include highlights of this information in their reports. EPA is also requiring systems, once the source water assessment is available, to include in the report a brief summary of the susceptibility of the drinking water source, using language provided by the primacy agency. EPA anticipates that States will prepare for the public brief summaries of source water assessments as part of the source water assessment process.

2. Definitions

The proposal included definitions in § 141.153(c) (1) and (2) of four terms: "Maximum Contaminant Level Goal or MCLG," "Maximum Contaminant Level or MCL," "Variances," and "Exemptions." These definitions differed from those found in 40 CFR 141.2 in order to explain these key regulatory terms in brief, plainly-worded sentences that consumers could easily understand.

Maximum Contaminant Level Goal (MCLG) and Maximum Contaminant Level (MCL). EPA specifically requested comments on its definitions for MCLG and MCL, and noted that the risk communication panel recommended that EPA test its definitions and, if necessary, revise them. The preamble included alternative definitions to the proposed language. EPA tested these alternatives on focus groups of consumers. The consumers reviewed the proposed definitions as well as definitions based on language suggested in the preamble.

For MCLG, EPA tested three definitions:

1. "The level of a contaminant in drinking water below which there is no known or expected risk to health."

2. "The maximum level of a contaminant in drinking water at which no known or anticipated adverse effects on the health of persons occur and which allows for an adequate margin of safety."

3. "The level of a contaminant in drinking water below which there is no known or expected risk to health, allowing an adequate margin of safety."

For MCL, EPA tested three definitions:

1. "The highest level of a contaminant that is allowed in drinking water."

2. "The maximum permissible level of a contaminant in drinking water which is delivered to any user of a public water system."

3. "The highest level of a contaminant that is allowed in drinking water, which is set as close to the MCLG as feasible using the best available treatment."

Commenters were split on this issue, with a slight preference for EPA's proposed definitions (the first definitions above). However, many commenters believed that EPA's definitions were too short, that consumers need information about how MCLs and MCLGs are set, and that the difference between MCLs and MCLGs was lost. Members of the focus groups were comfortable with the third definitions above, which do provide some additional information and explain the difference between MCLGs and MCLs. Since the Agency's primary goal is to make these reports useful to the general public, EPA is basing the definitions in the final rule on this third set of definitions, with editorial modifications.

The Agency notes that it will continue to rely on the standard reporting to States and EPA of contaminant levels in determining whether a compliance or enforcement action is necessary. Neither the simpler definitions of regulatory terms nor the way in which data are presented in the consumer confidence reports will affect enforcement decisions on compliance with MCLs or action levels.

Variances and Exemptions. As recommended by the NDWAC Working Group, the proposal combined the definitions of variances and exemptions into a single definition, since the two terms describe a single concept. "Variances and exemptions" were defined in the proposal as "State permission not to meet an MCL or a treatment technique under certain conditions." EPA requested comment on whether to add the phrase "provided there is no unreasonable risk to health" to the definition, in order to inform report recipients that this is one of the statutory conditions for receiving a variance or exemption. Most commenters agreed with including this sentence. Two commenters argued against it because they believe that it would cause confusion and undermine confidence in the MCLs. EPA agrees with these commenters. Further, the Statute provides for a different standard when issuing a variance ("adequate protection of human health") or an exemption ("no unreasonable risk to health"). For the sake of brevity and accuracy, EPA believes that it is appropriate to promulgate this definition as proposed, with the minor change that the definition applies to systems "operating under" a variance or exemption. One commenter pointed out that, as proposed, the provision could be construed to apply to a system which

had been granted a variance or exemption in the past even if this variance or exemption were no longer in effect.

EPA is also clarifying that the definitions apply only to variances and exemptions granted by the States or EPA pursuant to sections 1415 and 1416 of SDWA.

The definitions section of the proposed rule also included definitions for "treatment technique" and "action level" not mandated by SDWA but considered necessary by EPA to address situations likely to be encountered by many systems. The only significant comments on these definitions were from California utilities which pointed out that California has a different meaning for action level. This is a clear example of a requirement that a State may adjust in its own regulations. EPA is promulgating these definitions as proposed with a slight revision to the action level definition to render it more technically accurate.

As stated in the proposal, EPA notes that the use of these definitions in the consumer confidence reports does not alter the legal and enforceable definitions of these terms.

3. Level of Detected Contaminants

Section 141.153(d) of the proposal generated the most comments and has been changed significantly in this final rule. In order to make the changes as understandable as possible, this section of the preamble first highlights the major comments received and EPA's revised approach in response to these comments. A section-by-section explanation of the changes follows this discussion.

Major Comments Regarding § 141.153(d). By far the greatest number of comments was submitted on the proposed requirement that reports include only one number per contaminant—the highest level used to determine compliance with an NPDWR. During the deliberations on the proposal, many stakeholders expressed concern that the compliance number, when based on an average of several samples, was not the best reflection of the quality of water delivered to homes and the possible variability in the quality of that water. Particularly, some stakeholders were concerned that some customers might, at times, get water containing certain contaminants exceeding the MCL and that reports would provide no indication of that possibility. To address this issue, EPA took NDWAC's recommendation and proposed that systems in which more than 10 percent of the customers are exposed to a level of contaminant which is consistently higher than the MCL would include in their report information regarding the magnitude of exposure and the location of the exposed population.

While some commenters agreed with the intent of this provision, all commenters, even some of its original proponents, deemed it unworkable. On the other hand, there was significant support among commenters for requiring inclusion of ranges of contaminant levels whenever compliance is based on an average. EPA believes that ranges will provide a more accurate picture of exposure to contaminants in a way which all systems can handle and which does not add any burden, since all measured contaminant levels are already in their files. California utilities pointed out that they provide ranges in their reports, and that this has proven to be neither a problem nor confusing to customers.

Some of the most voluminous comments were based on misunderstanding of what data EPA intended the reports to contain when systems provide water from various sources, and how systems should deal with the variability of the finished water on a temporal or spatial basis. One problem stemmed from EPA's inartful use of the word "blended" in the proposal's § 141.153(d)(3)(iii)(F). The other problem stemmed from the statement in proposed § 141.153(d)(1) that the report should provide an accurate picture of the level of contaminants to which consumers may have been exposed during the year. Some commenters misinterpreted these sections as requiring separate columns for each source, well, or point of entry, and lengthy explanations of the variability of the delivered water. This was not the Agency's intent.

With respect to systems with multiple sources, it is only when the water coming from each source remains completely hydraulically separated from water from other sources that EPA intended for reports to include separate columns of data. Most cases pointed out by commenters to show the infeasibility of the requirement—for example, "multiple sources of water serving an integrated distribution system," or "in the course of a given year an individual resident could receive water from up to three different surface water sources and up to 30 different wells whose supplies are co-mingled prior to receipt by the customer" were cases to which EPA had not intended the requirement apply. EPA has clarified this requirement in this final rule.

With respect to variability, in proposed § 141.153(d)(1), EPA prescribed a performance standard similar to the one in § 141.151(a) but with the additional concept that operators needed to take into account seasonal variations which produce changes in water quality when selecting one number to put in the table. Since this final rule requires that the table include ranges, EPA believes that this reiteration of the performance standard in § 141.151(a) is no longer necessary and has deleted this section from the final rule.

Other significant comments concerned the organization of the information. While most commenters agreed that data on regulated contaminants should be highlighted as the focus of the report, many worried that the restriction of having to put all the mandated data in one table as required by proposed § 141.153(d)(3) could result in a report that was not consumer-friendly, and would limit water systems' ability to be innovative in presenting the information.

Commenters pointed out two further weaknesses of the one-table approach. First, for systems with many detected contaminants, one table may become overloaded with information. Commenters pointed out that contaminants could be split between several displays, e.g., organics and inorganics, or contaminants monitored at the treatment plant, in the distribution system, and at consumers' taps. Second, commenters pointed out that if a system wants to include additional data regarding these regulated contaminants, such as frequency of testing, or number of samples, it did not make sense to have to display this information separately. EPA agrees with the need to make presentation of the data as consumer-friendly as possible, and the need to provide sufficient flexibility so that reports can be improved based on feedback from customers. Therefore, EPA has modified this requirement to provide that information outlined in final § 141.153(d) needs to be displayed in one contiguous portion of the report, but not necessarily in a single table. Further changes to this section are discussed below.

Another major concern of commenters was the proposed requirement that reports use whole numbers to describe the MCL. Examples of such numbers were included in proposed Appendix A. Some commenters believed that EPA was asking that numbers be rounded up or that the detected level be expressed in whole numbers also. This was not the Agency's intent. As recommended by NDWAC, EPA proposed this requirement because it believes that

whole numbers make it easier for consumers to compare the level of a contaminant in the system's water with the MCL. Many consumers have trouble understanding decimal points. This was evident in the focus groups, in which people found reports containing mostly whole numbers much easier to read than reports where the significant digits came after multiple zeros. AWWA found similar results in its focus groups.

Some commenters expressed concerns that whole numbers would look like big numbers and would scare people. In response, EPA is making a minor change in the final rule to allow MCLs to be expressed as any number greater than 1.0. Detected levels will generally be much smaller—a fact that will be more obvious if a person has to distinguish the difference between, for example, 2 ppb and 0.002 ppb, rather than 0.002 ppm and 0.000002 ppm. In appendix A to this subpart, EPA has listed the MCL for each regulated contaminant in standard units and provided the multiplication factor (usually 1,000) and the MCL in the unit appropriate for use in the CCR. EPA notes that in appendix A, as well as appendices B and C of this final rule, the contaminants Ethylene dibromide (EDB) and 1,2-Dibromo-3-chloropropane (DBCP) are grouped with the synthetic organic chemicals, as recommended by a commenter. EPA's electronic template will allow operators to enter the detected level of a contaminant in its usual unit. The software will do the conversion and automatically enter in the MCL and MCLG for that contaminant in appropriate units for these reports.

Detailed Analysis of Section 141.153(d). This section has been reorganized so that it now pertains only to contaminants for which monitoring is mandatory under the regulations (except *Cryptosporidium*). Requirements pertaining to reporting of *Cryptosporidium*, radon, and contaminants which a system detected through voluntary monitoring are now in § 141.153(e). The specific contaminants to which the requirements of § 141.153 apply are listed in § 141.153(d)(1).

