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WHO: Sponsored by the Office of the Federal Register.

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

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

WASHINGTON, DC

WHEN: May 23, 2000 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 47

[Docket No. FV00–363]

Amendments to Rules of Practice Under the Perishable Agricultural Commodities Act (PACA); Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: The Department of Agriculture (USDA) published in the **Federal Register** on July 15, 1999, a final rule that amended the Rules of Practice under the Perishable Agriculture Commodities Act. This document corrects the amount of time allowed for filing a petition to reopen after default.

EFFECTIVE DATE: August 16, 1999.

FOR FURTHER INFORMATION CONTACT: Charles W. Parrott, Acting Chief, PACA Branch, Room 2095–So. Bldg., Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone (202) 720–4180, Email—charles.parrott@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Department of Agriculture (Department) published a final rule in the **Federal Register** on July 15, 1999 (64 FR 38103), that amended several sections of the Rules of Practice to comply with the PACA Amendments of 1995, and made numerous other changes to enhance customer service.

Need for Correction

As published, the final regulations contain an error that may prove to be misleading and need to be clarified. The 30-day time period for filing a petition to reopen after default is in conflict with the statute and is being corrected to show a 20-day time period in order to remain consistent with the 20-day time period for filing a petition for reconsideration of an order.

List of Subjects in 7 CFR Part 47

Administrative practice and procedure, Agricultural commodities, Brokers

Accordingly, 7 CFR part 47 is corrected by making the following correcting amendment:

PART 47—[CORRECTED]

1. The authority citation for part 47 continues to read as follows:

Authority: 7 U.S.C. 499o; 7 C.F.R. 2.22(a)(1)(viii)(L), 2.79(a)(8)(xiii).

2. Revise paragraph (d) of § 47.24 to read as follows:

§ 47.24 Rehearing, reargument, reconsideration of orders, reopening of hearings, reopening after default.

* * * * *

(d) *Reopening after default.* The party in default in the filing of an answer or reply required or authorized under this part may petition to reopen the proceeding at any time prior to the expiration of 20 days from the date of service of the default order. If, in the judgment of the examiner, after notice to and consideration of the views of the other party(ies), there is good reason for granting such relief, the party in default will be allowed 20 days from the date of the order reopening the proceeding to file an answer.

Dated: May 4, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–11641 Filed 5–9–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

General Administrative Regulations; Food Security Act of 1985, Implementation; Denial of Benefits; Correcting Amendment

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Correcting Amendment.

SUMMARY: This document contains a technical correction to subpart F of the General Administrative Regulations, concerning the denial of crop insurance when a person is ineligible due to a conviction of a controlled substance violation.

EFFECTIVE DATE: May 9, 2000.

FOR FURTHER INFORMATION CONTACT: Bill Smith, Supervisory Insurance Management Specialist, Research and Development, Product Development Division, FCIC, at 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7743 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The provision contained in 7 CFR part 400.47(a)(2) states that the application and policy of insurance will be canceled when a person becomes ineligible for crop insurance as a result of a conviction for planting, cultivating, growing, producing, harvesting or storing a controlled substance and that a person may submit a new application to obtain crop insurance coverage following the period of ineligibility. As published, the final regulation was not clear regarding the requirement to submit a new application.

Need for Correction

As published, the regulation is not clear and has proven to be misleading. Clarification of the requirement to submit a new application for crop insurance coverage following ineligibility is needed.

List of Subjects in 7 CFR Part 400

Crop insurance.

Accordingly, 7 CFR part 400 is corrected by making the following correcting amendment:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart F—Food Security Act of 1985, Implementation; Denial of Benefits

1. The authority citation for subpart F continues to read as follows:

Authority: Secs, 1506, 1516, Pub.L. 75–430, 52 Stat. 73,77, as amended (7 U.S.C. 1501 *et seq.*); sec. 1244, Pub.L. 99–198.

2. In § 400.47, paragraph (a)(2), is revised to read as follows:

§ 400.47 Denial of crop insurance.

(a) * * *

(2) The application and policy of insurance will be voided, or the person will be removed from the policy and the policyholder share reduced in accordance with 7 CFR 400.681(b), when any person becomes ineligible for crop insurance under the provisions of paragraph (a) of this section. To obtain crop insurance coverage following the period of ineligibility, the person must submit a new application for crop insurance.

* * * * *

Signed in Washington D.C., on April 11, 2000.

Kenneth D. Ackerman,

Manage, Federal Crop Insurance Corporation.

[FR Doc. 00–9598 Filed 5–9–00; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV00–959–2 FIR]

Onions Grown in South Texas; Change in Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule revising the container requirements for shipping onions to fresh processors under the South Texas onion marketing order. The marketing order regulates the handling of onions grown in South Texas and is administered locally by the South Texas Onion Committee (Committee). This rule continues to provide handlers additional marketing flexibility by allowing them to ship onions for peeling, chopping, and slicing in bulk trailer loads, 48-inch deep bulk bins, and tote bags. These changes allow the South Texas onion industry to better meet the needs of fresh processors and allow the industry to compete with other suppliers of onions for fresh processing.

EFFECTIVE DATE: June 9, 2000.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, TX 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, 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) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the "order." The marketing agreement and order 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 to revise the container requirements for onion shipments for peeling, chopping, and slicing prescribed under the South Texas onion marketing order. Handlers are allowed to ship onions for peeling, chopping, and slicing in bulk trailer loads, 48-inch deep bulk bins, and tote bags. Previously, onions for these purposes could only be shipped in 47 inch by 37½ inch by 36 inch deep bulk bins, having a volume of 63,450 cubic inches (hereinafter referred to as the "36-inch deep bulk bin"), or containers deemed similar by the Committee. A dimension tolerance for the bulk containers was also added. All handlers shipping onions for peeling, chopping, and slicing will continue to be required to meet grade, size, inspection, and safeguard requirements. The additional method of shipment and containers allows the South Texas onion industry to better meet the needs of fresh processors and allows the industry to compete with other suppliers of onions for fresh processing.

These changes were first unanimously recommended by the Committee at its meeting on September 16, 1999. At that meeting, the Chairman appointed a subcommittee to review the Committee's recommendations. On October 19, 1999, the Committee met again and unanimously approved the subcommittee's recommendations detailed herein.

Section 959.52 of the South Texas onion marketing order authorizes the establishment of grade, size, quality, maturity, and pack and container regulations for shipments of onions. Section 959.52(c) allows for the modification, suspension, or termination of such regulations when warranted. Section 959.53 authorizes changes to the order's regulations to facilitate the handling of onions for relief, charity, experimental purposes, export, or other purposes recommended by the Committee and approved by the Secretary. Section 959.54 of the order provides authority for the Committee to establish that onions handled for special purposes are handled only as authorized. Section 959.60 provides that whenever onions are regulated pursuant to § 959.52, such onions must be inspected by the inspection service and certified as meeting the applicable requirements. Section 959.80 of the order authorizes handler reporting requirements.

Section 959.322(f) of the order's rules and regulations provides specific safeguards for certain special purpose shipments of onions. Furthermore, paragraph (f)(3) of § 959.322 provides authority for the shipment of onions for fresh peeling, chopping, and slicing in 36-inch deep bulk bins, or containers deemed similar by the Committee. Such shipments are exempt from the container requirements specified in paragraph (c) of § 959.322, but are

required to be handled in accordance with the safeguard provisions of § 959.54, and meet the grade requirements in paragraph (a), the size requirements in paragraph (b), the inspection requirements in paragraph (d), and the safeguard requirements in paragraph (g) of § 959.322.

Previously, § 959.322(f)(3) allowed onion shipments for peeling, chopping, and slicing in 36-inch deep bulk bins, or containers deemed similar by the Committee. The Committee recommended that shipments of onions to these outlets be authorized in bulk trailer loads, 48-inch deep bulk bins (with the same length and width dimensions as the 36-inch deep bulk bin), and tote bags, and that the provisions on containers deemed similar be removed because it had caused confusion in the industry. In its place, the Committee recommended implementation of a dimension tolerance.

The market for onions for fresh processing uses has grown dramatically in the last five years. The food service industry is the fastest growing market for onions in the United States. Consumption of onions has increased, especially for onions used in restaurants, salad bars, and cafeterias in fresh peeled, chopped, or sliced form. Fresh process is an increasingly important market for the domestic onion industry, and is expected to continue growing.

Buyers of onions for fresh processing continually demand flexibility in container availability, and the Committee is always looking for ways to strengthen and expand the market for South Texas onions. The Committee believes that South Texas may enhance its ability to take full advantage of available marketing opportunities for fresh peeling, chopping, and slicing onions with the more flexible shipping container requirements. The more flexible containers and method of shipment allow the South Texas onion industry to better meet the needs of fresh processors and allow the industry to better compete with other suppliers of onions for fresh processing. The changes will open new markets for South Texas and help the industry increase its fresh processed onion market share. The Committee estimates that these changes will help the industry double shipments into these outlets.

Because the demand for fresh processed onions is increasing and Texas has not been able to market more of its crop in the conveyances and containers the trade desires, the trade has been going to other competing areas, that are not restricted by regulations, leaving Texas at a disadvantage. Other onion-growing areas can ship onions in bulk loads for peeling, chopping, and slicing purposes, but the South Texas onion industry could not do so because the regulations restricted shipments to 36-inch deep bulk bins. Competition from other onion production areas demands that the South Texas onion industry be able to quickly respond to buyer demands for other types of shipments. Also, other onion producing areas not bound by restrictions have the flexibility to ship fresh processing onions as needed by buyers. The added flexibility of these changes allows handlers to meet the competition from other areas and better meet buyer's needs.

The Committee also recommended adding tightly-woven mesh plastic tote bags 36 inches by 36 inches by 66 inches long with a capacity of approximately 2,000 pounds of onions for shipment to fresh processors. These tote bags are returnable and have four handles that are placed to fit forklifts. Ties are attached to each end of the bags and the onions are dumped by unfastening the bottom tie. Use of these bags helps speed up the unloading process, saving time and money for the fresh processors.

The total volume specification of 63,450 cubic inches for the 36-inch bulk bin previously included in the regulation did not allow any flexibility in the dimension of the container and the phrase "or containers deemed similar by the committee" lacked specificity and resulted in confusion. The Committee believed that a more precise tolerance was needed so that there was no room for misinterpretation by the industry. The Committee, therefore, recommended removing the phrase "and having a volume of 63,450 cubic inches, or containers deemed similar by the committee" and adding in its place provisions establishing a dimension tolerance of 2 inches for each dimension on all bulk containers used for shipping onions for peeling, chopping, and slicing. The 2-inch tolerance for each dimension on all bulk containers allows handlers to pack onions for peeling, chopping, and slicing in containers with dimensions slightly different from the sizes specified in the regulation. Identifying a specific dimension tolerance in the regulation prevents misunderstandings, and provides handlers packing flexibility. The addition of the container dimension tolerance recognizes the difficulty in producing containers with precise measurements all of the time.

The Committee recommended that the regulation specify that only 3-inch and larger onions be shipped for these purposes because smaller onions cannot be processed efficiently using available machinery. However, the provisions under which this action was being implemented did not authorize the establishment of a minimum size different than the 1-inch minimum currently in place for all shipments. Therefore, this recommendation was not implemented. Lastly, minor changes were made to the handling regulation for clarity.

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 the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 80 producers of South Texas onions in the production area and 37 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Most of the handlers in South Texas are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 1998–99 marketing year, onions produced in the production area were shipped by the industry's 37 handlers with the average and median volume handled being 147,669 and 102,478 fifty-pound bag equivalents, respectively. In terms of production value, total revenues from the 37 handlers were estimated to be $43.7 million, with average and median revenues being $1.1 million, and $820,000, respectively.

The South Texas onion industry is characterized by producers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of onions. Alternative crops provide an opportunity to utilize many of the same

facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that all the 37 handlers regulated by the order would be considered small entities if only their spring onion revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the $5,000,000 annual receipt threshold. All of the 80 producers may be classified as small entities based on the SBA definition if only their revenue from spring onions is considered. When revenues from all sources are considered, a majority of the producers would not be considered small entities because receipts would exceed $500,000.

This rule continues to revise the container requirements for onion shipments for peeling, chopping, and slicing prescribed under the South Texas onion marketing order. Shipments of onions for these purposes are permitted in bulk loads, 48-inch deep bulk bins, and tote bags, in addition to the approved 36-inch deep bulk bin. A dimension tolerance for the bulk containers was also added. All handlers shipping onions for peeling, chopping, and slicing continue to be required to meet grade, size, inspection, and safeguard requirements.

This rule change continues to allow South Texas onion handlers to supply existing markets, opens up new markets to satisfy fresh processor demand, and allows the industry to be more competitive in the marketplace. Allowing shipments of onions to fresh processors in bulk loads, 48-inch bulk bins, and tote bags, in addition to the 36-inch deep bulk bin, is expected by the Committee to double the shipments of Texas onions to fresh processed buyers. The increase in shipments is expected because the changes allow the South Texas onion industry to better meet the needs of fresh processors and allow the industry to compete with other suppliers of onions for fresh processing.

At the meetings, the Committee discussed the impact of these changes on handlers and producers and believed that the benefits of this rule were not expected to be disproportionately greater or less for small handlers or producers than for larger entities. The increased shipping flexibility is equally beneficial to all shippers regardless of size.

An alternative to this action was to maintain the status quo, however, the Committee believed that the regulation did not address the needs of handlers desiring to expand their fresh process onion marketing efforts. The Committee believed that the regulations should be modified to address these needs. The Committee further believed that not allowing different types of bulk shipments for peeling, chopping, and slicing would be detrimental to the South Texas onion industry. Allowing shipments of onions in additional bulk bins and in bulk loads will meet the industry's objective of marketing more onions. These changes provide the industry with additional marketing opportunities and allow the industry to be more competitive.

All handlers making onion shipments for relief, charity, processing, experimental purposes, or peeling, chopping, and slicing are required to apply for and obtain a Certificate of Privilege from the Committee to make such shipments. No additional reporting burden is estimated in making such applications because all 37 of the handlers in the Texas onion industry routinely apply each season for these certificates and this is expected to continue. However, this action imposes additional reporting requirements on the 37 onion handlers. Because this action fosters increased shipments, the handlers will file more Reports of Special Purpose Onion Shipments. This report accompanies each shipment and takes about .083 hours to complete. It is used to verify proper disposition of the onions. Previously, each of the 37 handlers shipped approximately 15 loads of onions for special purposes. The Committee estimates that this rule change will double the number of shipments going to these outlets to 30 loads per handler, which will result in an estimated burden to the previously-mentioned 37 handlers of about 92 hours.

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 this rule have been approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0187. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

Further, the Committee's meetings were widely publicized throughout the onion industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the October 19, 1999, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The Committee itself is composed of 17 members, of which 10 are producers and 7 are handlers. Also, the Committee has subcommittees to review certain issues and make recommendations to the Committee. The subcommittee met on October 12, 1999, and discussed this issue in detail. The meeting was a public meeting and both large and small entities were able to participate and express their views. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

An interim final rule concerning this action was published in the **Federal Register** on February 16, 2000. Copies of the rule were mailed by the Committee's staff to all Committee members and onion handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended April 17, 2000. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Committee's unanimous recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (65 FR 7711, February 16, 2000) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

PART 959—ONIONS GROWN IN SOUTH TEXAS

Accordingly, the interim final rule amending 7 CFR part 959 which was published at 65 FR 7711 on February 16,

2000, is adopted as a final rule without change.

Dated: May 4, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–11642 Filed 5–9–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV00–993–2 FR]

Dried Prunes Produced in California; Undersized Regulation for the 2000–2001 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the undersized prune regulation for dried prunes received by handlers from producers and dehydrators under Marketing Order No. 993 for the 2000–2001 crop year. The marketing order regulates the handling of dried prunes produced in California and is administered locally by the Prune Marketing Committee (Committee). This rule removes the smallest, least desirable of the marketable size dried prunes produced in California from human consumption outlets, and allows handlers to dispose of undersized prunes in such outlets as livestock feed. The Committee estimated that this rule will reduce the excess of dried prunes expected at the end of the 1999–2000 crop year by approximately 5,100 tons, leaving sufficient prunes to fulfill foreign and domestic trade demand.

EFFECTIVE DATE: August 1, 2000.

FOR FURTHER INFORMATION CONTACT: Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, 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) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes produced in California, hereinafter referred to as the "order." The marketing agreement and order 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 of Agriculture (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 final rule changes the undersized regulation in § 993.49(c) of the prune marketing order for the 2000–2001 crop year for inventory management purposes. The regulation removes prunes passing through specified screen openings. For French prunes, the screen opening will be increased from 23/32 to 24/32 of an inch in diameter; and for non-French prunes, the opening will be increased from 28/32 to 30/32 of an inch in diameter. This rule removes the smallest, least desirable of the marketable size dried prunes produced in California from human consumption outlets. The rule will be in effect from August 1, 2000, through July 31, 2001, and was unanimously recommended by the Committee at a November 30, 1999, meeting.

Section 993.19b of the prune marketing order defines undersized prunes as prunes which pass freely through a round opening of a specified diameter. Section 993.49(c) of the prune marketing order establishes an undersized regulation of 23/32 of an inch for French prunes and 28/32 of an inch for non-French prunes. These diameter openings have been in effect for quality control purposes. Section 993.49(c) also provides that the Secretary, upon a recommendation of the Committee, may establish larger openings for undersized dried prunes whenever it is determined that supply conditions for a crop year warrant such regulation. Section 993.50(g) states in part: "No handler shall ship or otherwise dispose of, for human consumption, the quantity of prunes determined by the inspection service pursuant to § 993.49(c) to be undersized prunes* * *" Pursuant to § 993.52, minimum standards, pack specifications, including the openings prescribed in § 993.49(c), may be modified by the Secretary, on the basis of a recommendation of the Committee or other information.

Pursuant to the authority in § 993.52 of the order, § 993.400 modifies the undersized openings prescribed in § 993.49(c) to permit undersized regulations using openings of 23/32 or 24/32 of an inch for French prunes, and 28/32 or 30/32 of an inch for non-French prunes.