In proposed § 141.153(d)(2), EPA would have required that systems identify the 12-month period during which the data used to prepare the report were collected. This final rule establishes mandatory calendar-year reporting requirements. Therefore, this section is no longer necessary and is deleted from this final rule.

In proposed § 141.153(d)(3), EPA proposed that all mandatory data related to regulated contaminants, and contaminants subject to mandatory monitoring (with the exception of *Cryptosporidium*), be displayed in one discrete table. As explained above, EPA is changing this requirement. Section 141.153(d)(2) of this rule provides that all data relating to detected regulated contaminants, all data relating to unregulated contaminants for which monitoring is mandatory under § 141.40, and all data related to contaminants for which monitoring is required under §§ 141.142 and 141.143 (except *Cryptosporidium*) be displayed in one or several tables as long as these tables are adjacent to one another and the reader does not have to search for the information.

In response to comments that finished water should be the focus of the table(s), EPA is also clarifying in § 141.153(d)(1)(iii) that, for data collected under §§ 141.142 and 141.143 (the Information Collection Rule (ICR)), systems must report only finished water results.

When contaminants are monitored less than once a year, the proposal would have required that the report include the latest result and an explanation for why the sample was not taken during the reporting period. Commenters had concerns with the burden on operators of developing an explanation and with how far back in time a system should search for monitoring data. Commenters also requested clarification regarding how long ICR data should be reported. EPA has clarified these issues in § 141.153(d)(3). Reports containing data on contaminants detected in previous calendar years only need to include the date of the results and a statement indicating that the data are from the most recent testing done in accordance with the regulations. No data older than five years need be included in the first or subsequent reports (§ 141.153(d)(3)(i)). Results of ICR monitoring need only be included for five years or until the detected contaminant becomes regulated, whichever comes first (§ 141.153(d)(3)(ii)).

In response to comments, § 141.153(d)(4) of this final rule specifies more precisely the data which must be included in the table(s) for regulated contaminants. As explained above, EPA is making a minor change to the proposed requirement that the MCL must be expressed as a whole number. Instead, the final rule requires that the MCL must be expressed as a number equal to or greater than 1.0. The MCLG and detected contaminant level must be expressed in the same units as the MCL.

The proposed rule required that only the highest number reported to demonstrate compliance with the MCL should be included in the table. However, in a major change from the proposal, the final regulation requires that, for contaminants for which compliance with the MCL is determined by calculating an average of several samples, the range of results must also be included. When compliance with the MCL is calculated at a number of sampling points by averaging quarterly samples, the report must include the highest average of any of the sampling points and the range of all samples (§ 141.153(d)(4)(iv)(B)). When compliance is based on a system-wide average, the reports must include that average and the range of all samples (§ 141.153(d)(4)(iv)(C)).

Some commenters pointed out that under certain conditions averages may be rounded to the same significant number of decimals as the MCL. For example, if the MCL for selenium is 0.05 mg/l and the average of 4 samples is 0.052 mg/l, the system is considered in compliance with the MCL because the average result can be rounded to 0.05 mg/l. These commenters expressed concerned that, in the CCR, when the MCL is expressed as 50 ppb, the results would have to be reported as 52 ppb leading customers to believe that the system was in non-compliance. This was not the Agency's intent. The Agency has clarified in a Note in § 141.153(d)(4)(iv)(C) that when rounding is allowed for compliance purposes, it should be done prior to multiplying the average number by the factor necessary to report the results in the same units as the MCL.

For turbidity, as requested by commenters, the final regulations contain separate requirements for: (1) Systems which are required to install filtration but have not yet done so and for which turbidity has an MCL (§ 141.153(d)(4)(v)(A)), (2) systems which meet the filtration avoidance criteria (§ 141.153(d)(4)(v)(B)), and (3) systems which filter (§ 141.153(d)(4)(v)(C)). These requirements are designed to mirror the requirements for contaminants subject to an MCL by giving customers information about the range of conditions encountered by the system.

The final regulations also contain, in § 141.153(d)(4)(vi), specific requirements for reporting of lead and copper data. In addition to the 90th percentile value of the latest round of sampling, which customers can compare to the action level and which is equivalent to an "average" value for other contaminants, the regulations require reporting the number of sampling sites that exceeded the action

level. This will help customers understand that while a water system may be in compliance with the action level, people in certain homes may be exposed to lead or copper above that level.

Finally, for reporting of total coliforms, as suggested by some commenters, the regulations require that the highest monthly number of positive samples be reported for systems which collect fewer than 40 samples per month (§ 141.153(d)(4)(vii)). Systems which collect 40 samples or more per month must report the highest monthly percentage of positive samples (§ 141.153(d)(4)(vii)). For fecal coliforms, reports must include the total number of positive samples (§ 141.153(d)(4)(viii)).

The proposed rule required water systems to include in the table the likely source of any detected regulated contaminant. EPA noted that it expected systems to describe these sources in generic terms such as "agricultural runoff" or "petrochemical plants" unless the system had information obtained through source water assessments or other means that would allow the report to be more specific. EPA also provided a generic listing of potential sources in appendix A (now titled appendix B) to help systems who had no other available information. In general, commenters found proposed appendix A useful, but some expressed concern that the list of sources for each contaminant was mandatory and that a report would have to include all listed sources even if the operator knew that such contaminant sources could not exist in the system's location (e.g., cherry orchards in Alaska). EPA's intent is for this information to be as specific as possible. If a system has specific information through source water assessments or other means, that information should be included in the report. In the absence of specific information the system can choose from among the sources listed in appendix B those that best fit its situation. EPA has clarified the requirement in § 141.153(d)(4)(ix). If the system believes that none of the sources listed in appendix B clearly fit the system's situation, the report could include a footnote explaining that the typical sources of the contaminants are included in the table but do not exist in the source water areas to the best of the system's knowledge. EPA has also made some minor changes to the sources listed in the proposal, pursuant to comments received.

EPA has also revised the language of proposed § 141.153(d)(1) (iii)(F), now § 141.153(d)(5), to clarify that separate data for multiple raw drinking water sources for one community water system are only necessary when the drinking water sources remain separate throughout the treatment plants and the distribution system, and to clearly include an option of doing several reports rather than one if the amount of data proved cumbersome.

In § 141.153(d)(3)(iv), EPA proposed to require that community water systems include specific information in their consumer confidence reports for every regulated contaminant detected in violation of an MCL or exceeding an action level. In general, commenters were supportive of the requirement as proposed and this section is promulgated as proposed with minor technical clarifications. Revised § 141.153(d)(6) requires that the table(s) identify violations of MCLs and treatment techniques. The report must include: (1) An explanation of the violation, including its length, which may be measured in consecutive days or weeks, or in repeated occurrences, (2) the potential health effects using the appropriate language of appendix C, and (3) the actions taken by the system to address the violation.

In proposed § 141.153(d)(3)(v), EPA included a requirement that systems report the highest detected level of unregulated contaminants. Several commenters pointed out that averages would be more representative of the quality of the water. EPA agrees, so, to conform with decisions regarding regulated contaminants, today's rule requires at § 141.153(d)(7) that reports include the average and range of detected unregulated contaminants.

4. Information on Other Contaminants

Section 141.153(e) of the final rule specifies the information to be included in the reports for *Cryptosporidium*, radon, and contaminants detected through voluntary monitoring. This information can be displayed anywhere in the report that the operator chooses.

In § 141.153(d)(4), the proposal required systems to include information on *Cryptosporidium* whether it is detected in compliance with the ICR regulations or through voluntary monitoring performed by a system. Many commenters believed that this section required detailed explanation regarding sampling and analysis protocols. This is not EPA's intent. The Agency believes that the information can be presented in a succinct statement that indicates whether *Cryptosporidium* has been found and whether it was found in the source water or finished water. The systems are free to provide their interpretation of the significance of these results. EPA has modified the language of this requirement, codified in § 141.153(e)(1), to make its intent clearer.

When a system detects radon, the Agency proposed that the reports include the results of the monitoring, information on how the monitoring was performed, and an explanation of the significance of the results. EPA stated that it would provide examples in guidance of what such an explanation might be. Some commenters objected to this requirement. Other commenters were concerned that the requirement would require detailed explanations of sampling and analysis techniques. As with *Cryptosporidium*, EPA's intent was to give as much flexibility as feasible to the systems and to use guidance to help systems which detect radon comply with the requirement. The final regulations continue to require reporting of radon detections but EPA has modified the language in § 141.153(e)(2) to clarify its intent.

When a system detects any other unregulated contaminant through voluntary monitoring, the proposed rule strongly encouraged systems to include the results of such monitoring if the presence of that contaminant was a reason for concern. EPA recommended that systems determine whether there was a health advisory or a proposed NPDWR for that contaminant in order to determine whether there may be a health concern.

Many commenters objected to this recommendation, while others asked that it be mandatory. EPA believes that, in order for the public to make well-informed health decisions, the reports should contain information available to the systems on any contaminant which may have an impact on the health of persons, whether or not monitoring for that contaminant is currently required. The Agency believes that requiring such reporting is authorized under both section 1414(c)(4)(B) (which states that the contents of the report must include, but not be limited to, certain items) and section 1445(a)(1)(A) (which authorizes the Administrator to require water systems to report information to the public on unregulated contaminants). On the other hand, the Agency does not want to discourage systems from performing additional voluntary monitoring by requiring disclosure of information which they could not explain. Therefore, the Agency is including this provision in the final rule as proposed.

5. Compliance With National Primary Drinking Water Regulations

In the proposed rule, the Agency required that reports contain information on all NPDWR violations other than those discussed above. This information was to include a clear and readily understandable explanation of the violation and its health significance. EPA requested comments on the need to include all NPDWR violations as listed in proposed § 141.153(e), and on how detailed the explanation should be.

The majority of commenters agreed that all violations, not just those posing a health risk, should be reported in the CCR. Commenters stated that increased awareness of violations would lead to increased compliance with regulations. Some commenters, however, argued that this requirement would duplicate the public notification (PN) requirements, and that minor violations that do not have a direct impact on health should not be reported in the CCR.

The Statute clearly requires some duplication between CCR and PN requirements since both provisions mandate reporting of violations. Since neither the PN nor the CCR can assure complete notification of all consumers, in many instances the information will not be repetitive for the public. The Agency will explore in its revisions to the PN rule the feasibility of allowing the CCR to serve as PN for some violations, thereby eliminating some duplication. States can use their authority to promulgate alternative requirements in accordance with § 141.151(e) to modify this requirement for the purpose of their final regulation.

The Agency is retaining the requirement that CCRs report all NPDWR violations but is clarifying proposed § 141.153(e), now § 141.153(f).

To aid readers, the Agency is placing in the introductory paragraph the requirements which apply to all violations. The Agency is not prescribing any mandatory language to describe the health significance of monitoring and reporting violations, violations of recordkeeping or special monitoring requirements, or violations of the terms of a variance, an exemption, or an administrative or judicial order because the explanation has to be tailored to the circumstances of the violation. In some cases, there may be no health significance—for example, failure to send a report on time. In other cases, the system should use the health effect language of appendix C—for example, repeated failure to perform required monitoring for a contaminant with acute health effects.

The Agency also notes that the length of violation means the period of time during which a system does not have positive evidence that it has returned to compliance. If a system does not sample for an entire quarter, the report should state that the violation lasted for a quarter. It is also possible that a system would be in violation for the first and third quarters of a year. This should be explained in the report.

Several commenters pointed out that the language contained in proposed § 141.154(b) for violations of the surface water treatment rule was cumbersome and difficult to understand. EPA agrees, so this language has been simplified and is now included in § 141.153(f)(2). The language is mandatory for systems which have failed to install adequate filtration or disinfection treatment, or have had failure of such equipment which constitutes a violation of the regulations, and for systems which fail to follow proper procedures to avoid filtration.

EPA also received comments indicating that the health effects language of proposed appendix B was not appropriate for all violations of the lead and copper rule. EPA agrees, and in keeping with decisions regarding monitoring, reporting, and recordkeeping violations explained above, EPA is not requiring the use of final appendix C language for these violations when they pertain to lead and copper. However, the Agency is requiring the use of appendix C language for failures to meet corrosion control requirements, the source water treatment requirements, and the lead service line replacement requirements (§ 141.153(f)(3)).

One commenter pointed out that discussions of violations of terms of variances, exemptions, or judicial orders should be limited to violations occurring during the 12-month period covered by the report. EPA agrees and has added this clarification for all violations.

Finally, commenters disagreed with the description of Acrylamide and Epichlorohydrin contained in proposed § 141.154(b)(2) and (3). EPA agrees that these descriptions may not be adequate. In any case, they are unnecessary. Appendix B includes language regarding the source of these contaminants which a system can use when it violates the treatment technique. The proposed health effects language has been moved to appendix C for the sake of consistency. Section 141.153(f)(4) prescribes the use of this language for violation of the treatment techniques for Acrylamide and Epichlorohydrin.

6. Variances and Exemptions

The proposal included a requirement that reports must include information regarding variances or exemptions including: (1) An explanation of the reasons for the variance or exemption, (2) the dates when the variance or exemption was issued and is due for renewal, (3) a status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules for the variance or exemption, and (4) a notice of opportunities for public input into the process. Many people commented that EPA should only require a brief status report on compliance with the terms of the variance or exemption. This status report is embodied by the requirements of proposed § 141.153(f)(3), promulgated as § 141.153(g)(3). EPA does not believe, however, that this status report would make sense to consumers without the context that would be provided by final rule § 141.153(g)(1) of the final rule. The Agency also notes that section 1414(c)(4)(B)(iv) of the Statute requires reports to include the basis on which the variance or exemption was granted. The remaining information requires only one or two sentences and is not burdensome.

On the other hand, requiring a complete explanation of the terms and compliance schedule could be too long to fit in the short summary report envisioned by Congress. Therefore, the Agency is promulgating this requirement in the final rule as proposed with a minor clarification that the requirement applies to systems currently operating under a variance or an exemption.

7. Additional Information

The proposed rule included three paragraphs in response to the statutory requirements that the regulations include a "brief and plainly worded explanation regarding contaminants that may reasonably be expected to be present in drinking water, including bottled water." As explained in the proposal's preamble, EPA interpreted this section of the law as a mandate from Congress to include such an explanation in consumer confidence reports, because the people likely to read the regulations themselves already know why drinking water contains contaminants. It is reasonable to understand that Congress intended that this explanation be provided to customers.

In general, commenters did not have many issues with the language proposed at § 141.153(g)(1)(i) and (ii) which

fulfills the statutory requirement that an explanation be included in the regulation but provides systems the flexibility to adapt that explanation to their specific circumstances. There was some confusion, however, as to what EPA intended to require regarding bottled water. Some commenters believed that EPA meant for the reports to include results of bottled water analysis. This is not EPA's intent. The Agency does believe, however, that all customers have a right to know that bottled water may contain contaminants, just as tap water does, and that this was the Congressional concern behind the requirement that these regulations contain a statement about bottled water. Therefore, EPA has revised proposed § 141.153(g)(1) (now § 141.153(h)(1)) to combine the language of proposed paragraphs (iv) and (v) into one mandatory paragraph. It explains that drinking water, including bottled water, may contain contaminants, that the presence of contaminants does not necessarily indicate that the water poses a health risk, and that the EPA Safe Drinking Water Hotline can provide additional information about contaminants and health effects.

EPA has slightly modified this language to account for the point raised by a commenter that some bottled water, presumably distilled water, contains no detectable contaminants. The language of § 141.153(h)(1)(iii) is a slight modification of the proposed language, which clearly indicates that FDA's regulations must be equally protective of human health. This language is optional.

In § 141.153(g)(3), EPA proposed that, in communities with a large proportion of non-English speaking residents, the reports should, at a minimum, contain some statement in the appropriate language alerting customers to the importance of the report. Some commenters objected to this requirement, arguing that it would be difficult for systems to ascertain what was a large proportion of non-English speaking residents. EPA agrees and in § 141.153(h)(3) the final rule provides that the primacy agency must determine when a population of non-English speakers is sufficiently large to require systems to take special measures for these residents.

D. Required Health Information and Rationale

The Agency proposed at § 141.154(a) that all consumer confidence reports include a statement that some people may be more vulnerable to contaminants in drinking water than the general population. The statement identified several categories of people who may be particularly at risk from infections, and encouraged them to seek advice from their health providers. It further informed people that EPA/CDC guidelines on appropriate means to lessen the risk of infection from *Cryptosporidium* can be obtained from the EPA Safe Drinking Water Hotline and provided the number, as required by section 1414(c)(4)(A).

Commenters were generally supportive of this statement and § 141.154(a) is promulgated as proposed, with the clarification that the CDC guidelines pertain to "other microbial contaminants" as well as *Cryptosporidium*.

As discussed in section III of this preamble, the regulations require additional educational material for three contaminants if they are detected above 50% of the MCL (arsenic and nitrates) or above the action level in more than 5% of homes sampled (lead). These requirements are codified at § 141.154(b), (c), and (d), respectively.

E. Report Delivery and Recordkeeping

In response to comments, some minor modifications have been made to this section. First, commenters argued that as written, § 141.155(a) implied that systems could use only the U.S. Postal Service to deliver reports to customers. EPA agrees that other means of delivering the reports could be used as long as reports get into customers' homes. For example, a system's water meter readers could deliver the reports. Therefore, the regulations now state in § 141.155(a) that reports must be mailed or otherwise directly delivered to the customer.

In proposed § 141.155(a), EPA also proposed that systems make a good faith effort to reach consumers who do not get water bills. The Agency discussed its reasons for incorporating flexibility in this provision and included in the proposal examples of what such good faith efforts might be: posting on the Internet, publication of the report in subdivision newsletters, asking landlords to post reports in conspicuous places. The proposal left to the State the discretion to recommend specific means of delivery. Many commenters argued that this was insufficient and that EPA should mandate specific requirements designed to reach all consumers.

The Agency strongly supports the right of all consumers to know about the quality of their drinking water and continues to believe that the means to reach consumers must be tailored to specific situations and cannot be mandated at the Federal level. Therefore, § 141.155(b) does not prescribe specific means for reaching customers. However, to ensure that systems are aware of the variety of means at their disposition, EPA has clarified in the final rule what it considers an adequate good faith effort and has provided a menu of options from which the systems must select the most appropriate means to reach their consumers.

The Agency believes that flexibility in these provisions is essential because it will take some time for EPA, States, and utilities working as partners to assess the efficacy of various good faith efforts. The Agency believes that this assessment can be achieved through voluntary means. It will require some information gathering by the States regarding how systems are implementing this provision. EPA also assumes that some systems will attempt to assess how effective their efforts are. EPA believes that this evaluation, which can be achieved through guidance after the rule is in place, could lead to more effective use of State and water system resources.

In addition, based on comments received regarding the possible use of the Internet to reach consumers and the public at large, the regulations now require in § 141.155(f) that systems serving 100,000 or more people post their current year's report on the Internet. These systems serve almost 50% of the population served by community water systems and several of these larger systems already post their reports on the Internet. In addition, EPA will work with the States to make reports of systems serving more than 10,000 people available on the Internet within the next few years. Eventually, EPA expects that reports on the water consumed by more than 90% of persons served by community water systems will be readily available through the Internet. This would allow most consumers to go to their public library and have access to information from the variety of systems whose water they may consume.

EPA will also work with the systems to ensure that the reports placed on the Internet are accessible through EPA's drinking water web site (www.epa.gov/safewater). EPA's site provides educational background on many of the report's terms and concepts. It offers resources such as fact sheets on drinking water regulations and on the potential health effects of each regulated contaminant. The site provides e-mail and telephone links so that consumers can get answers to individual questions. A state-by-state listing will provide information on the source water assessments referred to in the reports.

Other EPA web sites, such as Surf Your Watershed and the Index of Watershed Indicators, give consumers access to enormous amount of data and information about source water. Beginning in late 1999, the web site will also provide access to EPA's National Contaminant Occurrence Database which will contain information regarding contaminants detected in source water and finished water.

Some commenters suggested that a deadline be included in the regulations for mailing of the report to the State. The Agency agrees, so § 141.155(c) provides that reports be mailed to the State at the same time that they are distributed to customers, followed within three months by a certification that reports were distributed, and that the information contained in the reports is correct and consistent with previously submitted data.

Section 141.155(c) of the proposal would have required a water system to mail a copy of its consumer confidence report to any other agency in the State with jurisdiction over community water systems. This could include public utility commissions, if they have jurisdiction over rate making; public health agencies, which may either have primary jurisdiction over water systems or share that jurisdiction with other agencies; State environmental agencies; and State agricultural or natural resource agencies, if they have jurisdiction over water rights, wells, or other aspects of the system's source water. This section also authorized the State Director to designate any other agencies or clearinghouses to which he could require that systems send copies of their reports. Commenters argued that systems, particularly small systems, may routinely deal only with the primacy agency and not know of the other agencies listed in the proposal. EPA agrees, and the final regulations provide that systems need only mail additional copies of the report if required by the primacy agency.