During the 1974–75 and 1977–78 crop years, the undersized prune regulation was established by the Department at 23/32 of an inch in diameter for French prunes and 28/32 of an inch in diameter for non-French prunes. These diameter openings were established in §§ 993.401 and 993.404, respectively (39 FR 32733, September 11, 1974; and 42 FR 49802, September 28, 1977). In addition, the Committee recommended and the Department established volume regulation percentages during the 1974–75 crop year with an undersized regulation at the aforementioned 23/32 and 28/32 inch diameter screen sizes. During the 1975–76 and 1976–77 crop years, the undersized prune regulation was established at 24/32 of an inch for French prunes, and 30/32 of an inch for non-French prunes. These diameter openings were established in §§ 993.402 and 993.403 respectively (40 FR 42530, September 15, 1975; and 41 FR 37306, September 3, 1976). The prune industry had an excess supply of prunes, particularly small-sized prunes. Rather than recommending volume regulation percentages for the 1975–76, 1976–77 and 1977–78 crop years, the Committee

recommended the establishment of an undersized prune regulation applicable to all prunes received by handlers from producers and dehydrators during each of those crop years.

The objective of the undersized regulations during each of those crop years was to preclude the use of small prunes in manufactured prune products, such as juice and concentrate. Handlers could not market undersized prunes for human consumption, but could dispose of them in nonhuman outlets such as livestock feed.

With these experiences as a basis, the marketing order was amended on August 1, 1982, establishing the continuing quality-related regulation for undersized French and non-French prunes under § 993.49(c). That regulation has removed from the marketable supply those prunes which are not desirable for use in prune products.

As in the 1970's, the prune industry is currently experiencing an excess supply of prunes, particularly in the smaller sizes. During the 1998–99 crop year, an undersized prune regulation was established at 24/32 of an inch for French prunes, and 30/32 of an inch for non-French prunes. These diameter openings were established in § 993.405 (63 FR 20058, April 23, 1998). At its meeting on December 1, 1998, the Committee recognized that the 1998–99 prune crop was about 50 percent of the normal size; however, with the large carryin inventories and anticipated large 1999–2000 prune crop, the Committee unanimously recommended continuing an undersized prune regulation at 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes. These diameter openings were established in § 993.406 (63 FR 23759, May 4, 1999) and made effective from August 1, 1999, through July 31, 2000.

For the 1998–99 crop year, the carryin inventory level reached a record high of 126,485 natural condition tons. Excessive inventories tend to dampen producer returns, and cause weak marketing conditions. The carryin for the 1999–2000 crop year was reduced to 59,944 natural condition tons. This reduction was due to the low level of salable production in 1998–99 (about 102,521 natural condition tons and 50 percent of a normal size crop) and the undersized prune regulation. According to the Committee, the desired inventory level to keep trade distribution channels full while awaiting the new crop has ranged between 35,353 and 42,071 natural condition tons since the 1996–97 crop year, while the actual inventory has ranged between 59,944 and 126,485 natural condition tons since that year. The desired inventory level for early season shipments fluctuates from year-to-year depending on market conditions.

At its meeting on November 30, 1999, the Committee unanimously recommended continuing an undersized prune regulation at 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes during the 2000–2001 crop year to help manage large prune supplies. This regulation will be in effect from August 1, 2000, through July 31, 2001.

The Committee estimated that there will be an excess of about 8,200 natural condition tons of dried prunes as of July 31, 2000. This rule will continue to remove primarily small-sized prunes from human consumption channels, consistent with the undersized prune regulation that was implemented for the 1998–99 and 1999–2000 crop years. It is estimated that approximately 5,100 natural condition tons of small prunes will be removed from human consumption channels during the 2000–2001 crop year. This will leave sufficient prunes to fill domestic and foreign trade demand during the 2000–2001 crop year, and provide an adequate carryout on July 31, 2001, for early season shipments until the new crop is available for shipment. According to the Committee, the desired inventory level to keep trade distribution channels full while awaiting the new crop is about 42,000 natural condition tons.

In its deliberations, the Committee reviewed statistics reflecting: (1) A worldwide prune demand which has been relatively stable at about 260,000 tons; (2) a worldwide oversupply that is expected to continue growing for several more years (estimated at 350,845 natural condition tons by the year 2003); (3) a continuing oversupply situation in California caused by increased production from increased plantings and higher yields per acre (between the 1990–91 and 1999–2000 crop years, the yield ranged from 1.2 to 2.6 versus a 10 year average of 2.2 tons per acre); and (4) California's continued excess supply situation. The production of these small sizes ranged from 1,332 to 8,778 natural condition tons during the 1990–91 through the 1998-99 crop years. The Committee concluded that it had to continue utilizing supply management techniques to accelerate the return to a balanced supply/demand situation in the interest of the California dried prune industry. The changes to the undersized regulation for the 2000–2001 crop year are the result of these deliberations, and the Committee's desire to bring supplies more in line with market needs.

The current oversupply situation facing the California prune industry has been caused by four consecutive large crops (1994–95 through 1997–98) of over 180,000 natural condition tons. This oversupply situation is expected to continue over the next few years due to new prune plantings in recent years with higher yields per acre. The recent prune plantings have a higher tree density per acre than the older prune plantings. During the 1990–91 crop year, the non-bearing acreage totaled 5,900 acres; but by 1998–99, the non-bearing acreage had quadrupled to more than 26,000 acres. The 1996–97 through 1998–99 yields have ranged from 1.2 to 2.6 tons per acre. Over the last 10 years, the average was 2.2 tons per acre. The 1998–99 prune crop was exceptionally light, (about 50 percent of normal size or 103,000 tons), due to the unusually cool and wet weather conditions caused by the weather phenomenon known as El Nino. Although the small 1998–99 crop helped reduce the existing oversupply of small dried prunes, supplies of small dried prunes remain larger than needed to meet demand.

The 1999–2000 dried prune crop is expected to be 172,000 natural condition tons. Another large crop of about 200,000 natural condition tons is expected for the 2000–2001 crop year, partly because of an anticipated increase in bearing acreage.

Since the 1997–98 crop year, producer prices for the 24/32 of an inch in diameter French prunes have been about $40–50 per ton, about $260–270 per ton below the cost of production. The lower pricing of the smaller prunes continued in 1998–99 and 1999–2000. It is expected to continue as an incentive for production of larger size prunes. These larger sizes will help the industry better meet the increasing market demand for larger size pitted prunes.

The 1998–99 and 1999–2000 undersized prune rules of 24/32 of an inch for French prunes and 30/32 of an inch for non-French prunes have expedited the reduction of small prune inventories, but more needs to be done to bring supplies into balance with market demand. The excess inventory on July 31, 1999, was 17,873 natural condition tons, and only about 5,130 natural condition tons of dried prunes are expected to be removed from the 1999–2000 marketable supply by the current undersized regulation. The Committee believes that the same undersized regulation also should be implemented during the 2000–2001 crop year to continue reducing the inventories of small prunes, to help reduce the expected large 2000–2001 prune crop supplies, and more quickly

bring supplies in line with demand. Attainment of this goal will benefit all of the producers and handlers of California prunes.

The recommended decision of June 1, 1981 (46 FR 29271) regarding undersized prunes states that the undersized prune regulation at the 23/32 and 28/32 inch diameter size openings will be continuous for the purposes of quality control even in above parity situations. It further states that any change (*i.e.*, increase) in the size of those openings will not be for the purpose of establishing a new quality-related minimum. Larger openings would only be applicable when supply conditions warrant the regulation of a larger quantity of prunes as undersized prunes. Thus, any regulation prescribing openings larger than those in § 993.49(c) should not be implemented when the grower average price is expected to be above parity. The season average price received by prune growers averaged about 49 percent of parity during the 1994 through 1998 seasons and is in a downward trend. As discussed later, the average grower price for prunes during the 2000–2001 crop year is not expected to be above parity, and implementation of this more restrictive undersized regulation will be appropriate in reference to parity.

Section 8e of the Act requires that when certain domestically produced commodities, including prunes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements for the domestically produced commodity. This action does not impact the dried prune import regulation because the action to be implemented is for volume control, not quality control. The smaller diameter openings of 23/32 of an inch for French prunes and 28/32 of an inch for non-French prunes were implemented to improve product quality. The recommended increases to 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes are for purposes of volume control. Therefore, the increased diameters will not be applied to imported prunes.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this 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 the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,250 producers of dried prunes in the production area and approximately 20 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

An updated industry profile shows that 7 out of 20 handlers (35 percent) shipped over $5,000,000 worth of dried prunes and could be considered large handlers by the Small Business Administration. Thirteen of the 20 handlers (65 percent) shipped under $5,000,000 worth of prunes and could be considered small handlers. An estimated 109 producers, or less than 9 percent of the 1,250 total producers, could be considered large growers with annual income over $500,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

This final rule will establish an undersized prune regulation of 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes for the 2000–2001 crop year for inventory management purposes. This change in regulation will result in more of the smaller sized prunes being classified as undersized prunes, and is expected to benefit producers, handlers, and consumers. Since prune handlers already use 24/32 and 30/32 grader screens, small and large producers and handlers will not incur extra costs to purchase new screen sizes. Moreover, because the quality related undersized regulation has been in place continuously since the early 1980's, the only additional cost resulting from the change in regulations to the larger screen openings will be the disposal of additional undersized prune tonnage (about 5,100 natural condition tons) to nonhuman consumption outlets. The larger screen openings currently in place for 1999–2000 are expected to remove 5,130 tons of dried prunes from the excess marketable supply. The Committee estimated that there will be an excess of about 8,200 natural condition tons of dried prunes on July 31, 2000. Implementation of the larger openings in 2000–2001 is expected to reduce the surplus by about 5,100 tons.

Because the benefits and costs of the action will be directly proportional to the quantity of 24/32 screen French prunes and 30/32 screen non-French prunes produced or handled, small businesses should not be disproportionately affected by the action. While variation in sugar content, prune density, and dry-away ratio vary from county to county, they also vary from orchard to orchard and season to season. In the major producing areas of the Sacramento and San Joaquin Valleys (which account for over 99 percent of the State's production), the prunes produced are homogeneous enough that this action will not be viewed as inequitable by large and small producers in any area of the State.

The quantity of small prunes in a lot is not dependent on whether a producer or handler is small or large, but is primarily dependent on cultural practices, soil composition, and water costs. The cost to minimize the quantity of small prunes is similar for small and large entities. The anticipated benefits of this rule are not expected to be disproportionately greater or lesser for small handlers or producers than for larger entities. The only additional costs on producers and handlers expected from the increased openings will be the disposal of additional tonnage (now estimated to be about 5,100 tons) to nonhuman consumption outlets. These costs are expected to be minimal and will be offset by the benefits derived by the elimination of some of the excess supply of small-sized prunes.

At the November 30, 1999, meeting, the Committee discussed the financial impact of this change on handlers and producers. Handlers and producers receive higher returns for the larger size prunes. Prunes eliminated through the implementation of this rule have very little value. As mentioned earlier, the current situation for these small sizes is quite bleak, with producers losing about $260–270 on every ton they deliver to handlers. The 1999–2000 grower field price for 24/32 screen French prunes ranges between $40 and $50 per ton, the same as the 1998–99 year. The cost of drying a ton of such prunes is $260 per ton at a 4 to 1 dry-away ratio, transportation is at least $20 per ton, and the producer assessment paid to the California Prune Board (a body which administers the State marketing order for promotion and research) is $50 per ton. The total cost is about $330 per ton which equates to a loss of about $280–290 per ton for every ton of 24/32 screen French prunes produced and delivered to handlers.

Utilizing data provided by the Committee, the Department has

evaluated the impact of the undersized regulation change upon producers and handlers in the industry. The analysis shows that a reduction in the marketable production and handler inventories should probably result in higher season-average prices which will benefit all producers. The removal of the smallest, least desirable of the marketable dried prunes produced in California from human consumption outlets will eliminate an estimated 5,100 tons of small-sized dried prunes during the 2000–2001 crop year from the marketplace. This will help lessen the negative marketing and pricing effects resulting from the excess supply situation facing the industry. California prune handlers reported that they held 59,944 tons of natural condition prunes on July 31, 1999, the end of the 1998–99 crop year. The 59,944 ton year-end inventory is larger than what is desired for the prune industry. The desired industry inventory level is based on an average 12-week supply to keep trade distribution channels full while awaiting new crop. Currently, it is about 39,000 natural condition tons. This leaves an inventory surplus of about 18,000 tons. The near normal size 1999–2000 prune crop (172,000 tons) and undersized regulation will help reduce the surplus, but the anticipated large 2000–2001 prune crop is expected to further worsen the supply imbalance.

As the marketable dried prune inventories are reduced through this action, and producers continue to implement improved cultural and thinning practices to produce larger prunes, continued improvement in producer returns is expected.

For the 1994–95 through the 1998–99 crop years, the season average price received by the producers ranged from a high of $1,120 per ton to a low of $784 per ton during the 1998–99 crop year. The season average price received by producers during that 5-year period averaged about 49 percent of parity. Based on available data and estimates of prices, production, and other economic factors, the season average producer price for the 1999–2000 season is expected to be about $905 per ton, or about 43 percent of parity.

The Committee discussed alternatives to this change, including making no changes to the undersized prune regulation and allowing market dynamics to foster prune inventory adjustments through lower prices on the smaller prunes. While reduced grower prices for small prunes are expected to contribute toward a slow reduction in dried prune inventories, the Committee believed that the undersized rule change is needed to expedite that reduction. With the excess tonnage of dried prunes, the Committee also considered establishing a reserve pool and diversion program to reduce the oversupply situation. These initiatives were not supported because they would not specifically eliminate the smallest, least valuable prunes which are in oversupply. Instead, the reserve pool and diversion program would eliminate larger size prunes from human consumption outlets. Reserve pools for prunes have historically been implemented on dried prunes regardless of the size of the prunes. While the marketing order also allows handlers to remove the larger prunes from the pool by replacing them with small prunes and the value difference in cash, this exchange would be cumbersome and expensive to administer compared to this rule.

Section 8e of the Act requires that when certain domestically produced commodities, including prunes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements for the domestically produced commodity. This action does not impact the dried prune import regulation because the action to be implemented is for inventory management, not quality control purposes. The smaller diameter openings of $^{23}/_{32}$ of an inch for French prunes and $^{28}/_{32}$ of an inch for non-French prunes were implemented for the purpose of improving product quality. The increases to $^{24}/_{32}$ of an inch in diameter for French prunes and $^{30}/_{32}$ of an inch in diameter for non-French prunes are for purposes of inventory management. Therefore, the increased diameters will not be applied to imported prunes.

This action will not impose any additional reporting or recordkeeping requirements on either small or large California dried prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

In addition, the Committee's meeting was widely publicized throughout the prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 30, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. The Committee itself is composed of twenty-two members. Seven are handlers, fourteen are producers, and one is a public member. Moreover, the Committee and its Supply Management Subcommittee have been reviewing this supply management problem for the second year, and this rule reflects their deliberations completely.

A proposed rule concerning this action was published in the **Federal Register** on Wednesday, January 19, 2000 (65 FR 2908). Copies of this rule were mailed or sent via facsimile to all Committee members, alternates and dried prune handlers. Finally, the rule was made available through the Internet by the U.S. Government Printing Office. The rule provided a comment period which ended April 17, 2000. No comments were received. Accordingly, no changes will be made to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 993.407 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 993.407 Undersized prune regulation for the 2000–2001 crop year.

Pursuant to §§ 993.49 paragraph (c) and 993.52, an undersized prune regulation for the 2000–2001 crop year is hereby established. Undersized

prunes are prunes which pass through openings as follows: for French prunes, 24/32 of an inch in diameter; for non-French prunes, 30/32 of an inch in diameter.

Dated: May 4, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–11640 Filed 5–9–00; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–218–FOR]

Kentucky Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with one exception, a proposed amendment to the Kentucky regulatory program (Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Kentucky is proposing revisions to the Kentucky Revised Statutes (KRS) pertaining to bonding and permits. The amendment is intended to revise the Kentucky program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: May 10, 2000.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Field Office Director, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (606) 233–2894. Email: bkovacic@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 18, 1982 **Federal Register** (47 FR 21404). You can find subsequent actions concerning conditions of approval and program amendments at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Submission of the Proposed Amendment

By letter dated April 23, 1998 (Administrative Record No. KY–1425), Kentucky submitted a proposed amendment to its program. House Bills (HB) 354, 498, and 593 (effective July 15, 1998) revise KRS sections 350.990(11), 350.131(2), 350.139(1), 350.990(1), and 350.060(16).

We announced receipt of the proposed amendment in the May 20, 1998, **Federal Register** (63 FR 27698), invited public comment, and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on June 19, 1998.

III. Director's Findings

Following, according to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the proposed amendment.

Any revisions that we do not specifically discuss below concern nonsubstantive wording changes or revised cross-references and paragraph notations to reflect organizational changes that result from this amendment.

Reorganization—HB 354 confirms Executive Order 97–714 (June 11, 1997) which changed the name of the Division of Abandoned Lands to the Division of Abandoned Mine Lands. At KRS 350.990(11), Kentucky proposes to correct the name in this section. While there are no corresponding Federal provisions, we are approving the revision because it does not alter the authority or responsibility of the Division of Abandoned Mine Lands, and is not, therefore, inconsistent with the requirements of SMCRA and the Federal regulations.

Forfeited Bonds—HB 498 completes the bonding reforms recommended in the 1993 joint study of the adequacy of reclamation bonds in Kentucky. At KRS 350.131(2), Kentucky proposes to return any unused bond funds, less any accrued interest, to the party from whom they were collected when the forfeited amount is more than the amount needed for reclamation.