Finally, as suggested by commenters, the Agency has added a five-year recordkeeping requirement for these reports § 141.155(h).

F. Special State Implementation and Primacy Requirements, and Rationale

Several commenters objected to EPA's proposal that States must adopt the requirements promulgated today (or alternative requirements as provided by § 141.151) in order to maintain primacy. These commenters based their rationale on the fact that the consumer confidence reports are not considered National Primary Drinking Water Regulations (NPDWRs) under the statute. EPA agrees that these regulations are not NPDWRs as defined under SDWA section 1401. However, EPA believes that it can require States to adopt these requirements under the authority of section 1413(a)(2) which requires States to adopt and implement adequate procedures for enforcement of NPDWRs. EPA believes that these reports contain data which provide the public with information which can be used to promote compliance with the regulations. Moreover, these reports are required under section 1414 of the SDWA which is the enforcement provision of the Act for the public water supply supervision program. EPA believes therefore that Congress intended these reports to be treated as necessary for enforcement pursuant to section 1413(a)(2), similar to public notification requirements (also under section 1414) which EPA has treated as a primacy requirement under section 1413(a)(2). Therefore, EPA is promulgating § 142.16(f) as proposed.

The proposed regulation included a provision § 142.16(f)(2) that would have given States two options in discharging their responsibility to make reports available to the public. They could keep the reports themselves, or simply maintain a list of operators' phone numbers which could be provided to the public.

Many States objected to having to serve as clearinghouses for these reports. They argued that the certification required by § 141.155(c) would be sufficient for ascertaining compliance with these regulations. They also argued that maintaining the reports would require manpower and filing space. Some States also objected to the requirement that they maintain a list of operators' telephone numbers. Most believed that it was unnecessary because they already have such lists, but others said that it would be burdensome.

Most members of the public who submitted comments believed, however, that easy access to reports by all members of the public was an essential element of any right-to-know regulation. Their comments were echoed by consumer advocates who requested a national clearinghouse.

Based on all the comments received, EPA now believes that it is important for the States to maintain copies of the reports for two reasons. First, the Agency is convinced that there must be some access provided to the general public to reports other than from their own system. People with special needs may need to know about drinking water quality in other parts of the country when they travel, or might want to check a report from another part of the country when planning a move. Second, EPA believes that States themselves would want to have easy access to the reports in order to make decisions on how to exercise their flexibility to adopt alternative requirements, and in order to seek good new ideas for the reports. EPA is therefore requiring at § 142.16(f)(2) that States make reports available to the public upon request and at § 142.16(f)(3) that States maintain a copy of the reports for one year. This does not mean that all reports must be housed in one central location. Large States with field offices could maintain the reports in those offices. States could also arrange with an independent clearinghouse to make the reports available to the public. The option that States maintain lists of the operators' telephone numbers has been deleted.

Some commenters asked for clarification regarding implementation of the regulations during the interim period between effective date of the federal requirements and effective date of State requirements. During this interim period, EPA must enforce the regulation in lieu of the States; however, the systems will submit their reports to the primacy agency. Therefore, a provision has been added in § 142.16(f)(4) which clarifies that States must report violations to EPA so that EPA can take enforcement action as appropriate. Note that EPA interprets its regulations on primacy State reporting at § 142.14(a) to require reporting of CCR violations. The term "national primary drinking water regulations" in that section refers generally to the regulations EPA has codified in 40 CFR part 141 (entitled National Primary Drinking Water Regulations), including today's regulations, rather than the somewhat narrower use of the term "primary drinking water regulation" under section 1401 of SDWA. Today's rule at § 142.16(f)(4) is intended merely to clarify the intent of § 142.15(a)(1) with respect to consumer confidence reporting.

G. Health Effect Language and Rationale

In appendix B of the proposal, EPA included brief statements on health concerns of regulated contaminants to be used when systems reported detections in violation of NPDWRs. The Agency indicated that the language in proposed appendix B was a distillation of information contained in EPA fact sheets, which were included in the docket for this rulemaking. EPA requested comment on the accuracy and adequacy of this language. EPA also tested some of these statements with the focus groups. In general, comments

were supportive and most members of the focus groups formed correct opinions regarding the relative risk of the various scenarios presented to them. Therefore, EPA is promulgating appendix B, now titled appendix C, as proposed with some minor modifications.

First, several commenters were concerned that the statements overstated risk and did not clearly convey that the basis for contaminant standard-setting is a probability that certain effects might occur in certain people, not a certainty. The statements now start with the words "some people" rather than "people" to convey the probabilistic nature of the standard-setting process.

Some commenters also asked for clarification regarding the words "well in excess of the MCL" used in some of the statements. In the proposal, EPA used these words to differentiate between carcinogens and chronic contaminants for which MCLs are set with a substantial margin of safety. EPA has reviewed this margin of safety and is keeping the words "well in excess" only for contaminants for which the MCL is at least a thousand times lower than the level at which there have been any observed health effects.

Some commenters disputed the accuracy of some of the health effects noted for some contaminants. As suggested by a commenter, EPA has reviewed the health effects noted in EPA's Integrated Risk Information System (IRIS), which is a peer-reviewed compilation of the latest health information regarding contaminants. The Agency made some changes based on this information. It should be noted, however, that appendix C does not, and is not intended to, catalog all possible health effects for each contaminant. Rather, it is intended to inform consumers of the most significant and probable health effects associated with the contaminant in drinking water.

Based on comments received, EPA has also removed the reference to cancer for any Group C ("possible") carcinogen. EPA believes that the evidence of cancer for any of these contaminants is too weak to warrant inclusion in appendix C. All contaminant-specific changes are explained in detail in the comment-response document included in the docket for this rule.

V. Cost of the Rule

EPA estimated the costs of complying with the requirements of the proposed rule and described the results of that analysis in the background information for the proposed rule (63 FR 7618–7619). EPA has adjusted its estimate to account for additional requirements added in the final rule: That systems store a copy of the report for five years after distributing it, and that systems serving 100,000 or more people place their CCR on the Internet.

The costs of complying with the rule were evaluated in terms of fixed costs and variable costs. Fixed costs include those costs that a community water system must incur to comply with the requirements regardless of how many copies of the report it must deliver. These costs include the costs associated with reviewing the regulations, collecting data regarding monitoring results and MCL violations, preparing the technical content of the consumer confidence report in a format suitable for distribution, identifying the recipients of the reports, and providing instructions about report production. Variable costs are costs that increase or decrease along with the number of consumer confidence reports to be delivered. These costs include costs of producing the reports (costs of paper, photocopying or printing, and labels) and postage.

Based on its analysis, the Agency estimates the annual cost of delivering a report to every customer served by all community water systems nationally (except for California, which already requires notices similar to the consumer confidence reports in this rule) is $20,807,555. EPA estimates that the average cost per system is approximately $442.

COST SUMMARY TABLE

Some figures do not add because of rounding	Number of systems	Average labor hours per system	Average labor cost per system	Other costs per system (e.g., postage)	Total cost for size category
Systems serving ≤ 500	27,135	4.9	$49	$0.35	$1,346,815
Systems serving 501–3,300	12,983	13.5	135	248	4,968,334
Systems serving 3,301–10,000	3,882	19.5	468	816	4,983,712
Systems serving 10,001–50,000	2,319	24.6	787	2,301	8,349,790
Systems serving ≥ 100,000	336	25.1	803	2,644	1,158,904
Total for all Systems					20,807,555
Total State or Primacy Agency Cost					2,784,692
Cost of rule					23,592,247

EPA recognizes that these cost estimates may appear understated to many commenters. These commenters stressed several factors that they believed EPA had overlooked or significantly underestimated, including some factors that have been discussed earlier, such as the need to report on multiple sources of water. In particular, however, two important trends emerged in the comments.

One trend was represented by several commenters from very small systems, who argued that any CCR would be a financial burden to them. In addition to ignoring the Congressional mandate for the CCR, however, such commenters also frequently overlooked key factors that will affect the costs to small systems. These factors include, first, the statutory and regulatory provisions for waiver of delivery requirements for such systems. EPA did not receive any indications in the comments submitted on the proposed rule that State Governors would not make the necessary findings and certifications to allow the smallest systems to post their CCRs rather than deliver them to each customer, or that small systems would not be allowed to adopt alternatives to mail delivery. Therefore, the Agency's estimates reflect a significant use of alternative means of distribution by small systems. Second, EPA anticipates that the burden of preparation of the CCR for small systems will be substantially lessened by use of report templates, which will enable small

systems to avoid the costs of graphically designing reports; looking up and copying information, such as health effects language or typical sources of contamination; and calculating the conversions necessary to report detections in the form called for by the rule. Such templates will be made available by EPA and by trade associations representing water supply systems, and the Agency has reflected the widespread use of such templates in its estimates. In addition, EPA expects that small systems will receive assistance and support from State primacy agencies in collecting and interpreting data.

The second trend was represented by commenters from larger systems, many of which already prepare and distribute various reports to their customers. They frequently suggested that use of professional graphic designers, use of multicolor printing, use of multiple pages for reports, and delivery to larger numbers of customers than incorporated into the EPA's cost estimate would lead to higher costs than those developed for this proposed rule. EPA recognizes that larger systems, in particular, may wish to develop CCRs that have very high graphic qualities that appeal to wide audiences, and certainly does not want to inhibit systems from making their CCRs as appealing as possible. In such cases, EPA recognizes, the costs of preparation and delivery of the CCR will be greater than those estimated for this rule.

The purpose of the estimate provided in this rule, however, is to indicate the minimum cost that might be incurred by a system to comply with the Congressional and regulatory requirements. This approximation of the true cost of the regulations, as such, does not include the cost of embellishments that systems may reasonably find desirable but are not required. Contrary to the assumptions of some commenters, no costs of testing source water are properly attributable to the costs of complying with the CCR rule. EPA notes that even some large metropolitan water systems have succeeded in preparing clear and appealing water quality reports that can be placed on a single sheet of paper; that do not rely on multicolor printing but are nevertheless graphically distinctive; and that can be delivered without the very substantial increases in postage costs suggested as necessary by some commenters. Therefore, taking the "bare bones" nature of the CCR, as well as the tools that will be available for its production and the special procedures that will be allowed for its distribution by small systems, EPA considers that its estimated costs of compliance are adequate.