The Federal regulations at 30 CFR 800.50(d)(2) provide that, where the amount of the performance bond forfeited exceeds the cost of reclamation, "the unused funds shall be returned * * * to the party from whom they were collected." However, both SMCRA and the Federal regulations are silent as to the disposition of any interest proceeds generated by the bond while it is in the possession of the regulatory authority. Therefore, while Kentucky's proposed requirement is not specifically authorized by SMCRA, it is nonetheless well within the discretion provided to the states by section 505 of SMCRA to propose more stringent regulation of surface coal mining and reclamation operations than do the provisions of SMCRA and its implementing regulations. Therefore, the Director finds the Kentucky proposal to be not inconsistent with the requirements of SMCRA or the Federal rules at 30 CFR part 800.

At KRS 350.139(1), Kentucky proposes to establish a bond forfeiture supplemental fund. All funds from the forfeiture of bonds will be placed in an interest-bearing account. The interest will become a supplemental fund and may be used to supplement forfeited bonds that are inadequate to complete the reclamation plan. The interest may be expended on lands other than those for which the bond was given. No more than 25 percent of the supplemental fund may be expended on any single site, unless a larger expenditure is necessary to abate an imminent danger to public health or safety.

At KRS 350.990(1), Kentucky proposes to establish a potential second source of money for the supplemental fund. The first $800,000 of the civil penalties Kentucky collects each year for coal mining violations goes to the State Treasury's General Fund. Any proceeds in excess of the first $800,000, collected in any fiscal year, go to the Kentucky Bond Pool Fund. Kentucky proposes to direct one-half of the excess that currently goes to the Bond Pool Fund to the new bond forfeiture supplemental fund, but only when the balance in the Bond Pool Fund is above the maximum of the operating range necessary to ensure its solvency. Currently, the maximum amount of money necessary to ensure the solvency of the Bond Pool Fund is $16 million. Accordingly, the amendment proposes no diversion of excess penalty income from the Bond Pool Fund to the bond forfeiture supplemental fund until the Bond Pool Fund reaches $16 million, or a larger amount established by the most recent actuarial study. The excess money collected will be deposited 50 percent to the Bond Pool Fund and 50 percent to the supplemental fund. If the Bond Pool Fund falls below $16 million (or a higher amount established by the actuarial study), all excess moneys will be deposited in the Bond Pool Fund until it reaches $16 million (or a higher amount).

In its submittal letter dated April 23, 1998 (Administrative Record No. KY–1425), Kentucky clarified that the interest generated becomes a supplemental fund that can be used to reclaim lands where a forfeited bond is insufficient to complete necessary reclamation. Because no moneys may be diverted away from the Bond Pool Fund except for proceeds in excess of the amount necessary to guarantee its solvency, Kentucky has stated that any such transfer of moneys into the supplemental fund will not endanger the solvency of the Bond Pool Fund.

We hereby approve the amendments to KRS 350.139(1) and 350.990(1), contained in House Bill 498, to the extent that the supplemental fund will be used as a supplement to the conventional, site specific performance bonds that must be furnished by permittees. The approval of these amendments in no way compromises the requirement that each such site specific performance bond must initially be determined to be sufficient in amount to assure completion of the reclamation plan and the satisfaction of all permit and Kentucky program requirements. Moreover, our approval of these amendments does not authorize Kentucky to use the supplemental fund as another alternative bonding program pursuant to section 509(c) of SMCRA. Rather, the supplemental fund may only be used for those sites for which the site specific performance bond, although initially determined to be sufficient to assure completion of reclamation, nevertheless is later found to be insufficient.

Permit Renewal—HB 593 revises KRS 350.060(16), pertaining to the renewal of expired permits. If a permit has expired or a permit renewal application has not been timely filed and the operator or permittee wants to continue the surface coal mining operation, Kentucky will issue a notice of noncompliance (NOV). The NOV will be considered complied with, and the permit may be renewed, if Kentucky receives a permit renewal application within 30 days of the receipt of the NOV. Upon submittal of a permit renewal application, the operator or permittee will be deemed to have timely filed the application and can continue, under the terms of the expired permit, the mining operation pending issuance of the permit renewal. Failure to comply with the remedial measures of the NOV will result in the cessation of the operation.

Section 506(a) of SMCRA precludes surface coal mining operations without a valid permit. Section 506(d)(3) requires that permit renewal applications be made 120 days prior to the permit expiration date.

We are approving the provisions at KRS 350.060(16) to the extent that they pertain to permit renewal applications that have not been timely filed, for permits that have not yet expired. Section 506(d)(3) of SMCRA does not specify that a cessation order must be issued if a permit renewal application is not filed timely. Therefore, while it has no Federal counterpart, this proposed provision is not inconsistent with SMCRA or the Federal regulations, to the extent that it requires a notice of noncompliance, which is the Kentucky equivalent of a Federal notice of violation (NOV), to be issued to a permittee who fails to file a timely application for a renewal. However, we are not approving Kentucky's proposal to issue a notice of noncompliance, instead of an Imminent Harm Cessation Order (IHCO) or its Kentucky equivalent, to a person who has not yet filed a renewal application when his permit expires, and who continues to mine on the expired permit. In such a case, an IHCO must be issued, in accordance with 30 CFR 843.11(a)(2), since surface coal mining operations conducted without a valid surface coal mining permit constitute a condition or practice which causes or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources. Simply put, where a permittee has not yet filed a renewal application at the time his permit expires, it must cease mining operations, and begin or continue all necessary reclamation activities, upon permit expiration. Because it would allow a person to continue mining in this situation, this portion of HB 593 is less stringent than Section 506 of SMCRA and less effective than the Federal regulations at 30 CFR 843.11. Specifically, we are not approving the phrase "if a permit has expired or," contained in KRS 350.060(16). OSM will announce its intention to set aside this portion of HB 593 in a future **Federal Register** notice.

In addition, we find that the amendment is less stringent than section 506 of SMCRA and less effective than the Federal regulations at 30 CFR 843.11 insofar as it allows an operator to continue mining on an expired permit after it has filed the permit renewal application within 30 days of the receipt of the notice of noncompliance, regardless of whether the application is filed before or after permit expiration. Federal law and regulations prohibit mining without a permit, and require that any such mining be immediately ceased. Therefore, we are also disapproving the following portion of KRS 350.060(16):

> Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal.

OSM will announce its intention to set aside this portion of HB 593 in a future **Federal Register** notice.

We are also requiring Kentucky to amend its program to make it clear that a person may not continue to mine on an expired permit, except where the permittee has filed a timely and complete application for renewal (*i.e.*, the application is filed at least 120 days before permit expiration) and the regulatory authority has not yet approved the renewal application at the time of permit expiration. Kentucky must also amend its program to require the issuance of an IHCO to any person mining on an expired permit, except as described in the preceding sentence.

IV. Summary and Disposition of Comments

Public Comments

We solicited public comments and provided an opportunity for a public hearing on the proposed amendment submitted on April 23, 1998. Because no one requested an opportunity to speak at a public hearing, none was held.

Two members of the public submitted comments. One commenter supported the amendment in its entirety. The second commenter supported the provisions of HB 354 and 498 but requested clarification that the supplemental bond fund will function as a supplemental source of money and not a SMCRA section 509(c) alternative bonding program. As discussed in section III above, Kentucky clarified that the interest generated becomes a supplemental fund that can be used to reclaim lands where a forfeited bond is insufficient to complete necessary reclamation. The approval of these amendments in no way compromises the requirement that each such site specific performance bond must initially be determined to be sufficient in amount to assure completion of the reclamation plan and the satisfaction of all permit and Kentucky program requirements. Moreover, our approval of these amendments does not authorize Kentucky to use the supplemental fund as another alternative bonding program pursuant to section 509(c) of SMCRA. Rather, the supplemental fund may only be used for those sites for which the site specific performance bond, although

initially determined to be sufficient to assure completion of reclamation, nevertheless is later found to be insufficient.

The second commenter opposes the provisions of HB 593, on several grounds. Each comment is summarized below, followed by our response.

First, the commenter contends that the bill violates the plain language of Section 506(d)(3) of SMCRA, which requires that "[a]pplication for permit renewal shall be made at least one hundred and twenty days prior to the expiration of the valid permit." (Emphasis added) "Shall", according to the commenter, "is the language of command, and is not to be read to allow filing of a permit renewal after the 120 day time frame, since the statute clearly demands "at least" 120 days."

We agree that the word "shall" is commonly used to denote a mandatory duty. As such, a fair reading of Section 506(d)(3) of SMCRA leads to the conclusion that permittees are under a compulsion to submit permit renewal applications at least 120 days prior to permit expiration. Failure to file, therefore, could bring some adverse consequence to bear upon the permittee. Section 506(d)(3) does not, however, state that the consequence of failure to comply with the 120 day deadline *must* be that the renewal cannot be granted under any circumstance, such as after the permittee submits an untimely application. Therefore, we believe that Kentucky may appropriately issue a notice of noncompliance, which is the State's counterpart to a Federal NOV, for failure to file a renewal application in a timely fashion. If the permittee then submits the renewal application, Kentucky may properly rule on it, employing the permit renewal criteria contained in its approved program.

The commenter also contends that:

> Approval of the state program amendment would be contrary to a long-standing interpretation of the Federal Act by the Secretary as prohibiting any reduction in the timetable for filing renewal applications. OSMRE has acknowledged this time frame to be binding on the agency, rejecting a request that the application filing deadline of 120 days be reduced to 60 days "because the 120-days are required by Section 506(d) of the Act." 44 FR 15016 (March 13, 1979). Thus the final regulation retained the 120 day requirement. 30 CFR part 771.21(b)(2), recodified at 30 CFR 774.15(b).
>
> Clearly, if reduction of the 120-day advance filing requirement to 60-days advance filing is inconsistent with Section 506(d), elimination of any advance filing and allowing post-expiration filings to relate back to the expired permit date is all the more inconsistent with the federal law.

We disagree, because the 120 day advance filing requirement is not being altered or compromised by the Kentucky amendment. Failure to comply with this requirement can constitute a violation of the Kentucky program, thereby resulting in issuance of a notice of noncompliance, along with the possible imposition of civil penalties. (Presumably, Kentucky could elect not to issue a notice of noncompliance for failure to file a timely renewal application, where the permittee has stated his intention to discontinue mining, and continue with reclamation activities only, upon expiration of the permit. Of course, Kentucky would be required to issue a cessation order to such a person, if the person continued to mine on the expired permit.)

Next, the commenter argues that the amendment violates Section 506(a) of SMCRA, which states that "no person shall engage in or carry out on lands within a State any surface coal mining operations unless such person has first obtained a permit * * *." The commenter contends that this amendment violates Section 506(a) because it:

> Would allow continued operations after the expiration of a valid permit, merely upon the filing of a renewal application. Thus, an individual could file a renewal application and continue to mine and remove coal, even where (i) the person might not be eligible for approval of a renewal application because the criteria for renewal are not met; (ii) the person does not follow through with the permitting.
>
> Section 506(a) demands that a permit be issued before surface coal mining operations occur. 30 CFR 773.11(a) likewise requires that a permit first be obtained, except where only reclamation activities remain to be accomplished on a site with a permit that has expired, in which case no renewal is necessary.
>
> To allow mining under an expired permit after the date of expiration of the permit violates Section 506(a) and 30 CFR 773.11(a), just as allowing the filing of a permit renewal application after the 120-day advance deadline or after the permit expiration, violates Section 506(d)(3).

As noted in our response above, we agree with the commenter that the untimely filing of a renewal application can constitute a violation of SMCRA Section 506(d)(3), but we believe Kentucky has sufficiently acknowledged this fact in its amendment, because it requires the issuance of a notice of noncompliance in such an instance, assuming the permittee wishes to continue mining after expiration of the current permit. We do *not* agree, however, that *allowing* the filing of a late renewal application violates Section 506(d)(3). Instead, we believe this provision is sufficiently flexible to allow consideration of untimely applications, so long as the permit renewal procedures, which include public participation, are properly followed.

We also agree that the allowance of continued mining operations after the permit has *expired* presents a different question. Generally, the Federal regulations state that mining without a valid surface coal mining permit constitutes a "condition or practice which causes or can reasonably be expected to cause significant imminent environmental harm * * *" for which the Regulatory Authority must issue an Imminent Harm Cessation Order (IHCO). As noted in Section III., above, we are therefore disapproving the Kentucky amendment to the extent that it requires the issuance of a notice of noncompliance, rather than an IHCO, to any person mining on an expired permit, where that person has not submitted an application for renewal. We are also disapproving that portion of the amendment that would allow an operator to continue mining under an expired permit after filing a permit renewal application within 30 days of issuance of the notice of noncompliance.

The commenter also argues that the amendment violates the requirements for permit renewal, and allows continued operations in derogation of public participation and advance agency review, insofar as it allows continued coal removal under an expired permit so long as the renewal application has been filed. The commenter states that SMCRA's legislative history makes clear that a right of renewal is limited "to anyvalid permit issued pursuant to this act * * * with respect to areas within the boundaries of the existing permit and upon written finding by the regulatory authority that terms of the existing permit are being met [* * *.]" H.R. Rept. No. 95–218, 95th Cong., 1st Sess.92 (1977). According to the commenter, a permit that has expired is no longer existing, and cannot be renewed, since renewal findings must be met for the current, not former, permit.

In response, we note that, under Section III., above, we are disapproving the amendment to the extent that it authorizes the issuance of a noncompliance order, rather than an IHCO, to an operator who continues to mine under an expired permit, and to the extent that it would allow the operator to continue mining under an expired permit if it submits a renewal application within 30 days of issuance of the notice of noncompliance.

However, the commenter apparently also contends that an expired permit cannot be renewed, under any circumstances. We do not believe a finding is required on this question, since our disapprovals require removal of all language pertaining to expired permits. However, we expect that we could approve a state program amendment that allows expired permits to be renewed, assuming all other renewal requirements are met, and assuming that mining is not permitted to resume until the renewal application is granted.

Next, the commenter argues that the amendment violates the state program obligation to administer and implement the state enforcement program in a manner consistent with Federal law and regulations, in that it directs the state to issue an enforcement action allowing continued mining under an expired permit, provided the renewal application is filed. The commenter contends that Kentucky must, in its enforcement of the approved program, issue a cessation order to a permittee that continues to mine on an expired permit, since Kentucky is bound to conform its enforcement authority to 30 CFR part 843.

In response, we note that, under Section III., above, we are disapproving the amendment to the extent that it authorizes the issuance of a noncompliance order, rather than an IHCO, to an operator who continues to mine under an expired permit, and to the extent that it would allow the operator to continue mining under an expired permit if it submits a renewal application within 30 days of issuance of the notice of noncompliance.

The commenter also opposes the amendment because it allows either the operator or the permittee to submit a permit renewal application. It is inappropriate, the commenter contends, to allow an operator to submit an application, unless the entity has power of attorney or other clear authority to bind the permittee. Otherwise, the operator could frustrate the intent of the permittee, in instances where the permittee does not desire to renew the permit. In response, we note that we are disapproving the sentence that implies that an operator may file a renewal application. Moreover, KRS 350.060(14), which is part of Kentucky's approved program, states that the "holders of the permit" may apply for renewal. We construe the word "holder" to be synonymous with "permittee."

Finally, the commenter believes the amendment violates the requirement of 30 CFR 843.11(f) and 30 CFR 840.13(b) that a cessation order may not be terminated until it is determined that all conditions, practices or violations listed in the order have been abated. The violation, which would be mining without a permit, is considered abated under the state law upon mere filing of the renewal application. Assuming arguendo, that all of the other legal infirmities with the state law were resolved, this mandated termination of an unresolved violation violates the state's enforcement obligation. The commenter argues that a state which has sought and obtained approval of a state regulatory program under SMCRA is under a mandatory, non-discretionary obligation to maintain, administer and enforce that program in a manner consistent with the Secretary's regulations and the federal Act. 30 CFR 733.11.

In response, we note that, under Section III., above, we are disapproving the amendment to the extent that it would allow the operator to continue mining under an expired permit if it submits a renewal application within 30 days of issuance of the notice of noncompliance.

The commenter also demands that the amendment be set aside by OSM. In response, we note that under Section III., above, OSM will announce its intention to set aside the disapproved portions of HB 593 in a future **Federal Register** notice.

Federal Agency Comments

According to 30 CFR 732.17(h)(11)(i), we solicited comments on the proposed amendment submitted on November 3, 1997, from various Federal agencies with an actual or potential interest in the Kentucky program. No comments were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Kentucky proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

V. Director's Decision

Based on the above findings, we approve, with the following exceptions, the proposed amendment as submitted by Kentucky on April 23, 1998.

We are not approving the phrase "if a permit has expired or," contained in KRS 350.060(16). Also, we are not approving the following portion of KRS 350.060(16):

> Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal.

We are also requiring Kentucky to amend its program to make it clear that a person may not continue to mine on an expired permit, except where the permittee has filed a timely and complete application for renewal (i.e., the application is filed at least 120 days before permit expiration) and the regulatory authority has not yet approved the renewal application at the time of permit expiration. Kentucky must also amend its program to require the issuance of an IHCO to any person mining on an expired permit, except as described in the preceding sentence.

The Federal regulations at 30 CFR part 917, codifying decisions concerning the Kentucky program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of the Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the Kentucky program, we will recognize only the statutes, regulations, and other materials approved by OSM, together with any consistent implementing policies, directives, and other materials. We will require that Kentucky enforce only such provisions.

VI. Procedural Determinations

Executive Order 12866

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

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

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

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

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

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will not produce a Federal mandate of $100 million or greater in any given year, i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 28, 2000.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 917—KENTUCKY

1. The authority citation for Part 917 continues to read as follows:

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

2. Section 917.12 is added to read as follows:

§ 917.12 State regulatory program and proposed program amendment provisions not approved.

(a) The Director does not approve the following provisions of the proposed program amendment concerning permit renewals that Kentucky submitted on April 23, 1998:

(1) The phrase "* * * if a permit has expired or * * *" in KRS 350.060(16).

(2) The following sentence in KRS 350.060(16): "Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal."

(b) [Reserved]

3. The table in § 917.15 is amended by revising the table headings and adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 917.15 Approval of Kentucky regulatory program amendments.

* * * * * *

Original amendment submission date	Date of final publication	Citation/description of approved provisions
* * * * * * *		
April 23, 1998	05/10/00	KRS 350.060(16) [partial approval]; 350.131(2); 350.139(1); 350.990 (1), (3), (4), (9), and (11).