VI. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of the recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action." Therefore, EPA submitted this action to OMB for review. Substantive changes made in response to OMB suggestions or recommendations are documented in the public record.

B. Regulatory Flexibility Act

1. General

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), requires EPA to consider explicitly the effect of proposed regulations on small entities. Under the RFA, 5 U.S.C. 601 *et seq.*, an agency must prepare a regulatory flexibility analysis (RFA) describing the economic impact of a rule on small entities as part of rulemaking. However, under section 605(b) of the RFA, if EPA certifies that the rule will not have a significant economic impact on a substantial number of small entities, EPA is not required to prepare a RFA.

EPA has determined that this rule will affect small water utilities, since it is applicable to all community water systems, including small systems. However, EPA has estimated the impact of the rule and concluded that the impact of the rule will not be significant. Therefore, the Administrator is today certifying, pursuant to section 605(b) of the RFA, that this rule will not have a significant economic impact on a substantial number of small entities. The basis for this certification is as follows: the annualized compliance costs of the rule represent less than one percent of sales for small businesses and less than one percent of revenues for small governments. For this analysis, EPA selected systems serving 10,000 or fewer persons as the criterion for small water systems and therefore as the definition of small entity for the purposes of the RFA. This is the cut-off level specified by Congress in this provision for small system flexibility in delivery of the reports. Because this does not correspond to the definition established under the RFA, EPA consulted with the Small Business Administration (SBA) on the use of this alternative definition (see next section). Further information supporting this certification is available in the public docket for this rule.

Since the Administrator is certifying this rule, the Agency did not prepare a Regulatory Flexibility Analysis. Nevertheless, the Agency has conducted outreach to address the small-entity impacts that do exist and to gather information. The Agency also has structured the rule to avoid significant impacts on a substantial number of small entities by providing flexibility to community water systems in the design of consumer confidence reports; offering them the choice to use a simplified format to prepare the reports; and incorporating procedures by which small systems can make reports available to their customers by methods other than mailing. Further, the Agency notes that in general the regulations issued under SDWA place a lesser burden on small systems, for example, for most regulated contaminants, small systems have to collect fewer samples. Therefore, small systems operators will have significantly less information to report in consumer confidence reports.

2. Use of Alternative Definition

As discussed at length in the preamble to the proposed rule, EPA is defining, for the purposes of this rule-making, a "small entity" as a public water system that serves 10,000 or fewer people. In the proposal, EPA requested comments on the issue. The Agency's review of those comments showed that stakeholders support the proposed definition. The SBA Office of Advocacy agreed with the Agency's choice of systems serving 10,000 or fewer people for an alternative small business definition for this rulemaking. EPA

intends to define "small entity" in the same way for regulatory flexibility assessments under the RFA for all future drinking water regulations.

C. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*. An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1832.01) and a copy may be obtained from Sandy Farmer, OP Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M Street SW, Washington, DC 20460 or by calling (202) 260–2740. The information collection requirements are not effective until OMB approves them.

This information is being collected in order to fulfill the statutory requirements of section 114(c)(4) of the Safe Drinking Water Act Amendments of 1996 (Public Law 104–182) enacted August 6, 1996. Responses are mandatory.

The burden to the regulated community is based on the cost of the rule discussed under section V. The burden to community water systems is approximately 460,000 hours at an annual cost of $20,807,555. The estimated number of respondents is 47,040 community water systems. The frequency of responses is annual. The average burden per response is approximately 10 hours. The annual burden to EPA and State primacy agencies over three years is based on 3 elements: preparing reports for some small community water systems, receiving and reviewing reports, and filing reports. EPA estimates the annual burden incurred by implementing agencies for activities associated with the proposed regulations to be approximately 98,230 hours at an annual cost of $2,784,692.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to, or for, a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing way to comply with any previous applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137), 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Comments are requested within September 18, 1998. Include the ICR number in any correspondence.

D. Enhancing the Intergovernmental Partnership

Unless the Federal government provides funds for State, local, or Tribal governments to pay the direct costs of implementing a Federal mandate upon them, Executive Order 12875, "Enhancing Intergovernmental Partnerships," October 26, 1993, requires an agency to consult with State, tribal, and local entities in the development of rules that will affect them, provide OMB a description of the issues raised, and provide an Agency statement supporting the need to issue the regulation. As described in section II of the Supplementary Information above, EPA held extensive meetings with a wide variety of State, tribal, and local representatives, who provided meaningful and timely input in the development of the proposed rule. Summaries of the meetings have been included in the public docket for this rulemaking.

E. Unfunded Mandates Reform Act

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

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments in the aggregate, or the private sector, in any one year. Thus, today's rule is not subject to the requirements of sections of 202 and 205 of the UMRA. This rule will establish requirements that affect small community water systems. However, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments because the regulation requires minimal expenditure of resources. Thus, this rule is not subject to the requirements of section 203 of UMRA.

F. Environmental Justice

Pursuant to Executive Order 12898 (59 FR 7629, February 16, 1994), The Agency has considered environmental justice related issues with regard to the potential impacts of this action on the environmental and health conditions in low-income and minority communities. The Agency believes that two of today's proposed requirements will be particularly beneficial to these communities. One is that community water systems must include information in language other than English if a

significant portion of the population, as determined by the Primacy Agency, does not speak English. The other is that systems must make a good faith effort to reach consumers who are not bill paying customers.

G. Risk to Children Analysis

On April 23, 1997, the President issued Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 1988). A "covered regulatory action" is defined in section 2–202 as a substantive action in a rulemaking that (a) is likely to result in a rule that may be "economically significant" under Executive Order 12866 and (b) concerns an environmental health risk or safety risk that an agency has reason to believe may disproportionally affect children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not a "covered regulatory action" as defined in the Order because it is not economically significant (see section V above). EPA believes, however, that the rule has the potential to reduce risks to children.

This regulation on consumer confidence reports addresses the particular risks that certain contaminants in drinking water may pose to children. The regulation requires that the reports include additional information aimed at parents of young children when lead or nitrates are detected in a system's water above certain levels. The health effects language provided in appendix C of the rule identifies risks to infants and children from drinking water containing lead, nitrate, or nitrite in excess of specified levels.

H. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act, the Agency is required to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires the Agency to provide Congress, through the Office of Management and Budget, an explanation of the reasons for not using such standards. Because this rule does not involve or require the use of any technical standards, EPA does not believe that this Act is applicable to this rule. Moreover, EPA is unaware of any voluntary consensus standards relevant to this rulemaking. Therefore, even if the Act were applicable to this kind of rulemaking, EPA does not believe that there are any "available or potentially applicable" voluntary consensus standards.

I. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1998, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a major rule as defined by 5 U.S.C. 804(2). This rule will be effective on September 18, 1998. For judicial review purposes, the effective date and time of this final rule is 1 p.m. eastern time on September 2, 1998, as provided in 40 CFR 23.7.

List of Subjects in 40 CFR Parts 141 and 142

Environmental protection, Administrative practice and procedure, Chemicals, Indian-lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: August 11, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR parts 141 and 142 are amended as follows:

PART 141—[AMENDED]

1. The authority citation for part 141 is revised to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Subpart O is added to read as follows:

Subpart O—Consumer Confidence Reports

Subpart O—Consumer Confidence Reports

§ 141.151 Purpose and applicability of this subpart.

(a) This subpart establishes the minimum requirements for the content of annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner.

(b) Notwithstanding the provisions of § 141.3, this subpart applies only to community water systems.

(c) For the purpose of this subpart, *customers* are defined as billing units or service connections to which water is delivered by a community water system.

(d) For the purpose of this subpart, *detected* means: at or above the levels prescribed by § 141.23(a)(4) for inorganic contaminants, at or above the levels prescribed by § 141.24(f)(7) for the contaminants listed in § 141.61(a), at or above the level prescribed by § 141.24(h)(18) for the contaminants listed in § 141.61(c), and at or above the levels prescribed by § 141.25(c) for radioactive contaminants.

(e) A State that has primary enforcement responsibility may adopt by rule, after notice and comment, alternative requirements for the form and content of the reports. The alternative requirements must provide the same type and amount of information as required by §§ 141.153 and 141.154, and must be designed to achieve an equivalent level of public information and education as would be achieved under this subpart.

(f) For purpose of §§ 141.154 and 141.155 of this subpart, the term "primacy agency" refers to the State or tribal government entity that has jurisdiction over, and primary enforcement responsibility for, public water systems, even if that government does not have interim or final primary

enforcement responsibility for this rule. Where the State or tribe does not have primary enforcement responsibility for public water systems, the term "primacy agency" refers to the appropriate EPA regional office.

§ 141.152 Effective dates.

(a) The regulations in this subpart shall take effect on September 18, 1998.

(b) Each existing community water system must deliver its first report by October 19, 1999, its second report by July 1, 2000, and subsequent reports by July 1 annually thereafter. The first report must contain data collected during, or prior to, calendar year 1998 as prescribed in § 141.153(d)(3). Each report thereafter must contain data collected during, or prior to, the previous calendar year.

(c) A new community water system must deliver its first report by July 1 of the year after its first full calendar year in operation and annually thereafter.

(d) A community water system that sells water to another community water system must deliver the applicable information required in § 141.153 to the buyer system:

(1) No later than April 19, 1999, by April 1, 2000, and by April 1 annually thereafter or

(2) On a date mutually agreed upon by the seller and the purchaser, and specifically included in a contract between the parties.

§ 141.153 Content of the reports.

(a) Each community water system must provide to its customers an annual report that contains the information specified in this section and § 141.154.

(b) Information on the source of the water delivered:

(1) Each report must identify the source(s) of the water delivered by the community water system by providing information on:

(i) The type of the water: e.g., surface water, ground water; and

(ii) The commonly used name (if any) and location of the body (or bodies) of water.

(2) If a source water assessment has been completed, the report must notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant sources of contamination in the source water area if they have readily available information. Where a system has received a source water assessment from the primacy agency, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the primacy agency or written by the operator.

(c) Definitions.

(1) Each report must include the following definitions:

(i) *Maximum Contaminant Level Goal or MCLG:* The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

(ii) *Maximum Contaminant Level or MCL:* The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(2) A report for a community water system operating under a variance or an exemption issued under § 1415 or 1416 of SDWA must include the following definition: *Variances and Exemptions:* State or EPA permission not to meet an MCL or a treatment technique under certain conditions.

(3) A report which contains data on a contaminant for which EPA has set a treatment technique or an action level must include one or both of the following definitions as applicable:

(i) *Treatment Technique:* A required process intended to reduce the level of a contaminant in drinking water.

(ii) *Action Level:* The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(d) Information on Detected Contaminants.

(1) This sub-section specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring (except *Cryptosporidium*). It applies to:

(i) Contaminants subject to an MCL, action level, or treatment technique (regulated contaminants);

(ii) Contaminants for which monitoring is required by § 141.40 (unregulated contaminants); and

(iii) Disinfection by-products or microbial contaminants for which monitoring is required by §§ 141.142 and 141.143, except as provided under paragraph (e)(1) of this section, and which are detected in the finished water.

(2) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(3) The data must be derived from data collected to comply with EPA and State monitoring and analytical requirements during calendar year 1998 for the first report and subsequent calendar years thereafter except that:

(i) Where a system is allowed to monitor for regulated contaminants less often than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than 5 years need be included.

(ii) Results of monitoring in compliance with §§ 141.142 and 141.143 need only be included for 5 years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.

(4) For detected regulated contaminants (listed in appendix A to this subpart), the table(s) must contain:

(i) The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in appendix A to this subpart);

(ii) The MCLG for that contaminant expressed in the same units as the MCL;

(iii) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph(c)(3) of this section;

(iv) For contaminants subject to an MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with an NPDWR and the range of detected levels, as follows:

(A) When compliance with the MCL is determined annually or less frequently: The highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL.

(B) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: the highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL.

(C) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points: the average and range of detection expressed in the same units as the MCL.

Note to paragraph (d)(4)(iv): When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in appendix A of this subpart;

(v) For turbidity.

(A) When it is reported pursuant to § 141.13: The highest average monthly value.

(B) When it is reported pursuant to the requirements of § 141.71: the highest monthly value. The report should include an explanation of the reasons for measuring turbidity.

(C) When it is reported pursuant to § 141.73: The highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in § 141.73 for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity;

(vi) For lead and copper: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level;

(vii) For total coliform:

(A) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

(B) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month;

(viii) For fecal coliform: The total number of positive samples; and

(ix) The likely source(s) of detected contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in appendix B to this subpart which are most applicable to the system.

(5) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(6) The table(s) must clearly identify any data indicating violations of MCLs or treatment techniques and the report must contain a clear and readily understandable explanation of the violation including: the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language of appendix C to this subpart.

(7) For detected unregulated contaminants for which monitoring is required (except Cryptosporidium), the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

(e) Information on Cryptosporidium, radon, and other contaminants:

(1) If the system has performed any monitoring for Cryptosporidium, including monitoring performed to satisfy the requirements of § 141.143, which indicates that Cryptosporidium may be present in the source water or the finished water, the report must include:

(i) A summary of the results of the monitoring; and

(ii) An explanation of the significance of the results.

(2) If the system has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results.

(3) If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, EPA strongly encourages systems to report any results which may indicate a health concern. To determine if results may indicate a health concern, EPA recommends that systems find out if EPA has proposed an NPDWR or issued a health advisory for that contaminant by calling the Safe Drinking Water Hotline (800–426–4791). EPA considers detects above a proposed MCL or health advisory level to indicate possible health concerns. For such contaminants, EPA recommends that the report include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

(f) Compliance with NPDWR. In addition to the requirements of § 141.153(d)(7), the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

(1) Monitoring and reporting of compliance data;

(2) Filtration and disinfection prescribed by subpart H of this part. For systems which have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of such equipment or processes which constitutes a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(3) Lead and copper control requirements prescribed by subpart I of this part. For systems which fail to take one or more actions prescribed by §§ 141.80(d), 141.81, 141.82, 141.83 or 141.84, the report must include the applicable language of appendix C to this subpart for lead, copper, or both.

(4) Treatment techniques for Acrylamide and Epichlorohydrin prescribed by subpart K of this part. For systems which violate the requirements of subpart K of this part, the report must include the relevant language from appendix C to this subpart.

(5) Recordkeeping of compliance data.

(6) Special monitoring requirements prescribed by §§ 141.40 and 141.41; and

(7) Violation of the terms of a variance, an exemption, or an administrative or judicial order.

(g) Variances and Exemptions. If a system is operating under the terms of a variance or an exemption issued under § 1415 or 1416 of SDWA, the report must contain:

(1) An explanation of the reasons for the variance or exemption;

(2) The date on which the variance or exemption was issued;

(3) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption; and

(4) A notice of any opportunity for public input in the review, or renewal, of the variance or exemption.

(h) Additional information:

(1) The report must contain a brief explanation regarding contaminants which may reasonably be expected to be found in drinking water including bottled water. This explanation may include the language of paragraphs (h)(1) (i) through (iii) or systems may use their own comparable language. The report also must include the language of paragraph (h)(1)(iv) of this section.

(i) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity.

(ii) Contaminants that may be present in source water include:

(A) *Microbial contaminants*, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.

(B) *Inorganic contaminants*, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.

(C) *Pesticides and herbicides*, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses.

(D) *Organic chemical contaminants*, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems.

(E) *Radioactive contaminants*, which can be naturally-occurring or be the result of oil and gas production and mining activities.

(iii) In order to ensure that tap water is safe to drink, EPA prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. FDA regulations establish limits for contaminants in bottled water which must provide the same protection for public health.

(iv) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800–426–4791).

(2) The report must include the telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report.

(3) In communities with a large proportion of non-English speaking residents, as determined by the Primacy Agency, the report must contain information in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language.

(4) The report must include information (e.g., time and place of regularly scheduled board meetings) about opportunities for public participation in decisions that may affect the quality of the water.

(5) The systems may include such additional information as they deem necessary for public education consistent with, and not detracting from, the purpose of the report.

§ 141.154 Required additional health information.

(a) All reports must prominently display the following language: Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/CDC guidelines on appropriate means to lessen the risk of infection by *Cryptosporidium* and other microbial contaminants are available from the Safe Drinking Water Hotline (800–426–4791).

(b) A system which detects arsenic at levels above 25 "µg/l, but below the MCL:

(1) Must include in its report a short informational statement about arsenic, using language such as: EPA is reviewing the drinking water standard for arsenic because of special concerns that it may not be stringent enough. Arsenic is a naturally-occurring mineral known to cause cancer in humans at high concentrations.

(2) May write its own educational statement, but only in consultation with the Primacy Agency.

(c) A system which detects nitrate at levels above 5 mg/l, but below the MCL:

(1) Must include a short informational statement about the impacts of nitrate on children using language such as: Nitrate in drinking water at levels above 10 ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider.

(2) May write its own educational statement, but only in consultation with the Primacy Agency.

(d) Systems which detect lead above the action level in more than 5%, but fewer that 10%, of homes sampled:

(1) Must include a short informational statement about the special impact of lead on children using language such as: Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested and flush your tap for 30 seconds to 2 minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline (800–426–4791).

(2) May write its own educational statement, but only in consultation with the Primacy Agency.

§ 141.155 Report delivery and recordkeeping.

(a) Except as provided in paragraph (g) of this section, each community water system must mail or otherwise directly deliver one copy of the report to each customer.

(b) The system must make a good faith effort to reach consumers who do not get water bills, using means recommended by the primacy agency. EPA expects that an adequate good faith effort will be tailored to the consumers who are served by the system but are not bill-paying customers, such as renters or workers. A good faith effort to reach consumers would include a mix of methods appropriate to the particular system such as: Posting the reports on the Internet; mailing to postal patrons in metropolitan areas; advertising the availability of the report in the news media; publication in a local newspaper; posting in public places such as cafeterias or lunch rooms of public buildings; delivery of multiple copies for distribution by single-biller customers such as apartment buildings or large private employers; delivery to community organizations.

(c) No later than the date the system is required to distribute the report to its customers, each community water system must mail a copy of the report to the primacy agency, followed within 3 months by a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the primacy agency.

(d) No later than the date the system is required to distribute the report to its customers, each community water system must deliver the report to any other agency or clearinghouse identified by the primacy agency.

(e) Each community water system must make its reports available to the public upon request.

(f) Each community water system serving 100,000 or more persons must

post its current year's report to a publicly-accessible site on the Internet.

(g) The Governor of a State or his designee, or the Tribal Leader where the tribe has met the eligibility requirements contained in § 142.72 for the purposes of waiving the mailing requirement, can waive the requirement of paragraph (a) of this section for community water systems serving fewer than 10,000 persons. In consultation with the tribal government, the Regional Administrator may waive the requirement of § 141.155(a) in areas in Indian country where no tribe has been deemed eligible.

(1) Such systems must:

(i) Publish the reports in one or more local newspapers serving the area in which the system is located;

(ii) Inform the customers that the reports will not be mailed, either in the newspapers in which the reports are published or by other means approved by the State; and

(iii) Make the reports available to the public upon request.

(2) Systems serving 500 or fewer persons may forego the requirements of paragraphs (g)(1)(i) and (ii) of this section if they provide notice at least once per year to their customers by mail, door-to-door delivery or by posting in an appropriate location that the report is available upon request.

(h) Any system subject to this subpart must retain copies of its consumer confidence report for no less than 5 years.