* * * * *

4. Section 917.16 is amended by adding paragraph (o) to read as follows:

§ 917.16 Required regulatory program amendments.

* * * * *

(o) By July 10, 2000, Kentucky must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to:

(1) Clarify that a person may not continue to conduct surface coal mining operations under an expired permit unless the permittee filed a complete application for renewal at least 120 days before the permit expired and the regulatory authority had not yet approved or disapproved the application when the permit expired.

(2) Require the issuance of an imminent harm cessation order to any person conducting surface coal mining operations under an expired permit unless the permittee filed a complete application for renewal at least 120 days before the permit expired and the regulatory authority had not yet approved or disapproved the application when the permit expired.

[FR Doc. 00–11660 Filed 5–9–00; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–00–005]

Drawbridge Operating Regulation; Chef Menteur Pass, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the U.S. Highway 90 bridge across Chef Menteur Pass, mile 2.8, at Lake Catherine, Orleans Parish, Louisiana. This deviation will test a proposed change to the drawbridge operation schedule. This deviation will change the current morning bridge closure period from 5:30 a.m. to 7:30 a.m., Monday through Friday, except Federal holidays, so that the draw will open on the hour and half-hour during this period. The test deviation will be used to evaluate the effectiveness of a proposed change to the draw operation schedule.

DATES: This deviation is effective from Thursday, June 1, 2000 through Friday, June 30, 2000. Comments must be submitted by July 31, 2000.

ADDRESSES: You may mail comments to Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396, or deliver them to room 1313 at the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The Commander, Eighth Coast Guard District, Bridge Administration Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Bridge Administration Branch, Eighth Coast Guard District between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION: On February 23, 1999 the operating regulation for the Chef Menteur Pass Bridge was changed to allow the bridge to remain closed to navigation from 5:30 a.m. to 7:30 a.m., Monday through Friday, except Federal holidays. (CGD8–96–053, 64 FR 8720 dated February 23, 1999). The Coast Guard received numerous complaints from operators of commercial fishing vessels, stating that the special operating regulation does not meet the needs of navigation for local commercial fishermen because they are required to haul in their shrimp nets two hours earlier than necessary to be able pass through the bridge before the closure time. This cuts down trawling time resulting in loss of revenue. Based on complaints from local commercial fishermen, the Coast Guard has determined that the special drawbridge operating regulation may not meet the reasonable needs of navigation.

The Coast Guard is proposing a change to the regulation governing the operation of the bridge and has issued a Notice of Proposed Rulemaking (NPRM) published elsewhere in today's **Federal Register**. The NPRM requests comments on the Coast Guard's proposal to modify the 33 CFR 117.436 to require the bridge to open only on the hour and on the half-hour from 5:30 a.m. to 7:30 a.m., Monday through Friday, except Federal holidays. The draw shall open on signal at all other times or at any time for a vessel in distress. The deviation to the current regulations allows the Coast Guard to test the proposed schedule and evaluate its effectiveness before making a permanent change to the drawbridge opening regulation. Comments will be accepted through July 31, 2000.

Under the temporary deviation, the draw of the U. S. Highway 90 bridge across Chef Menteur Pass, mile 2.8 at Lake Catherine, Orleans Parish, Louisiana will open to navigation only on the hour and on the half-hour between the hours of 5:30 a.m. and 7:30 a.m. from June 1, 2000 through June 30, 2000. The draw shall open on signal at all other times or at any time for a vessel in distress.

Dated: May 1, 2000.

K.J. Eldridge,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard Dist., Acting.

[FR Doc. 00–11704 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Western Alaska 00–004]

RIN 2115–AA97

Safety Zone; Redoubt Shoal, Cook Inlet, Alaska

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary 500-yard radius moving safety zone around the Exploratory Drilling Structure OSPREY as it is towed by Crowley Marine Service Tugs from Port Graham, Alaska to its set down site located in Redoubt Bay, Cook Inlet, Alaska. This safety zone is implemented to ensure the safe and timely movement and set down of the Drilling Structure OSPREY in Redoubt Bay, Cook Inlet, Alaska.

DATES: This temporary final rule is effective from 12:01 a.m. on July 7, 2000, until 11:59 p.m. on July 9, 2000.

ADDRESSES: The public docket for this rulemaking is maintained by Coast Guard Marine Safety Office Anchorage, 510 "L" Street, Suite 100, Anchorage, AK 99501. Materials in the public docket are available for inspection and copying at Coast Guard Marine Safety Office Anchorage. Normal Office hours are 7:30 a.m. to 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Rick Rodriguez, Chief of Port Operations, USCG Marine Safety Office, Anchorage, at (907) 271–6724.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with requirements of 5 U.S.C. 553(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing an NPRM and delaying the effective date would be contrary to national safety interests since immediate action is needed to minimize potential danger to the public. The OSPREY is a large structure that is difficult to maneuver and presents a potential hazard. Publishing an NPRM and delaying the effective date of the regulation is warranted because immediate action is necessary to protect participants and other vessel traffic from the potential hazards associated with this operation.

Background and Purpose

The Coast Guard is establishing a temporary 500-yard radius moving safety zone on the navigable waters of the United States around the Exploratory Drilling Structure OSPREY as it is towed by Crowley Marine Service Tugs from Port Graham, Alaska to its set down site located in Redoubt Bay, Cook Inlet, Alaska, latitude 60°41′74″ W, longitude 151°40′33″ N. This safety zone is implemented to ensure the safe and timely movement

and set down of the Drilling Structure OSPREY in Redoubt Bay, Cook Inlet, Alaska. The 500-yard standoff of the safety zone also aids the safety of these evolutions by minimizing conflicts and hazards that might otherwise occur with other transiting vessels. The limited size of the zone is designed to minimize impact on other mariners transiting through the area.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this rule will have significant economic impacts on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. Because this safety zone is very small, will only be in effect for three days, and does not impede access to other maritime facilities in the area, the Coast Guard believes there will be no impact to small entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

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

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and Executive Order 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093; October 28, 1993) govern the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

List of Subjects in 33 CFR Part 165

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

Temporary Final Regulation

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

PART 165—[AMENDED]

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

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

2. From 12:01 a.m. on July 7, 2000, until 11:59 p.m. on July 9, 2000, § 165.T17–004 is temporarily added to read as follows:

§ 165.T17–004 Safety Zone; Redoubt Bay, Cook Inlet, Alaska.

(a) *Description.* The following area is a Safety Zone: All navigable waters within a 500-yard radius of the Exploratory Drilling Structure OSPREY as it transits between Port Graham and Redoubt Bay in Cook Inlet, Alaska.

(b) *Effective Dates.* This section is effective from 12:01 a.m. on July 7, 2000, until 11:59 p.m. on July 9, 2000.

(c) *Regulations.* (1) The Captain of the Port means the Captain of the Port, Western Alaska. The Captain of the Port may authorize or designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf as his representative.

(2) The general regulations governing safety zones contained in Title 33 Code of Federal Regulations, part 165.23 apply. No person or vessel may enter, transit through, anchor or remain in this safety zone, with the exception of attending vessels, without first obtaining permission from the Captain of the Port, Western Alaska, or his representative. The Captain of the Port or his representative may be contacted in the vicinity of the OSPREY Platform via marine VHF channel 16. The Captain of the Port's representative can also be contacted by telephone at (907) 271–6700.

Dated: April 18, 2000.

W. J. Hutmacher,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

[FR Doc. 00–11705 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 20

Changes in International Postal Rates

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service, after considering the comments submitted in response to its request for comments on proposed changes in international postage rates published in the **Federal Register** on March 1, 2000 (65 FR 11023–11024), hereby gives notice that it is implementing the proposed rates for regular printed matter, small packets, and books and sheet music and delaying the implementation for the proposed publishers' periodical rates.

EFFECTIVE DATES: 12:01 a.m., May 28, 2000; 12:01 a.m., January 13, 2001.

FOR FURTHER INFORMATION CONTACT: John Alepa, (202) 268–4071; or John Reynolds, (202) 314–7334.

SUPPLEMENTARY INFORMATION: On March 1, 2000, the Postal Service published in the **Federal Register** a notice of proposed changes in international postage rates (65 FR 11023–11024). The Postal Service requested comments by March 31, 2000. No comments were received on the proposed rates for regular printed matter, small packets, and books and sheet music. Comments on the proposed rates for publishers' periodicals were received from seven mailers who use the publishers' periodical rates and an organization representing publishers. The comments centered on three areas of concern.

First, seven of the commenters mentioned the size of the proposed rate change, 15 percent for publishers' periodicals to countries other than Canada and Mexico and 20 percent for items to Mexico. Second, two mailers questioned the timing of the change, stating that budgets have already been set for the year, the increased expense is unanticipated, and subscription rates cannot be changed. Third, two commenters questioned the reliability of the cost data used by the Postal Service to set the new rates and requested that the Postal service re-examine the cost studies that underlie the rates.

The Postal Service believes the cost information on which it based the proposed publishers' periodicals rates is correct. This cost information comes from the same data systems used to develop domestic rates. Those systems are reviewed by the Postal Rates Commission during domestic rate proceedings and the international revenue and cost information is furnished to the Postal Rate Commission for its annual report to the Congress.

The rate changes proposed by the Postal Service are necessary to enable the rates of the affected categories of printed matter to better align with the costs involved in providing the service. However, the Postal Service believes that the commenters have raised valid concerns about the timing of the proposed rates for publishers' periodicals. By agreeing to defer the implementation date for that component of the rate change proposal, the Postal Service is seeking to provide affected mailers with additional time to incorporate postal rate adjustments into their corporate business plans.

Accordingly, the proposed surface rates for regular printed matter and small packets to Mexico and for books and sheet music to all countries except Canada will take effect at 12:01 a.m., May 28, 2000. The implementation date for the publishers' periodical rates to all countries except Canada is being deferred to 12:01 a.m., January 13, 2001.

The Postal Service hereby adopts the following postal rates and amends the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. The International Mail Manual is amended to incorporate the following postal rates:

I. Mexico—Regular Printed Matter and Small Packets (Surface)

Weight not over		Rate
Lb.	Oz.	
0	1	$0.72
0	2	0.96
0	3	1.27
0	4	1.50
0	5	1.80
0	6	1.80
0	7	2.22
0	8	2.22
0	9	2.63
0	10	2.63
0	11	2.96
0	12	2.96
0	13	3.37
0	14	3.37
0	15	3.77
1	0	3.77
1	2	4.12
1	4	4.46
1	6	4.81
1	8	5.16
1	10	5.50
1	12	5.84
1	14	6.19
2	0	6.54
3	0	8.84
4	0	11.15
Each additional pound or fraction of a pound		$2.30

(**Note:** Maximum weight is 4 pounds for small packets and 11 pounds for regular printed matter.)

II. Books and Sheet Music (Surface)

Weight not over (Lbs.)	Mexico	All other countries (except Canada and Mexico)
1	$2.26	$2.24
2	3.94	3.97
3	5.38	5.35
4	6.82	6.73
5	8.26	8.11
6	9.70	9.49
7	11.14	10.87
8	12.58	12.25
9	14.02	13.63
10	15.46	15.01
11	16.90	16.39

III. Publishers' Periodicals (Surface)

Weight not over		Mexico	All other countries (except Canada and Mexico)
Lb.	Oz.		
0	1	$0.48	$0.44
0	2	0.60	0.55
0	3	0.78	0.71
0	4	0.90	0.83
0	5	1.13	1.05
0	6	1.13	1.05
0	7	1.36	1.27
0	8	1.36	1.27
0	9	1.57	1.50
0	10	1.57	1.50
0	11	1.80	1.71
0	12	1.80	1.71
0	13	2.03	1.93
0	14	2.03	1.93
0	15	2.26	2.15
0	16	2.26	2.15
0	18	2.46	2.36
0	20	2.68	2.56
0	22	2.88	2.77
0	24	3.10	2.98
0	26	3.30	3.19
0	28	3.52	3.39
0	30	3.72	3.60
0	32	3.94	3.81
3	0	5.38	5.13
4	0	6.82	6.45
5	0	8.26	7.77
6	0	9.70	9.10
7	0	11.14	10.42
8	0	12.58	11.74
9	0	14.02	13.06
10	0	15.46	14.39
11	0	16.90	15.71

Stanley F. Mires,
Chief Counsel, Legislative.

[FR Doc. 00–11700 Filed 5–9–00; 8:45 am]
BILLING CODE 7710–12–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR–77–7292–a; FRL–6582–9]

Approval and Promulgation of State Implementation Plans: Oregon RACT Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA Region 10 is approving Oregon's reasonably available control technology (RACT) rule amendments for volatile organic compounds (VOC) as revision to the state implementation plan (SIP). These amendments were submitted to EPA on December 7, 1998 and were adopted by the Oregon Environmental Quality Commission on September 17, 1998 to be effective on

October 12, 1998. After publishing public notices in newspapers of general circulation, Oregon Department of Environmental Quality (ODEQ) held public hearings on July 15, 1998 in Corvallis, and on July 16, 1998 in Portland. The ODEQ did not receive any written or oral public comments affecting the proposed RACT rule amendments.

DATES: This direct final rule is effective on July 10, 2000 without further notice, unless EPA receives adverse comment by June 9, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments must be submitted to Mr. Mahbubul Islam, Environmental Scientist, Office of Air Quality, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101. Copies of the technical support document are available for public review at the EPA Region 10 office during normal business hours. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wishing to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Oregon Department of Environmental Quality, Air Quality Division, 811 SW Sixth Avenue, Portland, OR 97204–1390. Telephone: (503) 229–5696. Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 410 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Mahbubul Islam, Environmental Scientist, Office of Air Quality, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101, Telephone: (206) 553–6985.

SUPPLEMENTARY INFORMATION:

I. What Is RACT?

RACT is the lowest emission limitation that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. The Portland ozone maintenance plan relies on RACT as a emission reduction strategy to maintain compliance with the standard for the next ten years. This rule addresses changes to RACT for existing sources of VOC's in Portland, Salem, and Medford areas.

There are two types of RACT which are applicable to sources: categorical and source-specific. The categorical RACT applies to a group of sources which have similar operations. The non categorical or source-specific RACT is applicable to sources which do not fit into one of the established RACT categories but have potential to emit in excess of 100 ton VOC's per year before considering any add-on controls.

II. What Does This Rule Making Affect?

This rule making is needed to change the applicability of non-categorical RACT which is based on the definition of potential to emit (PTE). The revised rule makes the Oregon's definition of PTE consistent with the federal definition. The PTE for a source is now defined as the maximum emission capacity of a stationary source based on its physical and operational design without any add-on controls. In April 1997, the ODEQ proposed and adopted this new definition of PTE as a temporary rule as a part of the Portland ozone maintenance plan. The current rule will make the temporary rule permanent. Prior to the temporary rule, credits were given for any add-on control technology when PTE was calculated to determine applicability of the RACT requirements. The new rule requires an analysis based on pre-control conditions.

This rule approves a change in permit processing for the gasoline dispensing facilities. Currently, stage I and stage II permits are issued on an annual basis with annual fee collection. The new rule will allow permits to be issued for 10 years and fees to be collected on a biennial basis. This does not affect the requirements of the permit or the amount of permit fees, only the duration and frequency of collection. The change was necessary to reduce ODEQ's staff workload by decreasing the frequency of permit issuance and fee collection, and providing greater clarity and consistency in implementation.

In this rule, the vapor balance requirement for stage I/II sources is changed from a throughput of 10,000 gallons (30 day rolling average) to a capacity of 1500 gallons. This change was needed to maintain consistency and keep sources from alternating from being subject to the rules to not being subject to the rules based on their monthly throughput. The change exempts existing small (less than 1500 gallon) tanks from the submerged fill and vapor balance requirements. The new tanks of the same size are exempt from the vapor balance requirement only. This change could in theory allow small facilities to avoid control requirements, but in reality sources having such a small capacity do not exist. Also, the changes are not a relaxation of the existing rules, because gas dispensing facilities that have monthly throughput in excess of 10,000 gallons also have storage tanks which are larger than 1500 gallons. Thus, the same control requirement that is currently subject to the 10,000 gallon throughput trigger will be subject to the 1500 gallon capacity trigger.

This rule also contains a number of housekeeping, numbering and language changes, to reduce redundancy and ensure consistency. The revised language in the rules is intended to improve clarity and avoid confusion. The sections of the Oregon rules affected or modified in this rule making package are as follows: OAR 340–022–0100 through 340–022–0130; OAR 340–022–0170 through 340–022-0180; OAR 340–022–0300 through 340–022–0403; (RACT rules).

III. Administrative Requirements

Executive Orders

A. Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR

19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective July 10, 2000 unless EPA receives adverse written comments by July 9, 2000.

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 July 10, 2000. 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).)

B. Oregon Notice Provision

During EPA's review of a SIP revision involving Oregon's statutory authority, a problem was detected which affected the enforceability of point source permit limitations. EPA determined that, because the five-day advance notice provision required by ORS 468.126(1) (1991) bars civil penalties from being imposed for certain permit violations, ORS 468 fails to provide the adequate enforcement authority that a state must demonstrate to obtain SIP approval, as specified in section 110 of the Clean Air Act and 40 CFR 51.230. Accordingly, the requirement to provide such notice would preclude federal approval of a section 110 SIP revision.

To correct the problem the Governor of Oregon signed into law new legislation amending ORS 468.126 on September 3, 1993. This amendment added paragraph ORS 468.126(2)(e) which provides that the five-day advance notice required by ORS 468.126(1) does not apply if the notice requirement will disqualify a state program from federal approval or delegation. ODEQ responded to EPA's understanding of the application of ORS 468.126(2)(e) and agreed that, because federal statutory requirements preclude the use of the five-day advance notice provision, no advance notice will be required for violations of SIP requirements contained in permits.

C. Oregon Audit Privilege

Another enforcement issue concerns Oregon's audit privilege and immunity law. Nothing in this action should be construed as making any determination or expressing any position regarding Oregon's Audit Privilege Act, ORS 468.963 enacted in 1993, or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act Program resulting from the effect of Oregon's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 1, 2000.

Chuck Findley,

Acting Regional Administrator, Region 10.

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 MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(130) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(130) The Environmental Protection Agency (EPA) approves various amendments to the Oregon State RACT rules for volatile organic compounds which are contained in a submittal to EPA, dated December 7, 1998.

(i) Incorporation by reference.

(A) EPA is approving the revised Oregon Regulations, as effective October 12, 1998: OAR 340–022–0100; OAR 340–022–0102; OAR 340–022–0104; OAR 340–022–0106; OAR 340–022–0107; OAR 340-022–110; OAR 340–022–0120; OAR 340–022–0125; OAR 340–022–0130; OAR 340–022–0170; OAR 340–022–0175; OAR 340–022–0180; OAR 340–022–0300; OAR 340–022–0400; OAR 340–022–0401; and OAR 340–022–0402.

(B) EPA is repealing/removing the following provision from the current incorporation by reference: OAR 340–022–0403, as effective August 14, 1996.

3. Section 52.1972 is amended by revising the section to read as follows:

§ 52.1972 Approval Status.

With the exceptions set forth in this subpart, the Administrator approves

Oregon's plan for the attainment and maintenancce of the national standards under section 110 of the Clean Air Act.

[FR Doc. 00–11671 Filed 5–9–00; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[IN 119–1a; FRL–6601–5]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a redesignation request submitted by the State of Indiana. This action, which Indiana requested on March 2, 2000, redesignates Marion County (Indianapolis) to attainment of the National Ambient Air Quality Standards (NAAQS) for lead. In addition, EPA is also approving a maintenance plan for Marion County. The plan is designed to ensure maintenance of the lead NAAQS for at least 10 years. Indiana submitted the maintenance plan with the redesignation request.

DATES: This "direct final" rule is effective on July 10, 2000, unless EPA receives adverse written comments by June 9, 2000. If EPA receives an adverse written comment, EPA will publish a timely withdrawal of the rule in the **Federal Register** and will inform the public that the rule will not take effect.

ADDRESSES: You may send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the revision request are available for inspection at the following address: Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Phuong Nguyen, Environmental Scientist, at (312) 886–6701 before visiting the Region 5 office.)

FOR FURTHER INFORMATION CONTACT: Phuong Nguyen at (312) 886–6701.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we", "us" or "our" are used we mean EPA. This supplemental information section is organized as follows:

I. General Information

1. What Action Is EPA Taking Today?

In this action, EPA is approving the lead redesignation request submitted by the State of Indiana for Marion County. In addition, EPA is also approving the lead maintenance plan for this County.

2. Why IS EPA Taking This Action?

EPA is taking this action because the redesignation request meets the five applicable Clean Air Act (Act) criteria. EPA designated Marion County as a nonattainment area for lead on November 6, 1991 (56 FR 56694). Marion County now, however, meets the lead NAAQS. Indiana reported that there have been no exceedances documented in Marion County at any monitoring site since the second quarter of 1994. Therefore, the monitoring data show that the NAAQS for lead has been attained in all portions of Marion County. The State has developed a maintenance plan for keeping lead levels within the health-based air quality standard for the next 10 years and beyond. This maintenance plan requires the County to consider impacts of future activities on air quality and to manage those activities.

3. What Is the Background for This Action?

On November 6, 1991, EPA designated a small portion of Franklin Township, Marion County, Indiana as a primary nonattainment area for the lead NAAQS (56 FR 56694). On the same date, EPA designated another small portion of Wayne Township, in Marion County, Indiana as an unclassifiable area for lead.

Section 191(a) of the Act requires that States containing areas designated nonattainment for certain pollutants, including lead, submit a revision to their State Implementation Plan (SIP) meeting the requirements of part D, Title I of the Act, within 18 months of the nonattainment designation.

Section 192(a) of the Act further provides that SIPs must provide for attainment of the applicable NAAQS as expeditiously as practicable, but no later than 5 years from the date of the nonattainment designation.

On March 23, 1994, the State submitted a revised rule (326 IAC 15) and supplemented the submittal on September 21, 1994. EPA deemed the submittal complete in a September 23, 1994 letter, and approved the rule as part of the SIP on May 3, 1995 (60 FR 21717), fulfilling the requirement of section 192(a).

On February 25, 1997, Refined Metals Corporation sent a letter to the Indianapolis Environmental Resources Management Division (ERMD) stating that all operations at its facility would cease on February 28, 1997. On March 13, 1997, the Indianapolis ERMD received a second letter from the company requesting termination of its current operating permit. The company also withdrew its title V permit application. The Refined Metals facility was the only major lead source in the current nonattainment portion of Marion County.

II. Evaluation of the Redesignation Request

1. What Criteria Did EPA Use to Review the Redesignation Request?

Section 107(d)(3)(E) of the Act, as amended in 1990, establishes five requirements to be met before EPA may designate an area from nonattainment to attainment. These are:

(A) The area has attained the applicable NAAQS.

(B) The area has a fully-approved SIP under section 110(k) of the Act.

(C) The EPA has determined that the improvement in air quality in the area is due to permanent and enforceable emission reductions.

(D) The EPA has determined that the maintenance plan for the area has met all of the requirements of section 175A of the Act.

(E) The State has met all requirements applicable to the area under section 110 and part D of the Act.

2. Did Indiana Satisfy These Criteria for Marion County?

A. Demonstrated Attainment of the NAAQS

Relevant agency guidance is provided in both an April 21, 1983, document on "Section 107 Designation Policy Summary," and a September 4, 1992, document on "Procedures for processing requests to redesignate areas to attainment." The April 21, 1983, memorandum states that eight consecutive quarters of data showing lead NAAQS attainment are required for redesignation. The September 4, 1992, memorandum states that additional dispersion modeling is not required in support of a lead redesignation request if there is an adequate modeled attainment demonstration submitted and approved as part of the implemented SIP, and there is no indication of an existing air quality violation.

Indiana's March 2, 2000, submittal provided ambient monitoring data showing that Marion County has met the lead NAAQS for the period 1995 to 1998. The most recent air quality data shows there has been no exceedance reported in Marion County for the last 5 years (1995–1999).

Dispersion modeling is commonly used to demonstrate attainment of the lead NAAQS. Indiana used the ISCLT2 model to predict lead concentrations, as discussed in the May 3, 1995, **Federal Register** (60 FR 21717). Use of this analysis, in conjunction with information about current emission levels, also indicates that the NAAQS has been attained. No further dispersion modeling is needed for the County redesignation. Indiana has also provided evidence that sources in this County are complying with the specific limits in the SIP, 326 IAC 15–1–2. The Indiana lead SIP rule applies to all significant stationary sources of lead in the County. Based on this evidence, EPA concludes that emissions are sufficiently low to assure attainment throughout the area currently designated nonattainment.

B. Fully Approved SIP

The SIP for the area at issue must be fully approved under section 110(k) of the Act and must satisfy all requirements that apply under that section.

EPA's guidance for implementing section 110 of the Act is contained in the general preamble to title I (44 FR 20372, April 14, 1979; and 57 FR 13498, April 16, 1992). EPA has previously determined that the lead SIP for Marion County, with limits in 326 IAC 15–1–2, meets the requirements of section 110(a)(2)(D) and sections 191(a) and 192(a) of the Act. Specifically, EPA approved the lead SIP for Marion County (in 326 IAC 15–1–2) on May 3, 1995 (60 FR 21717).

The current submittal provides for the control of both stack and fugitive emissions by requiring revised emission limitations, improved monitoring, building enclosures, an amended fugitive lead dust plan, and contingency measures in the event that subsequent violations of the lead NAAQS occur. The previous modeling showed that ambient air quality in the vicinity of Refined Metals met the NAAQS, which is consistent with the monitored lead concentration for this action. Given that the major source in the area has shut down, emission levels are now well below the levels shown in 1995 modeling to be sufficient to achieve the NAAQS.

C. Permanent and Enforceable Reductions in Emissions

Indiana, in its submission, cites four factors which it believes helped the area attain the lead NAAQS. These are:

1. The permanent shutdown of the Refined Metals facility in the nonattainment portion of the County;

2. Implementation of the federal initiative requiring the elimination of lead in gasoline used by on-road mobile sources;

3. Compliance by Quemetco, Inc., with the lead SIP and the National Emission Standards for Hazardous Air Pollutants (NESHAP) for secondary lead smelters (40 CFR part 63, subpart X); and,

4. The permanent shutdown of four other facilities, which provided a small additional decrease of lead emissions in this area.

D. Fully Approved Maintenance Plan

Section 175(A) of the Act requires states that submit a redesignation request to include a maintenance plan to ensure that the attainment of the NAAQS for any pollutant is maintained. The maintenance plan is a SIP revision which provides for maintenance of relevant NAAQS in the area for at least ten years after the approval of a redesignation to attainment. Eight years after the redesignation, States must submit a revised maintenance plan demonstrating attainment for ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures to assure that a state will promptly correct any violation of the standard that occurs after redesignation. The contingency provisions are to include a requirement that a state will implement all measures for controlling the air pollutant of concern that were contained in the SIP prior to redesignation.

The reductions discussed in section C above are permanent, and no significant increases in lead emission are expected. Therefore, we expect the area to remain in attainment. Additional discussion of the maintenance plan is provided below.

E. Part D and Section 110

To be redesignated to attainment, section 107(d)(3)(E) requires that an area must have met all applicable requirements of section 110(a)(2) and Part D of the Act. The EPA approved Indiana's previous SIP submittal because it satisfied all of the applicable Federal requirements (60 FR 21717). The submittal for Marion County also satisfies the requirements of sections 191(a) and 192(a) of the Act by providing the necessary elements to reach attainment of the lead NAAQS no later than 5 years from the January 6, 1992, nonattainment designation.

During 1994, an ambient monitor near the Refined Metals facility recorded some lead standard violations, apparently due to the company's failure to: keep the materials storage building under negative pressure; operate its continuous opacity monitor and to provide valid data for the M–1 baghouse; comply with the facility's lead dust control program; and maintain sweeper operating records. The complete shutdown of the Refined Metals facility on February 25, 1997, has eliminated most of the area's lead emissions.

III. Maintenance Plan

What Are the Maintenance Plan Requirements and How Does the Submission Meet Maintenance Plan Requirements?

Guidance on redesignations issued September 4, 1992 identified five topics for maintenance plans to address:

A. The Attainment Inventory

The State needs to identify the sources of emissions in the area as well as the emissions level sufficient to attain the lead NAAQS, and include emissions during the period when the area attained the NAAQS.

The March 2, 2000, submittal identified the lead emissions from major and minor permitted sources located in Marion County between 1985–1998. Indiana chose 1996 as the base year for the attainment emission inventory because that year has extensive lead emission data available.

B. Maintenance Demonstration

The State needs to demonstrate that future emissions will not exceed the level established by the attainment inventory.

On December 6, 1994, the Indiana Department of Environmental Management (IDEM) issued Refined Metals a notice of violation (Cause Number A–2521). On January 10, 1995, the IDEM and Refined Metals signed an agreed Order to Settle Cause Number A–2521. This agreement helped to decrease lead emissions from 2 tons per year in 1985 to 0.0179100 tons per year in 1996, and to eliminate all lead emissions entirely in 1997, due to the permanent shutdown of the Refined Metals facility.

Indiana projected the annual lead emissions increase from 1996 to 2010 to account for the increase in production at remaining sources in Marion County. The growth factors, which are contained in Enclosure C to the March 2, 2000, submittal, were used to calculate the projected growth in emissions from 1996 to 2010. Base on these factors, the annual lead emissions are expected to increase by 8.56% by the year 2010, from 2.897 tons per year in 1996 to 3.145 tons per year in 2010. The projected levels for the year 2010 will be considerably lower than the actual 1990 total Marion County lead emissions (9.331 tons per year). Therefore, even though other sources in the County are projected to have a slight emission increase by 2010, the projected emission levels are well below the levels needed to maintain the NAAQS.

C. Monitoring Network

The State must include provisions for continued operation of an appropriate air quality monitoring network.

The Indianapolis ERMD commits to continue monitoring for lead in Marion County at AIRS I.D. 18–097–0063 monitoring site and AIRS I.D. 18–097–0076 monitoring site located in the unclassifiable portion of the County, which is adjacent to the Quemetco, Inc. facility.

D. Verification of Continued Attainment

The State must show how it will track and verify the progress of the maintenance plan.

To verify future maintenance during the initial ten-year maintenance period, the IDEM will re-evaluate the emissions inventory once every three years. IDEM will re-evaluate the inventory based in part on the annual NET update. Indiana will prepare a new inventory if there is any new lead source growth or other changes from the initial attainment inventory.

E. Contingency Plan

The maintenance plan must include contingency measures which ensure prompt correction of any violation of the lead standards.

Future contingency measures for this area will include requiring any proposed stationary sources of lead emissions to comply with all applicable New Source Review provisions. The IDEM and the Indianapolis ERMD will also closely monitor existing stationary sources of lead emissions. These Agencies will use the two methods identified below to develop the additional controls to assure future attainment of the National Ambient Air Quality Standard for lead, if there is an exceedance of the lead standard:

1. During routine inspections of permitted stationary sources, the Indianapolis ERMD will evaluate any potential increases in lead emissions at these facilities, and,

2. The IDEM and the Indianapolis ERMD will examine the annual point source inventory for sources with increases in emissions and for any new sources. Emissions reporting is required by the annual "emission statement" reporting requirements found in 326 IAC 2–6.

EPA finds that these elements of Indiana's submittal satisfy applicable maintenance plan requirements.

IV. Final Rulemaking Action

What Action Is EPA Taking?

EPA is approving Indiana's lead redesignation request, which was submitted on March 2, 2000. In addition, EPA is also approving the maintenance plan for Marion County, which was submitted with the redesignation request, as adequately ensuring that the lead NAAQS will be maintained.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by June 9, 2000. Should the Agency receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 10, 2000.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal

governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. 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 rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, versus *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective July 10, 2000 unless EPA receives adverse written comments by June 9, 2000.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. 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 July 10, 2000. 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

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: April 20, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40, Chapter I of the Code of Federal Regulation are 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 P—Indiana

2. Section 52.797 is amended by removing the introductory text and adding paragraph (d) to read as follows:

§ 52.797 Control strategy: Lead.

* * * * *

(d) On March 2, 2000, Indiana submitted a maintenance plan for Marion County as part of its request to redesignate the County to attainment of the lead standard.

* * * * *

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

2. The table in § 81.315 entitled "Indiana Lead" is amended to read as follows:

§ 81.315 Indiana.

* * * * *

INDIANA—LEAD

Designated area	Designation		Classification	
	Date	Type	Date	Type
Marion County (Part)—Part of Franklin Township: Thompson Road on the south; Emerson Avenue on the west; Five Points Road on the East; and Troy Avenue on the north.	July 10, 2000	Attainment.		
Marion County (Part)—Part of Wayne Township: Rockville Road on the north; Girls School Road on the east; Washington Street on the south; and Bridgeport Road on the west.	July 10, 2000	Attainment.		
Rest of State Not Designated.				

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[FR Doc. 00–11423 Filed 5–9–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300994; FRL–6555–5]

RIN 2070–AB78

Myclobutanil; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of myclobutanil in or on a variety of food commodities. Rohm and Haas Company and the Interregional Research Project #4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective May 10, 2000. Objections and requests for hearings, identified by docket control number OPP–300994, must be received by EPA on or before July 10, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300994 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9368; and e-mail address: jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you sell, distribute, manufacture, or use pesticides for agricultural applications, process food, distribute or sell food, or implement governmental pesticide regulations. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300994. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of September 2, 1999 (64 FR 48165) (FRL–6049–5), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of pesticide petitions (PP) for tolerances by Rohm and Haas Company and IR–4. This notice included a summary of the petitions prepared by Rohm and Haas Company, the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.443 be amended by establishing tolerances for combined residues of the fungicide myclobutanil alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile and its alcohol metabolite (alpha-(3-hydroxybutyl)-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile (free and bound), in or on the following commodities:

1. *PP 7E4862.* IR–4 proposes the establishment of a tolerance for asparagus at 0.02 parts per million (ppm).

2. *PP 7E4866.* IR–4 proposes the establishment of a tolerance for the caneberry subgroup at 1.0 ppm. The petition was subsequently amended to propose the establishment of a tolerance for the caneberry subgroup at 2.0 ppm.

3. *PP 8E4939.* IR–4 proposes the establishment of tolerances for currant at 3.0 ppm and gooseberry at 2.0 ppm.

4. *PP 7E4877.* IR–4 proposes the establishment of a tolerance for mint at 3.0 ppm. The petition was revised to specify peppermint and spearmint tops at 3.0 ppm.

5. *PP 7E4861.* IR–4 proposes the establishment of a tolerance for snap beans at 1.0 ppm. The petition was amended to proposed a tolerance for succulent snap bean at 1.0 ppm.

6. *PP 4E4302.* IR–4 proposes the establishment of a tolerance for strawberry at 0.5 ppm.

7. *PP 1F4030.* Rohm and Haas Company proposes the establishment of tolerances for tomato at 0.3 ppm, tomato puree at 0.6 ppm and tomato paste at 1.2 ppm. The petition was subsequently amended to propose tolerances for tomato at 0.3 ppm, tomato puree at 0.5 ppm and tomato paste at 1.0 ppm.

8. *PP 9F3812.* Rohm and Haas Company proposes the establishment of a tolerance for the pome fruit group at 0.5 ppm. The petition was amended to propose a tolerance for mayhaw at 0.7 ppm and apple wet pomace at 1.3 ppm.