Appendix A to Subpart O—Converting MCL Compliance Values for Consumer Confidence Reports

Key

AL=Action Level
MCL=Maximum Contaminant Level
MCLG=Maximum Contaminant Level Goal
MFL=million fibers per liter
mrem/year=millirems per year (a measure of radiation absorbed by the body)
NTU=Nephelometric Turbidity Units
pCi/l=picocuries per liter (a measure of radioactivity)
ppm=parts per million, or milligrams per liter (mg/l)
ppb=parts per billion, or micrograms per liter (μg/l)
ppt=parts per trillion, or nanograms per liter
ppq=parts per quadrillion, or picograms per liter
TT=Treatment Technique

Contaminant	MCL in compliance units (mg/L)	multiply by . . .	MCL in CCR units	MCLG in CCR units
Microbiological Contaminants				
1. Total Coliform Bacteria			Presence of coliform bacteria in ≥5% of monthly samples.	0
2. Fecal coliform and E. coli			A routine sample and a repeat sample are total coliform positive, and one is also fecal coliform or E. coli positive.	0
3. Turbidity			TT (NTU)	n/a
Radioactive Contaminants				
4. Beta/photon emitters	4 mrem/yr		4 mrem/yr	0
5. Alpha emitters	15 pCi/l		15 pCi/l	0
6. Combined radium	5 pCi/l		5 pCi/l	0
Inorganic Contaminants				
7. Antimony	.006	1000	6 ppb	6
8. Arsenic	.05	1000	50 ppb	n/a
9. Asbestos	7 MFL		7 MFL	7
10. Barium	2		2 ppm	2
11. Beryllium	.004	1000	4 ppb	4
12. Cadmium	.005	1000	5 ppb	5
13. Chromium	.1	1000	100 ppb	100
14. Copper	AL=1.3		AL=1.3 ppm	1.3
15. Cyanide	.2	1000	200 ppb	200
16. Fluoride	4		4 ppm	4
17. Lead	AL=.015	1000	AL=15 ppb	0
18. Mercury (inorganic)	.002	1000	2 ppb	2
19. Nitrate (as Nitrogen)	10		10 ppm	10
20. Nitrite (as Nitrogen)	1		1 ppm	1
21. Selenium	.05	1000	50 ppb	50
22. Thallium	.002	1000	2 ppb	0.5
Synthetic Organic Contaminants including Pesticides and Herbicides				
23. 2,4-D	.07	1000	70 ppb	70
24. 2,4,5-TP [Silvex]	.05	1000	50 ppb	50
25. Acrylamide			TT	0
26. Alachlor	.002	1000	2 ppb	0
27. Atrazine	.003	1000	3 ppb	3
28. Benzo(a)pyrene [PAH]	.0002	1,000,000	200 ppt	0
29. Carbofuran	.04	1000	40 ppb	40

Contaminant	MCL in compliance units (mg/L)	multiply by . . .	MCL in CCR units	MCLG in CCR units
30. Chlordane	.002	1000	2 ppb	0
31. Dalapon	.2	1000	200 ppb	200
32. Di(2-ethylhexyl)adipate	.4	1000	400 ppb	400
33. Di(2-ethylhexyl) phthalate	.006	1000	6 ppb	0
34. Dibromochloropropane	.0002	1,000,000	200 ppt	0
35. Dinoseb	.007	1000	7 ppb	7
36. Diquat	.02	1000	20 ppb	20
37. Dioxin [2,3,7,8-TCDD]	.00000003	1,000,000,000	30 ppq	0
38. Endothall	.1	1000	100 ppb	100
39. Endrin	.002	1000	2 ppb	2
40. Epichlorohydrin			TT	0
41. Ethylene dibromide	.00005	1,000,000	50 ppt	0
42. Glyphosate	.7	1000	700 ppb	700
43. Heptachlor	.0004	1,000,000	400 ppt	0
44. Heptachlor epoxide	.0002	1,000,000	200 ppt	0
45. Hexachlorobenzene	.001	1000	1 ppb	0
46. Hexachloro-cyclopentadiene	.05	1000	50 ppb	50
47. Lindane	.0002	1,000,000	200 ppt	200
48. Methoxychlor	.04	1000	40 ppb	40
49. Oxamyl [Vydate]	.2	1000	200 ppb	200
50. PCBs [Polychlorinated biphenyls]	.0005	1,000,000	500 ppt	0
51. Pentachlorophenol	.001	1000	1 ppb	0
52. Picloram	.5	1000	500 ppb	500
53. Simazine	.004	1000	4 ppb	4
54. Toxaphene	.003	1000	3 ppb	0
Volatile Organic Contaminants				
55. Benzene	.005	1000	5 ppb	0
56. Carbon tetrachloride	.005	1000	5 ppb	0
57. Chlorobenzene	.1	1000	100 ppb	100
58. o-Dichlorobenzene	.6	1000	600 ppb	600
59. p-Dichlorobenzene	.075	1000	75 ppb	75
60. 1,2-Dichloroethane	.005	1000	5 ppb	0
61. 1,1-Dichloroethylene	.007	1000	7 ppb	7
62. cis-1,2-Dichloroethylene	.07	1000	70 ppb	70
63. trans-1,2-Dichloroethylene	.1	1000	100 ppb	100
64. Dichloromethane	.005	1000	5 ppb	0
65. 1,2-Dichloropropane	.005	1000	5 ppb	0
66. Ethylbenzene	.7	1000	700 ppb	700
67. Styrene	.1	1000	100 ppb	100
68. Tetrachloroethylene	.005	1000	5 ppb	0
69. 1,2,4-Trichlorobenzene	.07	1000	70 ppb	70
70. 1,1,1-Trichloroethane	.2	1000	200 ppb	200
71. 1,1,2-Trichloroethane	.005	1000	5 ppb	3
72. Trichloroethylene	.005	1000	5 ppb	0
73. TTHMs [Total trihalomethanes]	.10	1000	100 ppb	0
74. Toluene	1		1 ppm	1
75. Vinyl Chloride	.002	1000	2 ppb	0
76. Xylenes	10		10 ppm	10

Appendix B to Subpart O—Regulated Contaminants

Key

AL=Action Level
MCL=Maximum Contaminant Level
MCLG=Maximum Contaminant Level Goal
MFL=million fibers per liter
mrem/year=millirems per year (a measure of radiation absorbed by the body)
NTU=Nephelometric Turbidity Units
pCi/l=picocuries per liter (a measure of radioactivity)
ppm=parts per million, or milligrams per liter (mg/l)
ppb=parts per billion, or micrograms per liter (µg/l)
ppt=parts per trillion, or nanograms per liter
ppq=parts per quadrillion, or picograms per liter
TT=Treatment Technique

Contaminant (units)	MCLG	MCL	Major sources in drinking water
Microbiological Contaminants			
1. Total Coliform Bacteria	0	Presence of coliform bacteria in ≥5% of monthly samples.	Naturally present in the environment.

Contaminant (units)	MCLG	MCL	Major sources in drinking water
2. Fecal coliform and *E. coli*	0	A routine sample and a repeat sample are total coliform positive, and one is also fecal coliform or *E. coli* positive.	Human and animal fecal waste.
3. Turbidity	n/a	TT	Soil runoff.
Radioactive Contaminants			
4. Beta/photon emitters (mrem/yr)	0	4	Decay of natural and man-made deposits.
5. Alpha emitters (pCi/l)	0	15	Erosion of natural deposits.
6. Combined radium (pCi/l)	0	5	Erosion of natural deposits.
Inorganic Contaminants			
7. Antimony (ppb)	6	6	Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder.
8. Arsenic (ppb)	n/a	50	Erosion of natural deposits; Runoff from orchards; Runoff from glass and electronics production wastes.
9. Asbestos (MFL)	7	7	Decay of asbestos cement water mains; Erosion of natural deposits.
10. Barium (ppm)	2	2	Discharge of drilling wastes; Discharge from metal refineries; Erosion of natural deposits.
11. Beryllium (ppb)	4	4	Discharge from metal refineries and coal-burning factories; Discharge from electrical, aerospace, and defense industries.
12. Cadmium (ppb)	5	5	Corrosion of galvanized pipes; Erosion of natural deposits; Discharge from metal refineries; runoff from waste batteries and paints.
13. Chromium (ppb)	100	100	Discharge from steel and pulp mills; Erosion of natural deposits.
14. Copper (ppm)	1.3	AL=1.3	Corrosion of household plumbing systems; Erosion of natural deposits; Leaching from wood preservatives.
15. Cyanide (ppb)	200	200	Discharge from steel/metal factories; Discharge from plastic and fertilizer factories.
16. Fluoride (ppm)	4	4	Erosion of natural deposits; Water additive which promotes strong teeth; Discharge from fertilizer and aluminum factories.
17. Lead (ppb)	0	AL=15	Corrosion of household plumbing systems; Erosion of natural deposits.
18. Mercury [inorganic] (ppb)	2	2	Erosion of natural deposits; Discharge from refineries and factories; Runoff from landfills; Runoff from cropland.
19. Nitrate [as Nitrogen] (ppm)	10	10	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits.
20. Nitrite [as Nitrogen] (ppm)	1	1	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits.
21. Selenium (ppb)	50	50	Discharge from petroleum and metal refineries; Erosion of natural deposits; Discharge from mines.
22. Thallium (ppb)	0.5	2	Leaching from ore-processing sites; Discharge from electronics, glass, and drug factories.
Synthetic Organic Contaminants including Pesticides and Herbicides			
23. 2,4-D (ppb)	70	70	Runoff from herbicide used on row crops.
24. 2,4,5-TP [Silvex] (ppb)	50	50	Residue of banned herbicide.
25. Acrylamide	0	TT	Added to water during sewage/wastewater treatment.
26. Alachlor (ppb)	0	2	Runoff from herbicide used on row crops.
27. Atrazine (ppb)	3	3	Runoff from herbicide used on row crops.
28. Benzo(a)pyrene [PAH] (nanograms/l)	0	200	Leaching from linings of water storage tanks and distribution lines.
29. Carbofuran (ppb)	40	40	Leaching of soil fumigant used on rice and alfalfa.
30. Chlordane (ppb)	0	2	Residue of banned termiticide.
31. Dalapon (ppb)	200	200	Runoff from herbicide used on rights of way.
32. Di(2-ethylhexyl) adipate (ppb)	400	400	Discharge from chemical factories.
33. Di(2-ethylhexyl) phthalate (ppb)	0	6	Discharge from rubber and chemical factories.
34. Dibromochloropropane (ppt)	0	200	Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards.
35. Dinoseb (ppb)	7	7	Runoff from herbicide used on soybeans and vegetables.
36. Diquat (ppb)	20	20	Runoff from herbicide use.