9. *PP 2F4155.* Rohm and Haas Company proposes the establishment of tolerances for the cucurbit vegetables group at 0.5 ppm. The petition was amended to propose a tolerance for the cucurbit vegetables group at 0.2 ppm. The petition was also amended to propose tolerances for indirect and inadvertent residues of myclobutanil (parent compound only) at 0.03 ppm for the following rotational crop groups: root and tuber vegetables group; leaves of root and tuber vegetables group; leafy vegetables (except Brassica vegetables) group; Brassica leafy vegetables group; legume vegetables group; foliage of legume vegetables group; fruiting vegetables group; cereal grains group; forage, fodder and straw of cereal grains group; and the nongrass animal feeds group.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through food and drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for residues of myclobutanil on the named commodities. EPA's assessment of exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by myclobutanil are discussed in this unit as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.— TOXICITY PROFILE OF MYCLOBUTANIL TECHNICAL

Guideline/Study	Results
82–1(a) Subchronic Feeding in Rats (13 weeks)	NOAEL: 1000 ppm LOAEL: 3000 ppm based on increased liver, kidney weights; hypertrophy, necrosis in liver; pigmentation in convoluted kidney tubules; vacuolated adrenal cortex.
82–1(a) Subchronic Feeding in Mice (13 weeks)	NOAEL: 45 mg/kg/day(300 ppm) LOAEL: 150 mg/kg/day (1000 ppm) based on hepatocytic hypertrophy, swollen-vacuolated centrilobular hepatocytes, single large hepatocyte vacuoles, centrilobular individual cell hepatocyte necrosis and centrilobular necrotic hepatitis; cytoplasmic eosinophilia and/or hypertrophy of the zona fasculata cells of the adrenal glands of males.
82–1(b) Subchronic Feeding in Dogs (13 Weeks)	NOAEL: 5 mg/kg/day (200 ppm) LOAEL: 20 mg/kg/day (800 ppm) based on liver changes including increased alkaline phosphatase, relative and absolute liver weight and hepatocellular hypertrophy.
82–2 28–day Dermal Toxicity in Rats	NOAEL for systemic effects: greater than 100 mg a.i./kg/day (the highest dose in both studies) LOAEL: not established NOTE: this was conducted in 2 formulations rather than the technical (40WP - 41.36%; 2EC - 24.99%).
83–1(b) Chronic Feeding Study in Dogs	NOAEL: 3.09 mg/kg/day (100 ppm) LOAEL: 14.28 mg/kg/day (400 ppm) based on hepatocellular hypertrophy, increases in liver weights, "ballooned" hepatocytes and increases in alkaline phosphatase, SGPT and GGT. In addition, there were some possible slight hematological effects.
83–2(b) Carcinogenicity study in mice	NOAEL: 13.7 mg/kg/day (100 ppm) for males LOAEL: 70.2 mg/kg/day (500 ppm in males); not established in females. There were increased MFO (males and females); increased SGPT (females) & increased absolute & relative liver weights (males and females); increased incidences and severity of centrilobular hepatocytic hypertrophy, Kupffer cell pigmentation, periportal punctate vacuolation & individual hepatocellular necrosis (males); and increased incidences of focal hepatocellular alterations and multifocal hepatocellular vacuolation (males and females). Not tested at high enough dose levels in females. In a second carcinogenicity study in mice, female mice were tested at sufficiently high dose levels (2000 ppm (393.5 mg/kg/day)), no carcinogenic effects observed.
83–2(b) Carcinogenicity study in mice	NOAEL: Not established LOAEL: 2000 ppm (393.5 mg/kg/day) (only dose tested) based on decreases in body weight and body weight gain; increases in liver weights; hepatocellular hypertrophy; hepatocellular vacuolation; necrosis of single hypertrophied hepatocytes; yellow-brown pigment in the Kupffer cells and cytoplasmic eosinophilia and hypertrophy of the cells of the zona fasciculata area of the adrenal cortex. Not carcinogenic under the conditions of the study.
83–5 Chronic Feeding/carcinogenicity study in rats	NOAEL: 2.49 mg/kg/day (50 ppm) LOAEL: 9.94 mg/kg/day (200 ppm) based on decreased testes weights and increased testicular atrophy. Not tested at high enough dose levels. In a second chronic feeding/carcinogenicity study in rats, rats were tested at sufficiently high dose levels (2500 ppm: 125 mg/kg/day), no carcinogenic effects observed.
83–5 Chronic feeding/carcinogenicity study in rats	NOAEL: Not established LOAEL: 125 mg/kg/day (2500 ppm) (only dose tested) based on testicular atrophy and decreases in testes weights; increases in the incidences of centrilobular to midzonal hepatocellular enlargement and vacuolization in the liver of both sexes; increases in bilateral aspermatogenesis in the testes; increases in the incidence of hypospermia and cellular debris in the epididymides; and increased incidence of arteritis/periarteritis in the testes). No carcinogenic effects observed.
83–3(a) Developmental Toxicity Study in Rats	Maternal NOAEL: 93.8 mg/kg/day Maternal LOAEL: 312.6 mg/kg/day based on rough hair coat and salivation at 312.6 mg/kg/day and salivation, alopecia, desquamation and red exudate around mouth at 468.87 mg/kg/day. Developmental NOAEL: 93.8 mg/kg/day Developmental LOAEL: 312.6 mg/kg/day based on increased incidences of 14th rudimentary and 7th cervical ribs at 312.6 and 468.9 mg/kg/day.
83–3(b) Developmental Toxicity Study in Rabbits	Maternal NOAEL: 60 mg/kg/day Maternal LOAEL: 200 mg/kg/day based on reduced body weight and body weight gain during the dosing period, clinical signs of toxicity and possibly abortions. Developmental NOAEL: 60 mg/kg/day Developmental LOAEL: 200 mg/kg/day based on increases in number of resorptions, decreases in litter size and a decrease in the viability index.

TABLE 1.— TOXICITY PROFILE OF MYCLOBUTANIL TECHNICAL—Continued

Guideline/Study	Results
83–4 2-Generation Reproduction Toxicity in Rats	Systemic NOAEL: 2.5 mg/kg/day (50 ppm) Systemic LOAEL: 10 mg/kg/day (200 ppm) based on increased liver weights and hepatocellular hypertrophy. Reproductive NOAEL: 10 mg/kg/day (200 ppm) Reproductive LOAEL: 50 mg/kg/day (1000 ppm) based on increased incidence in the number of stillborns and atrophy of the testes, epididymides and prostate. Developmental NOAEL: 10 mg/kg/day (200 ppm) Developmental LOAEL: 1000 ppm (50 mg/kg/day) based on decrease in pup body weight gain during lactation.
84–2 Gene Mutation Assay (Ames Test)	No appreciable increase in the reversion to histidine protrophy of 4 *S. typhimurium* strains at 75 to 7500 µg/plate with & without S–9 activation.
84–2 Gene Mutation Assay Mammalian Cells	Negative with and without metabolic activation up to 175 µg/ml.
84–2 Structural Chromosomal Aberration Assay *In vivo* cytogenetics.	The level of 650 mg/kg did not cause a significant increase in chromosomal aberrations in bone marrow cells sampled over the entire mitotic cycle.
84–2 Structural Chromosomal Aberration Assay *In vitro* cytogenetics.	Did not induce chromosomal aberrations with & without metabolic activation under the conditions of the study up to 200 µg/ml.
84–2 Structural Chromosomal Aberration Assay Dominant Lethal Test.	Did not induce dominant lethal mutations under conditions of study at dose levels up to 735 mg/kg.
84–2 Other Genotoxicity Assays (Unscheduled DNA Synthesis).	Did not induce an increase in unscheduled DNA synthesis up to toxic dose. 0.1–1000 µg/ml tested.
85–1 Metabolism	Rapidly absorbed and excreted. Completely eliminated by 96 hrs. Extensively metabolized prior to excretion. Metabolic patterns similar for both sexes. Disposition & metabolism after pulse administration is linear over dose range.
85–1 Metabolism	Completely and rapidly absorbed. Extensively metabolized and rapidly and essentially completely excreted. Elimination of label from plasma biphasic and evenly distribution between urine and feces. No tissue accumulation after 96 hours.
85–1 Metabolism	At least 7 major metabolites recovered and identified. Highest amounts of radioactivity found in liver, kidneys, large and small intestines. No tissue accumulation.
85–2 Dermal Absorption	Although this study is considered unacceptable, the potential dermal absorption is not expected to be greater than 50%.

B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD=NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor (FQPA SF).

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR MYCLOBUTANIL FOR UES IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF and Endpoint for Risk Assessment[1]	Study and Toxicological Effects
Acute Dietary females 13–50 years of age.	NOAEL = 60 mg/kg/day UF = 100 Acute RfD = 0.60 mg/kg/day	FQPA SF = 1 aPAD = acute RfD ÷ FQPA SF = [0.60] mg/kg/day.	Developmental Toxicity - rabbit LOAEL = 200 mg/kg/day based on increased resorptions, decreased litter size and a decrease in the viability index.
Acute Dietary general population including infants and children.	none	not applicable	not applicable
Chronic Dietary all populations	NOAEL = 2.49 mg/kg/day UF = 100 ..... Chronic RfD = 0.025 mg/kg/day	FQPA SF = 1 cPAD = chronic RfD ÷ FQPA SF = 0.025 mg/kg/day.	Chronic Toxicity/Carcinogenicity - rat LOAEL = 9.94 mg/kg/day based on decreased testicular weights and increased testicular atrophy.
Short-Term Dermal (1 to 7 days) Residential.	dermal study NOAEL = 100 mg/kg/day	LOC for MOE = 100 (Residential, includes the FQPA SF)	28–day Dermal Toxicity-rat LOAEL = > 100 mg/kg/day based on no signs of toxicity at the high dose of 100 mg/kg a.i.
Intermediate-Term Dermal (1 week to several months) Residential.	oral study NOAEL= 10 mg/kg/day (dermal absorption rate = 50%)	LOC for MOE = 100 (Residential, includes the FQPA SF)	2 Generation Reproduction Toxicity - rat LOAEL = 50 mg/kg/day based on atrophy of the testes and prostate as well as an increase in the number of stillborn pups and a decrease in pup weight gain during lactation.
Long-Term Dermal (several months to lifetime) Residential.	oral study NOAEL= 2.49 mg/kg/day (dermal absorption rate = 50%)	LOC for MOE = 100 (Residential, includes the FQPA SF)	Chronic Toxicity/Carcinogenicity - rat LOAEL = 9.94 mg/kg/day based on decreased testicular weights and increased testicular atrophy.
Short-Term Inhalation (1 to 7 days) Residential.	oral study NOAEL= 10 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential, includes the FQPA SF)	2 Generation Reproduction Toxicity - rat LOAEL = 50 mg/kg/day based on atrophy of the testes and prostate as well as an increase in the number of stillborn pups and a decrease in pup weight gain during lactation
Intermediate-Term Inhalation (1 week to several months) Residential.	oral study NOAEL= 10 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential, includes the FQPA SF)	2 Generation Reproduction Toxicity - rabbit LOAEL = 50 mg/kg/day based on atrophy of the testes and prostate as well as an increase in the number of stillborn pups and a decrease in pup weight gain during lactation.
Long-Term Inhalation (several months to lifetime) Residential.	oral study NOAEL= 2.49 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential, includes the FQPA SF)	chronic Toxicity/Carcinogenicity - rat LOAEL = 9.94 mg/kg/day based on decreased testicular weights and increased testicular atrophy.
Cancer (oral, dermal, inhalation).	"Group E"	not applicable	not applicable

[1] The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.443) for the combined residues of myclobutanil, in or on a variety of raw agricultural commodities. Permanent tolerances are established for the combined residues of myclobutanil and its alcohol metabolite (free and bound) in or on a variety of commodities at levels ranging from 0.02 to 25.0 ppm and in meat, milk, poultry, and eggs at levels ranging from 0.02 to 1.0 ppm. Risk assessments were conducted by EPA to assess dietary exposures from myclobutanil in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: A tier 1 acute

analysis was performed using tolerance level residues and 100% crop treated (CT) information for all registered and proposed uses. The acute analysis was performed for females (13–50 years old) only (no acute endpoint was chosen for the general U.S. population).

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The chronic analysis was performed using published and proposed tolerance levels for all commodities. For the chronic analysis, percent CT information was used for apples, apricots, cherries, grapes, nectarines, peaches, pears, plums, and cotton and 100% CT was assumed for all other commodities.

iii. *Cancer.* A cancer dietary exposure assessment was not performed since myclobutanil was not carcinogenic in two acceptable animal studies.

iv. *Anticipated residue and percent crop treated information.* Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used percent crop treated (PCT) information as follows.

Crop	Percent crop treated
Apples	40
Apricots	15
Cherries	40
Cotton	<1
Grapes	45
Nectarines	20
Peaches	10
Pears	< 1
Plums	15

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which myclobutanil may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive drinking water dietary exposure analysis and risk assessment for myclobutanil in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of myclobutanil.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to myclobutanil, they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models, the estimated environmental concentrations (EECs) of myclobutanil for acute exposure are estimated to be

115 parts per billion (ppb) in surface water and 2 ppb for ground water. The EECs for chronic exposures are estimated to be 31 ppb for surface water and 2 ppb for ground water.

3. *From non-dietary exposure.* Myclobutanil is currently registered for use on the following residential non-dietary sites: homeowner use on turf, roses, flowers, shrubs and trees. The term "residential exposure" is used in this document to refer to non-occupation, nondietary exposure resulting from pesticide uses in residential settings (e.g., pesticide uses for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets.) The risk assessment was conducted using the following exposure assumptions:

i. *Residential handler exposure.* Based on the residential use-patterns associated with myclobutanil, there is potential for exposures to handlers of myclobutanil. In order to present a high-end scenario of residential exposure, it was assumed that one person would complete all mixing, loading and application of myclobutanil. Exposure scenarios were assessed, at the maximum application rate, for mixing, loading, and application of a soluble concentrate product by trigger bottle sprayer (treating ornamental plants), and by hose-end sprayer (treating turfgrass) to represent the worst-case scenario for the proposed uses. There are no chemical specific data available to support the residential use scenarios of myclobutanil. Therefore, modeling (PHED v 1.1 surrogate table) was used to represent the highest potential for exposure from homeowner application of myclobutanil.

ii. *Residential post application exposure.* Potential residential exposures are expected following applications to lawns, ornamentals and home garden sites. Chemical-specific data are available to determine the potential risks from post-application activities. The registrant submitted a dislodgeable foliar residue (DFR) study on grapes for myclobutanil. Short-term post-application exposure estimates were done using the study determined DFR of 0.175 $\mu g/cm^2$ (on day 0). For intermediate-term post-application exposure, an average of DFRs from day 0 through day 14 was used. The post-application risk assessment is based on DFR data from the submitted study on grapes and generic assumptions as specified by the recently revised Residential SOPs.

Based on the use pattern, exposure to myclobutanil-treated ornamentals is expected to be incidental and short-term. Both short- and intermediate-term exposures are expected following lawn applications of myclobutanil. Short-term aggregate post-application exposure for the adult was done for dermal exposure to treated turf and ornamentals. Since there is no intermediate-term exposure for the residential handler, there is no aggregate intermediate-term exposure for the adult.

Short-term, non-dietary ingestion exposure to toddlers is not assessed since EPA did not detect an acute dietary or oral endpoint applicable to infants and children. Therefore, EPA does not expect short-term non-dietary exposure to pose a risk to infants and children. The only short-term toddler exposure that was considered consists of dermal post-application exposure. However, EPA determined that the short-term dermal exposure should not be aggregated with the short-term oral exposure because the toxic effects are different.

Additionally, intermediate-term, non-dietary ingestion exposure for toddlers is possible and was assessed using the intermediate-term dose and endpoint identified from the two generation reproduction toxicity study in rats. Intermediate-term aggregate exposure for toddlers combines non-dietary ingestion and dermal exposure from treated turf.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether myclobutanil has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, myclobutanil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that myclobutanil has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *Safety factor for infants and children—i. In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data based on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Prenatal and postnatal sensitivity.* There was no evidence of increased susceptibility in the developmental toxicity studies with rats and rabbits. The data from the 2-generation reproduction study in rats provided no indication of quantitative or qualitative increased susceptibility since maternal toxicity and reproductive toxicity occurred at the same dose.

iii. *Conclusion.* There is a complete toxicity data base for myclobutanil and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed because:

a. There are no toxicity or residential exposure data gaps in the consideration of the FQPA Safety Factor.

b. There was no evidence of increased susceptibility in the developmental toxicity studies with rats and rabbits and the 2-generation reproduction study in rats provided no indication of quantitative or qualitative increased susceptibility since maternal toxicity and reproductive toxicity occurred at the same dose.

c. A developmental neurotoxicity study is not required because neurotoxic compounds of similar structure were not identified and there was no evidence of neurotoxicity in the current toxicity database.

d. The exposure assessments will not underestimate the potential dietary (food and drinking water) and residential (non-occupational) exposures for infants and children from the use of myclobutanil.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water,

and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to myclobutanil in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of myclobutanil on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to myclobutanil will occupy 2% of the aPAD for females 13 years and older at the 95th percentile of exposure. In addition, despite the potential for acute dietary exposure to myclobutanil in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of myclobutanil in surface and ground water (115 ppb and 2 ppb, respectively), EPA does not expect the aggregate exposure to exceed 100% of the aPAD.

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO MYCLOBUTANIL

Population Subgroup	aPAD (mg/kg)	%aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
Females (13 to 50 years)	0. 60	2	115	2	18,000

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to myclobutanil from food will utilize 17% of the cPAD for the U.S. population, 48% of the cPAD for infants < 1 year old and 52% of the cPAD for children 1 to 6 years old. There are no residential uses for myclobutanil that result in chronic residential exposure. In addition, despite the potential for chronic dietary exposure to myclobutanil in drinking water, after calculating the DWLOCs and comparing them to conservative model estimated environmental concentrations of myclobutanil in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO MYCLOBUTANIL

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.025	17	31	2	720
All Infants (<1 year old)	0.025	48	31	2	130
Children 1 to 6 years	0.025	52	31	2	120
Children 7 to 12 years	0.025	26	31	2	190
Females (13 to 50 years)	0.025	11	31	2	670

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). EPA has determined that oral and dermal exposures can not be aggregated due to differences in the toxicological endpoints via the oral (developmental study) and dermal routes. Therefore, short-term aggregate risk is captured by assessment of acute risk above.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 650 for the U.S. population and 310 for infants and children. These aggregate MOEs do not exceed the Agency's level of concern (LOC = 100) for aggregate exposure to food and residential uses. In addition, DWLOCs were calculated to account for the potential of intermediate-term exposure to myclobutanil in drinking water. After calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of myclobutanil in surface and ground water (31 ppb and 2 ppb, respectively), EPA does not expect the intermediate-term aggregate exposure to exceed the Agency's level of concern.

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO MYCLOBUTANIL

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Intermediate-Term DWLOC (ppb)
U.S. Population	605	100	31	2	3,000
Infants and Children	310	100	31	2	680

6. *Aggregate cancer risk for U.S. population.* Myclobutanil is not carcinogenic in either the rat or mouse and, therefore, is not expected to pose a cancer risk to humans.

7. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to myclobutanil residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate enforcement method (Rohm and Haas Method 34S–88–10) is available to enforce the proposed tolerances. Quantitation is by gas liquid chromatography using a nitrogen/phosphorus detector for myclobutanil and an electron capture detector (Ni^{63}) for residues measured as the alcohol metabolite. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

A Codex maximum residue limit (MRL) is presently established for residues of myclobutanil per se in/on pome fruit at 0.5 ppm. Canadian MRLs have been established for residues of (RS)-2-*p*-chlorophenyl-2-(1H-1,2,4-triazol-1-ylmethyl)hexanenitrile, including the free and conjugated forms of its metabolites (RS)-2-*p*-chlorophenyl-1-(1*H*-1,2,4-triazol-1-ylmethyl)-5-hydroxy-hexanenitrile and (RS)-2-*p*-chlorophenyl-2-(1*H*-1,2,4-triazol-1ylmethyl)-5-keto-hexanenitrile on apples and apple juice at 0.5 ppm. No Mexican MRLs have been established for the use on mayhaw. Harmonization with Codex or the Canadian MRLs is not possible as the tolerance expressions for both differ from the proposed U.S. tolerance.

C. Conditions

Rohm and Haas has requested conditional registration for caneberry, currant, gooseberry, mayhaw, peppermint, spearmint, snap beans, and tomato. Upon receipt and evaluation of additional residue field trials for these crops, the Agency will reassess the registration and, if appropriate, will issue unconditional registration for these uses. In addition, the registration on cucurbits, mint, snap beans, strawberries and tomatoes will be conditional pending the submission and EPA review of a field rotational crop study.

V. Conclusion

Therefore, tolerances are established for combined residues of myclobutanil in apple, wet pomace at 1.3 ppm; asparagus at 0.02 ppm; the caneberry subgroup at 2.0 ppm, the cucurbit vegetable group at 0.20 ppm, currant at 3.0 ppm, gooseberry at 2.0 ppm, mayhaw at 0.70 ppm; peppermint tops at 3.0 ppm, succulent snap bean at 1.0 ppm; spearmint tops at 3.0 ppm, strawberry at 0.50 ppm, tomato at 0.30 ppm; tomato, puree at 0.50 ppm; tomato, paste at 1.0 ppm. In addition tolerances for indirect and inadvertent residues of myclobutanil per se at 0.03 ppm are established in root and tuber vegetable group; leaves of root and tuber vegetable group; leafy vegetable, except Brassica, group; Brassica leafy vegetable group; legume vegetable group; fruiting vegetable group; cereal grains group; forage, fodder, and straw of cereal grains group; nongrass animal feed group; and foliage of legume vegetable group.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number 300994 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 10, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information 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.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave, NW, Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov* , or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave, NW, Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave, NW, Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–300994, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave, NW, Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(d) in response to petitions submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule. the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: April 28, 2000

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), (346a) and 371.

2. Section 180.443 is amended by revising the introductory text of paragraph (a), by adding alphabetically new entries to the table in paragraph (a), and by revising paragraph (d) the read as follows:

§ 180.443 Myclobutanil; tolerances for residues.

(a) *General.* Tolerances are established for combined residues of the fungicide myclobutanil alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile and its alcohol metabolite (alpha-(3-hydroxybutyl)-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile (free and bound), in or on the following food commodities:

Commodity	Parts per million
* * * * *	
Apple, wet pomace	1.3
* * * * *	
Asparagus	0.02
* * * * *	
Bean, snap, succulent	1.0
Caneberry subgroup	2.0
* * * * *	
Currant	3.0
* * * * *	
Gooseberry	2.0
* * * * *	
Mayhaw	0.70
* * * * *	
Peppermint, tops	3.0
* * * * *	
Spearmint, tops	3.0
Strawberry	0.50
* * * * *	
Tomato	0.30
Tomato, puree	0.50
Tomato, paste	1.0
Vegetable, cucurbit, group	0.20

* * * * *

(d) *Indirect or inadvertent residues.* Tolerances are established for residues of the fungicide myclobutanil alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile in or on the following food commodities:

Commodity	Parts per million
Animal Feed, Nongrass, Group	0.03
Grains, Cereal, Forage, Fodder, and Straw, Group	0.03
Grains, Cereal, Group	0.03
Vegetable, Brassica, Leafy, Group	0.03
Vegetable, Foliage of Legume, Group	0.03
Vegetable, Fruiting, Group	0.03
Vegetable, Leafy, Except Brassica, Group	0.03
Vegetable, Leaves of Root and Tuber, Group	0.03
Vegetable, Legume, Group	0.03
Vegetable, Root and Tuber, Group	0.03

[FR Doc. 00–11571 Filed 5–9–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6600–4]

West Virginia: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: West Virginia has applied to EPA for Final authorization of the revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The revision covers statutory and regulatory changes to the State's authorized hazardous waste program, including the adoption of the Federal hazardous regulations, as amended through June 30, 1997, and the Federal final rules published in the **Federal Register** on December 8, 1997, May 26, 1998, June 8, 1998, and on June 19, 1998 with certain exceptions described in section H in the Supplementary Information section of this document. EPA has determined that its hazardous waste program revisions satisfy all of the requirements necessary to qualify for Final authorization, and is authorizing the state program revision through this immediate final action. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and does not anticipate adverse comments. However, in the proposed rules section of this **Federal Register**, EPA is publishing a separate document that will serve as a proposal to authorize the revision should the Agency receive adverse comment. If EPA receives comments that oppose this action or portion(s) thereof, we will publish a document in the **Federal Register** withdrawing this rule or portion(s) thereof before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes. Unless EPA receives adverse written comments during the review and comment period, the decision to authorize West Virginia's hazardous waste program revision will take effect as provided below.

DATES: This Final authorization for West Virginia will become effective without further notice on July 10, 2000, unless EPA receives adverse comments by June 9, 2000. Once again if EPA should receive such comments on its decision, the Agency will publish a timely withdrawal informing the public that this rule will not take effect.

ADDRESSES: Send written comments to Sharon McCauley, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814–3376. EPA must receive your comments by June 9, 2000. Copies of the West Virginia program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 8 a.m. to 4:30 p.m., Monday through Friday at the following addresses: West Virginia Division of Environmental Protection, Office of Waste Management, 1356 Hansford Street, Charleston, WV 25301–1401, Phone number: 304–558–4253 and EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814–5254.

FOR FURTHER INFORMATION CONTACT: Sharon McCauley, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814–3376.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), provides for authorization of State hazardous waste programs under Subtitle C. Under RCRA section 3006, EPA may authorize a State to administer and enforce the RCRA hazardous waste

program. See also 40 CFR part 271. In fact, Congress designed RCRA so that the entire Subtitle C program would eventually be administered by the States in lieu of the Federal Government. This is because the States are closer to, and more familiar with, the regulated community and therefore are in a better position to administer the programs and respond to local needs effectively.

After receiving authorization, the State administers the program in lieu of the Federal government, although EPA retains enforcement authority under RCRA sections 3008, 3013, and 7003. Authorized States must revise their programs when EPA promulgates "new" Federal Standards that are more stringent or broader in scope than existing Federal Standards. States are not required to modify their programs when "new" Federal changes are less stringent than the existing Federal program or when changes reduce the scope of the existing Federal program. These changes are optional and are noted as such in the **Federal Register** (FR) documents in which the new Federal Standards are promulgated.

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

B. What Decisions Have We Made In this Rule?

EPA concludes that West Virginia's application for authorization of its program revisions meets all applicable statutory and regulatory requirements established by RCRA. Accordingly, EPA grants West Virginia Final authorization to operate its hazardous waste program as revised. West Virginia now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of HSWA. West Virginia also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

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

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

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

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

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

EPA is authorizing the State's changes through this immediate final action and is publishing this rule without a prior proposal to authorize the changes because EPA believes it is not controversial and expects no comments that oppose this action. EPA is providing an opportunity for public comment now. In the proposed rules section of today's **Federal Register** EPA is publishing a separate document that proposes to authorize the State changes. If EPA receives comments which oppose this authorization or portion(s) thereof, that document will serve as a proposal to authorize such changes.

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

If EPA receives comments that oppose this authorization decision or portion(s) thereof, we will withdraw this authorization decision, or those portion(s) for which EPA received comments opposing its decision, by publishing a document in the **Federal Register**. We will address all public comments in a subsequent final action based on the proposed rule.

If EPA receives comments that oppose only the authorization of a particular change to the State hazardous waste program, we may withdraw only that part of today's authorization rule. The authorization of the program changes that are not opposed by any comments may become effective on July 10, 2000. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

You should send written comments to Sharon McCauley, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814–3376. We must receive your comments by June 8, 2000. You may not have an opportunity to comment again. If you want to comment on this action you must do so at this time.

F. What Has West Virginia Previously Been Authorized For?

West Virginia initially received Interim authorization, Phase I and Phase II, Components A and B on March 28, 1984. Effective May 29, 1986 (51 FR 17739), West Virginia received Final authorization to implement its base hazardous waste management program. Since receiving Final authorization, West Virginia has restructured its hazardous waste management program and revised its statutes and regulations. West Virginia's Attorney General's Statement, dated April 18, 1986, which was a component of the State's original Final authorization, cited the West Virginia Code, Chapter 20, Article 5E, as the State Hazardous Waste Management Act (HWMA). The West Virginia HWMA, Chapter 20 Article 5E, was originally written to give the primary implementation authority for the State's hazardous waste program (HWP) to the West Virginia Department of Natural Resources (WVDNR). Therefore, from 1981 until 1992, the WVDNR was the lead agency assigned HWP responsibilities. The State government, however, underwent a major reorganization in 1992 and the West Virginia Division of Environmental Protection (WVDEP) was formed. On July 1, 1992, Executive Order No. 8–92 signed by Governor Gaston Caperton transferred all sections of the Office of Waste Management from the WVDNR to the WVDEP. Subsequently, during the 1994 State Legislative Session, the Environmental Protection Reorganization Bill was passed, officially transferring all environmental statutes formerly enforced by the WVDNR to the WVDEP. In July 1994, the West Virginia Legislature enacted into law Article 18 of Chapter 22 of the West Virginia Code (W. Va. Code) which replaced Article 5E of Chapter 20 of the West Virginia as the State Hazardous

Waste Management Act (HWMA). The WVDEP was originally under the Department of Labor, Commerce and Environmental Resources. This Department was abolished by the Legislature in 1994, and the agencies were reorganized, with the WVDEP being placed under the Bureau of Environment. The Director of WVDEP also is the Commissioner of the Bureau of Environment and answers directly to the Governor.

The Office of Waste Management (OWM) is the office within WVDEP that is primarily responsible for regulation of hazardous waste management within the State. In 1997, OWM was restructured and an additional agency, the Office of Environmental Remediation, was created to regulate brownfields and voluntary clean-up sites. Additionally, within the WVDEP, the Office of Air Quality (OAQ) regulates hazardous waste air emissions; and outside of the WVDEP, two additional agencies, the Division of Highways (DOH) and the Public Service Commission (PSC), regulate aspects of hazardous waste transportation. Within the OWM, regulatory authority over hazardous waste is assigned to Compliance Assurance and Emergency Response (CAER) and the Hazardous Waste Management Section (HWMS). All aspects of hazardous waste management including compliance monitoring, enforcement and permitting are handled by these two sections, with the exception of air permits, which are handled by the OAQ. The OWM's Compliance Assurance and Emergency Response is the lead agency for communication between the State and the EPA, although HWMS and OAQ communicate with EPA on specific matters. CAER works with the Office of Legal Services (OLS) within DEP on matters such as the review of proposed rules and regulations and civil enforcement actions. West Virginia Code section 22–1–6(d)(7) (1996 Cumulative Supplement) authorized the Director of WVDEP to "employ in-house counsel to perform all legal services for the director and division, including, but not limited to, representing the director, any chief, the division or any office thereof in any administrative proceedings or in any proceeding in state or federal court."

The State Legislature has made numerous amendments to the regulations promulgated under the State's Hazardous Waste Management Act in order to remain consistent with, and equivalent to, the Federal regulations promulgated under RCRA Subtitle C. Specifically, West Virginia has revised the format of its hazardous waste regulations to one of adoption and incorporation of the full text of the Federal regulatory language, with modifications made as necessary, to incorporation of the Federal regulations by reference. Incorporation by reference is authorized by W. Va. Code section 22–1–3(c) which states "if the director determines that the rule should be the same in substance as a counterpart regulation, then to the greatest degree practical, such proposed rule shall incorporate by reference the counterpart federal regulation."

West Virginia submitted, on an annual basis, several draft regulations to EPA. The Agency reviewed each set of draft regulations and submitted comments to West Virginia. On January 13, 2000, West Virginia submitted a final complete program revision application, seeking authorization for the restructuring of its hazardous waste program, as well as authorization of its additional program revisions, in accordance with 40 CFR 271.21. EPA Region III worked closely with West Virginia to develop the authorization package; therefore, EPA's comments relative to West Virginia's legal authority to carry out the Federally-delegated programs, the scope of and coverage of activities regulated, State procedures, including the criteria for permit reviews, public participation and enforcement capabilities, were addressed before the submission of the final application by the State. The State also solicited public comments on its draft regulations. The EPA reviewed West Virginia's application, and now makes an immediate final decision, subject to receipt of adverse written comments, that West Virginia's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Consequently, EPA intends to grant West Virginia Final authorization for the program modifications contained in the program revision application.

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

West Virginia's program revision application includes State regulatory changes that are equivalent to the Federal regulations published in the July 1, 1997 version of Title 40 of the Code of Federal Regulations, parts 124, 260 through 266, 268, 270, 273 and 279, plus the Federal requirements for "Availability of Information," as addressed in RCRA section 3006(f), and the final rules published in the **Federal Register** on December 8, 1997 (62 FR 64636), May 26, 1998 (63 FR 28556), June 8, 1998 (63 FR 31266) and June 19, 1998 (63 FR 33782).

West Virginia is today seeking authority to administer the Federal requirements that are listed in the chart below. This chart also lists the State analogs that are being recognized as no less stringent than to the appropriate Federal requirements. Unless otherwise stated, the State's statutory references are to the West Virginia Code (W. Va. Code), 1994 Cumulative Supplement, Chapter 22—Environmental Resources, Article 1 (Division of Environmental Protection), Article 5 (Air Pollution Control), and Article 18 (Hazardous Waste Management Act). The regulatory references are to the following Legislative Rules: Title 33, Series 20, Code of State Regulations (33CSR20), "Hazardous Waste Management Rule", effective July 1, 1999; 45CSR25, "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities," effective June 1, 1999; 157CSR7, "Emergency Rulemaking for the Transportation of Hazardous Wastes Upon Roads and Highways," effective April 28, 1999; as well as the proposed rules for "Transportation of Hazardous Waste Upon Roads and Highways" submitted to the State Legislative Review Committee on October 5, 1999; 150CSR11, "Rules and Regulations Governing the Transportation of Hazardous Waste By Rail," effective November 8, 1999; 46CSR12, "Requirements Governing Groundwater Standards," effective July 1, 1998; and 46CSR8, "Rules on Requests for Information," effective February 18, 1996.

Federal requirement [1]	Analogous West Virginia authority
Part 260—Hazardous Waste Management System: General, as of July 1, 1997.	West Virginia Code (W. Va. Code) §§ 22–18–3, 22–18–5(a), 22–18–6(a), 22–18–6(a)(12)(D), 22–18–23; Hazardous Waste Management Regulations (HWMR) §§ 33–20–1.1, 33–20–1.6, 33–20–2.1 (except 2.1.a.2 and a.3), 33–20–2.2, 33–20–2.3, 33–20–2.4, 33–20–2.5, 45–25–1.5.a/Table 25–A (Item 22), 45–25–2, 45–25–3.1, 150–11–1.5, 150–11–6, 150–11–7, 157–7–2.