Contaminant (units)	MCLG	MCL	Major sources in drinking water
37. Dioxin [2,3,7,8-TCDD] (ppq)	0	30	Emissions from waste incineration and other combustion; Discharge from chemical factories.
38. Endothall (ppb)	100	100	Runoff from herbicide use.
39. Endrin (ppb)	2	2	Residue of banned insecticide.
40. Epichlorohydrin	0	TT	Discharge from industrial chemical factories; An impurity of some water treatment chemicals.
41. Ethylene dibromide (ppt)	0	50	Discharge from petroleum refineries.
42. Glyphosate (ppb)	700	700	Runoff from herbicide use.
43. Heptachlor (ppt)	0	400	Residue of banned termiticide.
44. Heptachlor epoxide (ppt)	0	200	Breakdown of heptachlor.
45. Hexachlorobenzene (ppb)	0	1	Discharge from metal refineries and agricultural chemical factories.
46. Hexachlorocyclopentadiene (ppb)	50	50	Discharge from chemical factories.
47. Lindane (ppt)	200	200	Runoff/leaching from insecticide used on cattle, lumber, gardens.
48. Methoxychlor (ppb)	40	40	Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, livestock.
49. Oxamyl [Vydate](ppb)	200	200	Runoff/leaching from insecticide used on apples, potatoes and tomatoes.
50. PCBs [Polychlorinated biphenyls] (ppt)	0	500	Runoff from landfills; Discharge of waste chemicals.
51. Pentachlorophenol (ppb)	0	1	Discharge from wood preserving factories.
52. Picloram (ppb)	500	500	Herbicide runoff.
53. Simazine (ppb)	4	4	Herbicide runoff.
54. Toxaphene (ppb)	0	3	Runoff/leaching from insecticide used on cotton and cattle.
Volatile Organic Contaminants			
55. Benzene (ppb)	0	5	Discharge from factories; Leaching from gas storage tanks and landfills.
56. Carbon tetrachloride (ppb)	0	5	Discharge from chemical plants and other industrial activities.
57. Chlorobenzene (ppb)	100	100	Discharge from chemical and agricultural chemical factories.
58. o-Dichlorobenzene (ppb)	600	600	Discharge from industrial chemical factories.
59. p-Dichlorobenzene (ppb)	75	75	Discharge from industrial chemical factories.
60. 1,2-Dichloroethane (ppb)	0	5	Discharge from industrial chemical factories.
61. 1,1-Dichloroethylene (ppb)	7	7	Discharge from industrial chemical factories.
62. cis-1,2-Dichloroethylene (ppb)	70	70	Discharge from industrial chemical factories.
63. trans-1,2-Dichloroethylene (ppb)	100	100	Discharge from industrial chemical factories.
64. Dichloromethane (ppb)	0	5	Discharge from pharmaceutical and chemical factories.
65. 1,2-Dichloropropane (ppb)	0	5	Discharge from industrial chemical factories.
66. Ethylbenzene (ppb)	700	700	Discharge from petroleum refineries.
67. Styrene (ppb)	100	100	Discharge from rubber and plastic factories; Leaching from landfills.
68. Tetrachloroethylene (ppb)	0	5	Leaching from PVC pipes; Discharge from factories and dry cleaners.
69. 1,2,4-Trichlorobenzene (ppb)	70	70	Discharge from textile-finishing factories.
70. 1,1,1-Trichloroethane (ppb)	200	200	Discharge from metal degreasing sites and other factories.
71. 1,1,2-Trichloroethane (ppb)	3	5	Discharge from industrial chemical factories.
72. Trichloroethylene (ppb)	0	5	Discharge from metal degreasing sites and other factories.
73. TTHMs [Total trihalomethanes] (ppb)	0	100	By-product of drinking water chlorination.
74. Toluene (ppm)	1	1	Discharge from petroleum factories.
75. Vinyl Chloride (ppb)	0	2	Leaching from PVC piping; Discharge from plastics factories.
76. Xylenes (ppm)	10	10	Discharge from petroleum factories; Discharge from chemical factories.

Appendix C to Subpart O—Health Effects Language

Microbiological Contaminants

(1) Total Coliform. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.

(2) Fecal coliform/E.Coli. Fecal coliforms and E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, and people with severely compromised immune systems.

(3) Turbidity. Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

Radioactive Contaminants

(4) Beta/photon emitters. Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(5) Alpha emitters. Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(6) Combined Radium 226/228. Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.

Inorganic Contaminants

(7) Antimony. Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.

(8) Arsenic. Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.

(9) Asbestos. Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.

(10) Barium. Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.

(11) Beryllium. Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.

(12) Cadmium. Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.

(13) Chromium. Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.

(14) Copper. Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.

(15) Cyanide. Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.

(16) Fluoride. Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Children may get mottled teeth.

(17) Lead. Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.

(18) Mercury (inorganic). Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.

(19) Nitrate. Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.

(20) Nitrite. Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.

(21) Selenium. Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.

(22) Thallium. Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.

Synthetic Organic Contaminants Including Pesticides and Herbicides

(23) 2,4-D. Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.

(24) 2,4,5-TP (Silvex). Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.

(25) Acrylamide. Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.

(26) Alachlor. Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.

(27) Atrazine. Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.

(28) Benzo(a)pyrene (PAH). Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.

(29) Carbofuran. Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.

(30) Chlordane. Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.

(31) Dalapon. Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.

(32) Di (2-ethylhexyl) adipate. Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience general toxic effects or reproductive difficulties.

(33) Di (2-ethylhexyl) phthalate. Some people who drink water containing di (2-ethylhexyl) phthalate in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.

(34) Dibromochloropropane (DBCP). Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(35) Dinoseb. Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.

(36) Dioxin (2,3,7,8-TCDD). Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(37) Diquat. Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.

(38) Endothall. Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.

(39) Endrin. Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.

(40) Epichlorohydrin. Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.

(41) Ethylene dibromide. Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.

(42) Glyphosate. Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.

(43) Heptachlor. Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

(44) Heptachlor epoxide. Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.

(45) Hexachlorobenzene. Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.

(46) Hexachlorocyclopentadiene. Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.

(47) Lindane. Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.

(48) Methoxychlor. Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.

(49) Oxamyl [Vydate]. Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.

(50) PCBs [Polychlorinated biphenyls]. Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.

(51) Pentachlorophenol. Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.

(52) Picloram. Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver.

(53) Simazine. Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.

(54) Toxaphene. Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.

Volatile Organic Contaminants

(55) Benzene. Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.

(56) Carbon Tetrachloride. Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(57) Chlorobenzene. Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.

(58) o-Dichlorobenzene. Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.

(59) p-Dichlorobenzene. Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.

(60) 1,2-Dichloroethane. Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.

(61) 1,1-Dichloroethylene. Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(62) cis-1,2-Dichloroethylene. Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(63) trans-1,2-Dicholoroethylene. Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.

(64) Dichloromethane. Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.

(65) 1,2-Dichloropropane. Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.

(66) Ethylbenzene. Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.

(67) Styrene. Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.

(68) Tetrachloroethylene. Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.

(69) 1,2,4-Trichlorobenzene. Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.

(70) 1,1,1,-Trichloroethane. Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.

(71) 1,1,2-Trichloroethane. Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.

(72) Trichloroethylene. Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(73) TTHMs [Total Trihalomethanes]. Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer.

(74) Toluene. Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.

(75) Vinyl Chloride. Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.

(76) Xylenes. Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.

PART 142—[AMENDED]

1. The authority citation for part 142 is revised to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Section 142.10 is amended by adding a new paragraph (b)(6)(vii) as follows:

§ 142.10 Requirements for a determination of primary enforcement responsibility.

* * * * *

(b) * * *

(6) * * *

(vii) Authority to require community water systems to provide consumer confidence reports as required under 40 CFR part 141, subpart O.

* * * * *

3. Section 142.16 is amended by adding paragraph (f) to read as follows:

§ 142.16 Special primacy requirements.

* * * * *

(f) Consumer Confidence Report requirements.

(1) Each State that has primary enforcement responsibility must adopt the requirements of 40 CFR part 141, subpart O no later than August 21, 2000. States must submit revised programs to EPA for approval using the procedures in § 142.12(b) through (d).

(2) Each State that has primary enforcement responsibility must make reports submitted to the States in compliance with 40 CFR 141.155(b) available to the public upon request.

(3) Each State that has primary enforcement responsibility must maintain a copy of the reports for a period of one year and the certifications obtained pursuant to 40 CFR 141.155(b) for a period of 5 years.

(4) Each State that has primary enforcement responsibility must report violations of this subpart in accordance with the requirements of § 142.15(a)(1).

4. Section 142.72 is amended by revising the introductory text to read as follows:

§ 142.72 Requirements for Tribal eligibility.

The Administrator is authorized to treat an Indian tribe as eligible to apply for primary enforcement for the Public Water System Program and the authority to waive the mailing requirements of § 141.155(a) if it meets the following criteria:

* * * * *

5. Section 142.78 is amended by revising paragraph (b) to read as follows:

§ 142.78 Procedure for processing an Indian Tribe's application.

* * * * *

(b) A tribe that meets the requirements of § 141.72 is eligible to apply for development grants and primacy enforcement responsibility for a Public Water System Program and associated funding under section 1443(a) of the Act and for primary enforcement responsibility for public water systems under section 1413 of the Act and for the authority to waive the mailing requirement of § 144.155(a).

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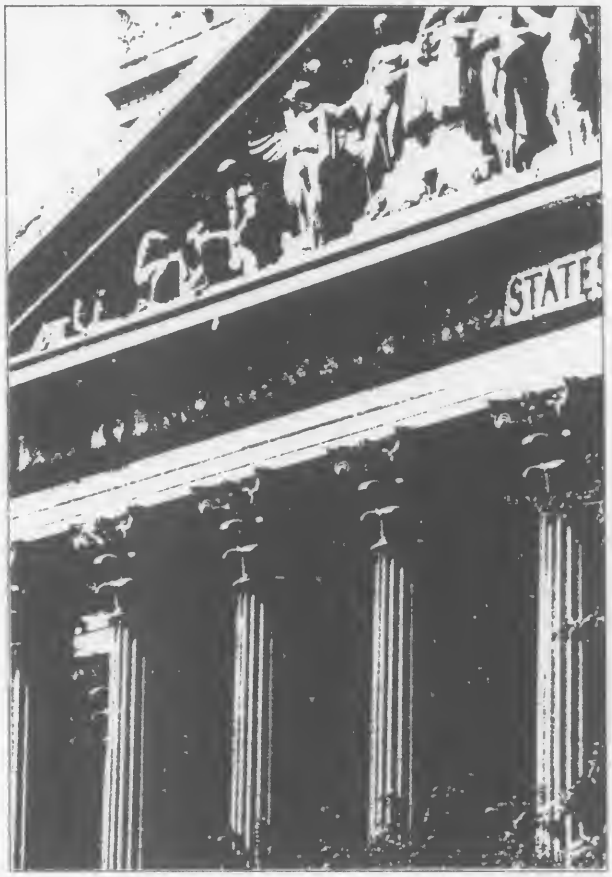

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