Federal requirement [1]	Analogous West Virginia authority
Part 261—Identification and Listing of Hazardous Waste, as of July 1, 1997.	W. Va. Code §§ 22–18–6(a)(2), 22–18–6(a)(12), 22–18–6(a)(13)(C), 22–18–5(a), 22–18–6(a), 22–18–23; HWMR §§ 33–20–1.6, 33–20–2.3, 33–20–3.1, 33–20–3.2, 33–20–3.4, 33–20–4.2.b, 45–25–1.5.a-Table 25–A (Item 20), 45–25–4.15, 45–25–6.1, 45–25–6.2, 150–11–1.5, 157–7–2.1.
Part 262—Standards Applicable to the Generators of Hazardous Wastes, as of July 1, 1997.	W. Va. Code §§ 22–18–6(a), 22–18–6(a)(3), 22–18–6(a)(12)(D), 22–18–6(a)(15), 22–18–6(a)(9), 22–18–7(a)-(c), 22–18–5(a), 22–18–23; HWMR §§ 33–20–1.6, 33–20–4, 33–20–5.1, 33–20–5.2, 33–20–5.3, 33–20–5.4, 45–25–1.5.a-Table 25–A (Item 21), 157–7–3.1.1.
Part 263—Standards Applicable to the Transporters of Hazardous Wastes, as of July 1, 1997.	W. Va. Code §§ 22–18–5(a), 22–18–6(a)(9), 22–18–6(a)(12)(D), 22–18–6(a)(15), 22–18–7(a)-(c), 22–18–23, 22–18–2(b)(2); HWMR §§ 33–20–1.6, 33–20–4, 33–20–6.1, 33–20–6.2, 150–11–1.1, 150–11–1.6, 150–11–1.7, 150–11–1.8, 150–11–1.10, 150–11–1.11, 150–11–1.13.1 & 1.13.2, 150–11–2.1.1, 150–11–2.1.2, 150–11–2.2 through 2.8, 150–11–3.1 through 3.4, 150–11–5.1 through 5.5, 157–7–1.1, 157–7–1.6, 157–7–2.7, 157–7–3.1 through 3.5, 157–7–4.1, 157–7–4.2, 157–7–4.3, 157–7–5.1, 157–7–5.3, 157–7–5.4, 157–7–6.1 through 6.5.
Part 264—Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, as of July 1, 1997.	W. Va. Code §§ 22–18–5(a)&(c), 22–12–4, 22–18–6(a), 22–18–6(a)(4), 22–18–6(a)(12)–(15), 22–18–7(e), 22–18–23, 22–18–25(1), 22–5–1, 22B–3–4; HWMR §§ 33–20–1.6, 33–20–1.6/Table 25–A (Item 10), 33–20–4, 33–20–7.1, 33–20–7.2, 33–20–7.4, 33–20–7.5, 33–20–7.6, 33–20–7.7, 33–20–7.8, 33–20–12, 45–25–1.1.a & b, 45–25–3.2, 45–25–3.2/Table 25–A (Items 1, 4, 6, 8, 10), 45–25–4.1, 45–25–4.2, 45–25–4.3, 45–25–4.4, 45–25–4.5/Table 25–A (Item 10), 45–25–4.6/Table 25–A (Item 10), 45–25–4.7, 45–25–4.8, 45–25–4.9, 45–25–4.10, 45–25–4.11, 45–25–4.12, 45–25–4.15.
Part 265—Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, as of July 1, 1997.	W. Va. Code §§ 22–18–11, 22–18–5(a), 22–18–23, 22–18–6(a)(4); HWMR §§ 33–20–1.6, 33–20–8.1 through 8.6, 45–25–1.1.a & b, 45–25–3.2.d, 45–25–3.2/Table 25–A (Items 1, 6, 8. 10, 12), 45–25–4.1, 45–25–4.2, 45–25–4.3, 45–25–4.4, 45–25–4.5, 45–25–4.6, 45–25–4.7, 45–25–4.9, 45–25–4.10, 45–25–4.11, 45–25–4.15.
Part 266—Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities, as of July 1, 1997.	W. Va. Code §§ 22–18–5(a)&(c), 22–18–6(a), 22–18–6(a)(12), (13) & (15), 22–18–23, 22–5–1; HWMR §§ 33–20–1.6, 33–20–9, 45–25–1.1.a & b, 45–25–3.2/Table 25–A (Item 13), 150–11–1.1, 150–11–1.5, 150–11–10.1, 150–11–10.2 through 10.4, 150–11–10.5, 157–7–1.1, 157–7–1.6, 157–7–5.1.
Part 268—Land Disposal Restrictions, as of July 1, 1997	W. Va. Code §§ 22–18–5(a), 22–18–6(a)(12)(A), 22–18–6(a)(12)(B); 22–18–6(a)(12)(D), 22–18–23, 22–18–6(a)(2); HWMR §§ 33–20–1.6, 33–20–10.1 through 10.4.
Part 270—The Hazardous Waste Permit Program, as of July 1, 1997.	W. Va. Code §§ 22–18–8, 22–18–6(a)(4)(G), 22–18–6(a)(5), 22–18–6(a)(8), 22–18–6(a)(11), 22–18–6(a)(13)(A),(B),&(C), 22–18–10, 22–18–11, 22–18–5(a), 22–18–23, 22–18–12; HWMR §§ 33–20–1.6, 33–20–11.1, 33–20–11.2, 33–20–11.3, 33–20–11.19, 33–20–11.20, 33–20–11.21, 33–20–11.22, 45–25–2, 45–25–3.2/Table 25–A (Items 2, 3, 5, 7, 9, 11, 14, 15, 18, 19), 45–25–4.13, 45–25–4.14, 45–25–5.15, 45–25–5.16.
Part 124—Permit Procedures, as of July 1, 1997	W. Va. Code §§ 22–18–8, 22–18–6(a)(5), 22–18–6(a)(8), 22–18–10, 22–18–23; HWMR §§ 33–20–11.8.a-f, 33–20–11.5, 33–20–11.6, 33–20–11.7, 33–20–11.9 (except 11.9.d), 33–20–11.10, 33–20–11.11, 33–20–11.12, 33–20–11.13, 33–20–11.14, 33–20–11.15, 33–20–11.16, 33–20–11.18.a, 33–20–11.18.b (except 11.18.b.7), 33–20–11.18.d, 45–25–5.4.a-f, 45–25–5.1, 45–25–5.2, 45–25–5.3, 45–25–5.5 (except 5.5.d), 45–25–5.6, 45–25–5.7, 45–25–5.8, 45–25–5.9, 45–25–5.10, 45–25–5.11, 45–25–5.12, 45–25–5.13, 45–25–5.14.a, 45–25–5.14.b, 45–25–5.14.d.
Part 273—Standards for Universal Waste Management, as of July 1, 1997.	W. Va. Code §§ 22–18–5(a) and § 22–18–23; HWMR §§ 33–20–1.6, 33–20–2.5.d, 33–20–13.1, 33–20–13.4 through 13.8, 150–11–1.1, 150–11–8.1 through 8.7, 157–7–1.1, 157–7–1.6, 157–7–5.1.
Part 279—Standards for the Management of Used Oil, as of July 1, 1997.	W. Va. Code §§ 22–18–6(a)(14), 22–18–6(a)(15), 22–18–23; HWMR §§ 33–20–1.6, 33–20–14.1, 33–20–14.2, 33–20–14.3, 45–25–3.2/Table 25–A (Item 16 &17), 150–11–1.1, 150–11–1.12, 150–11–9.1, 150–11–9.2, 150–11–9.3 through 9.9, 157–7–1.1, 157–7–1.6, 157–7–5.1.
Non-HSWA Cluster I	
Availability of Information (AI) (RCRA 3006(f) Checklist) ..	W. Va. Code § 22–18–12; The West Virginia Freedom of Information Act, W. Va. Code (1994 Supplement) Chapter 29B, § 29B–1–1 *et seq.*; HWMR §§ 33–20–11.19, 46–8–1 through 46–8–11.
HSWA Cluster I	
Sharing of Information With the Agency for Toxic Substances and Disease Registry (SI) (RCRA § 3019(b)).	W. Va. Code §§ 22–1–6(c), 22–18–12; HWMR § 33–20–11.19.
RCRA Cluster VIII	
Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers, December 8, 1997 (62 FR 64636). (Revision Checklist 163).	W. Va. Code §§ 22–1–3(c), § 22–5–1, 22–18–6(a), 22–18–6(a)(13)(A)&(B); 22–18–23; HWMR §§ 33–20–1.6, 33–20–7.2, 33–20–7.8, 33–20–8.1, 33–20–8.6, 33–20–11.1, 45–25–1.1.a, & b, 45–25–1.5.a, 45–25–1.5.c, 45–25–3.2/Table 25–A (Items 6, 8, 10, 11).

Federal requirement [1]	Analogous West Virginia authority
Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Metals and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters, May 26, 1998 (63 FR 28556), as amended on June 8, 1998 (63 FR 31266). (Revision Checklists 167A–F).	W. Va. Code §§ 22–18–6(a), 22–18–6(a)(12)(A), 22–18–6(a)(12)(B), 22–18–6(a)(12)(D), 22–18–23; HWMR §§ 33–20–1.6, 33–20–3.1, 33–20–3.5, 33–20–10.1, 33–20–10.6.
Hazardous Waste Combustors Revised Standards, June 19, 1998 (63 FR 33782). (Revision Checklist 168).	W. Va. Code §§ 22–18–6(a), 22–18–6(a)(5), 22–18–23; HWMR §§ 33–20–3.6, 33–20–11.9.d, 45–25–5.5.d, 45–25–6.3.

[1] Federal Regulations as Published in the 40 CFR, as of July 1, 1997 (Base Program through RCRA Cluster VIII).

In today's action, EPA is authorizing West Virginia's program revisions based in part on emergency rules adopted by the West Virginia Division of Highways. Also in today's action, EPA is authorizing rules that are expected to be adopted by the West Virginia Legislature by March 30, 2000 which will replace the above-referenced emergency rules. These legislatively-adopted rules will be identical to the emergency rules, with the exception that the current incorporation by reference date of the Federal regulations will be updated from July 1, 1997 to July 1, 1998, and the current incorporation by reference date of the West Virginia Office of Waste Management's rules will be updated from July 1, 1998 to July 1, 1999, which is only a ministerial change without any legal implication for the purpose of these rules. EPA's authorization of these legislative rules will take effect on the date West Virginia's legislative rules take effect, which is likely to be on or before July 1, 2000—before the expiration of the emergency rules.

Due to an administrative oversight, the West Virginia Division of Highways did not submit final regulatory changes to the 1999 session of the West Virginia Legislature for approval, after the initial legislative review of draft regulations. In an effort to rectify this situation, the West Virginia Division of Highways adopted emergency rules on April 28, 1999 to address necessary regulatory revisions. These regulatory revisions were necessary to conform to updated EPA regulations and regulations of companion state agencies involved in the regulation of hazardous waste. These emergency rules (1) update obsolete regulatory and statutory references, along with new agency names, addresses and telephone numbers, (2) add provisions to require transporters to give a copy of the manifest to a U.S. Customs official at the point where waste departs from the United States, and (3) in accordance with EPA regulations, relax manifesting requirements for military munitions, universal wastes and used oil to be consistent with federal Department of Transportation rules. The Division of Highways' emergency rules are in effect only for 15 months (i.e., until July 28, 2000) or until rules adopted by the Legislature replace them, whichever occurs first.

EPA does not typically authorize states based in part on emergency rules because of their temporary nature. However, EPA is confident that the West Virginia Legislature will approve the conforming legislative rules that the Division of Highways will submit for approval in the upcoming legislative session because: (1) in preparation for the prior session of the Legislature, a legislative review committee already reviewed and commented on an initial draft of the regulations; (2) the Legislature has already approved substantively similar regulations for three other co-regulating authorities in West Virginia; and (3) the legislative review committee has already concurred on the regulations to be submitted for legislative approval in the spring of 2000.

EPA intends to authorize, at this time, both the Division of Highways' emergency rules and the legislative rules that will replace them. This eliminates the need for West Virginia to apply for, and for EPA to approve, a formal program revision for a perfunctory procedure which makes the Division of Highways' emergency rules permanent. Also, by authorizing the emergency and the legislative rules in one action rather than in two separate actions, it will be clearer to the public that both these aspects of the West Virginia hazardous waste program are now Federally authorized.

H. Where Are the Revised State Rules Different From the Federal Rules?

The West Virginia hazardous waste program contains several provisions which are more stringent than is required by the RCRA program. The more stringent provisions are being recognized as a part of the Federally-authorized program and include the following:

1. At HWMR section 33–20–2.5, West Virginia is more stringent because the State has additional requirements for persons who have petitioned and received approval from EPA to include additional wastes as universal wastes.

2. West Virginia's provision at HWMR section 33–20–3.1.a is more stringent in that there are additional requirements to satisfy in order to qualify for an exemption as an operator of a wastewater treatment facility receiving mixtures of wastes.

3. At HWMR section 33–20–3.2, West Virginia excepts 40 CFR 261.5(f)(3)(iv)&(v) and 261.5(g)(3)(iv) and (v) from incorporation by reference and subjects conditionally exempt small quantity generators (CESQGs) to the notification requirements at HWMR section 33–20–4. West Virginia is more stringent because unlike the Federal provisions at 40 CFR 261.5(f)(3)(iv)&(v) and 261.5(g)(3)(iv)&(v), the State does not allow CESQGs to deliver hazardous wastes to facilities that are permitted, licensed or registered to manage municipal solid waste or non-municipal non-hazardous waste. The State is also more stringent by subjecting CESQGs to the notification requirements located in HWMR section 33–20–4.

4. At HWMR section 33–20–4.2.b, West Virginia subjects persons exempted from the Federal notification requirements as specified at 40 CFR 261.6(b) to the State's notification requirements.

5. At HWMR section 33–20–5.3 and 5.4, West Virginia has adopted the requirements addressed by 40 CFR part 262, subparts E and H, and has correctly left the implementation authority with EPA for the non-delegable hazardous waste import and export requirements. West Virginia is more stringent in that at sections 33–20–5.3 and 5.4, the State requires that copies of all documentation, manifests, exception reports, annual reports or records, inter alia, submitted to EPA must also be submitted to the Chief of the Office of

Waste Management within the same timeframes as specified in 40 CFR part 262, subparts E and H.

6. At HWMR section 33–20–7.4, West Virginia makes it clear that the notification requirements at 40 CFR 264.12(a)(1)&(2) are retained by EPA; however, the State requires that identical notice be sent to the Chief of the Office of Waste Management. This makes the State more stringent.

7. At HWMR section 33–20–8.3, West Virginia excepts the provisions of 40 CFR 265.12(a) from its incorporation by reference; thus, the provisions are retained by EPA. The State requires that identical notice be sent to the Chief of the Office of Waste Management, thus making the State more stringent.

8. At HWMR sections 150–11–5.3.1 & .2 and 157–7–6.3.1 & .2, West Virginia has more stringent notification requirements than 40 CFR 263.30(c)(1). Also, West Virginia has more stringent reporting requirements at sections 157–7–6.4.1 & .2 than found at 40 CFR 263.30(c)(2).

9. At HWMR section 33–20–13.6, West Virginia excepts 40 CFR 273.20, 273.40, and 273.56 from the substitution of terms in Subdivision 1.6.a. By doing so, EPA remains the regulatory agency for exports. The State is more stringent in that persons subject to the provisions of 40 CFR 273.20, 273.40, and 273.56 must file copies of all records submitted to EPA with West Virginia's Chief of the Office of Waste Management.

The State's regulations include a number of provisions that are not part of the State's program being authorized by today's action. Such provisions include the following:

1. West Virginia is not seeking authorization for the Federal delisting requirements at 40 CFR 260.22 [Revision Checklist 17B (50 FR 28702–28755, July 15, 1985), as amended (54 FR 27114, June 27, 1989)]. However, at section 33–20–2.4, the State requires that persons desiring to exclude a waste at a particular facility from the lists set forth at 40 CFR part 261 may petition the Chief of the Office of Waste Management for such an exclusion after having received approval from the Administrator of the Environmental Protection Agency. At section 33–20–2.4.a through 33–20–2.4.c, the State has additional requirements for persons who have petitioned and received approval from EPA to exclude a waste at a particular facility. At section 33–20–2.5, the State also has additional requirements for persons who have petitioned and received approval from EPA to include additional wastes as universal wastes. The State is planning to apply for this provision in subsequent authorization revision applications to be submitted on an annual basis, as necessary.

2. West Virginia is not seeking authority over the Federal corrective action program under HSWA as addressed by Revision Checklist 17L (50 FR 28702–28755, July 15, 1985), Revision Checklist 44A (52 FR 45788–45799, December 1, 1987), Revision Checklist 44B (52 FR 45788–45799, December 1, 1987), Revision Checklist 44C (52 FR 45788-45799, December 1, 1987), and Revision Checklist 121 (58 FR 8658–8685, February 16, 1993). EPA will continue to administer this part of the program. The State is planning to apply for this provision in subsequent authorization revision applications to be submitted on an annual basis, as necessary.

3. The provisions in 40 CFR part 262, subpart H were added by the final rule addressed by Revision Checklist 152 (61 FR 16920–16316, April 12, 1996). West Virginia has incorporated the 40 CFR part 262, subpart H provisions into its regulations; however, the State has excepted these requirements from the substitution of terms at section 33–20–1.6.a; because, those provisions that are not delegable to States remain the purview of EPA. West Virginia is not seeking authorization for the items in this checklist.

4. The West Virginia provisions at W. Va. Code section 22–18–6(a)(11), HWMR sections 33–20–11.4 and 45–25–7, addressing permit fees, are broader in scope than the Federal program.

5. In addition to pesticides, lead acid batteries, and thermostats included, at HWMR sections 33–20–2.1.a.2, 33–20–2.1.a.3, 33–20–3.3, 33–20–7.3, 33–20–8.2, 33–20–10.2, 33–20–11.2, 33–20–13.2 , 33–20–13.4 and 33–20–13.5, West Virginia also regulates mercury containing lamps as a universal waste, subject to the requirements of 40 CFR part 273, which the State incorporates by reference. The final rule of May 11, 1995 (60 FR 25492) permits States to add other hazardous wastes to their universal waste program. However, West Virginia is being authorized for only the three wastes streams included in the Federal program. The State is not being authorized for its requirements for mercury containing lamps. The State is planning to apply for this provision in subsequent authorization revision applications to be submitted on an annual basis, as necessary.

6. At W. Va. Code sections 22–18–25(2) and 22–18–25(3), West Virginia has authority that is analogous to RCRA section 3004(t) addressing direct cause of action against insurers. The Federal requirement is not applicable to States. West Virginia's law equivalent to RCRA section 3004(t) operates separately from the Federal law. In this situation, the West Virginia law which provides for a direct cause of action against insurers creates a parallel cause of action viable in State courts, but the cause of action does not limit the availability of the Federal action.

7. West Virginia is not seeking authorization for the Office of Air Quality provision at HWMR section 45–25–4.12 which requires owners and operators of hazardous waste treatment, storage and disposal facilities to use best available control technology (BACT) to limit the discharge of hazardous waste constituents to the atmosphere.

8. West Virginia's definition of solid waste at W. Va. Code section 22–18–3(16) is the same as the Federal definition at RCRA section 1004(27). W. Va. Code section 22–18–6(a)(2) provides the State with the authority to establish criteria for identifying the characteristics of hazardous waste and listing particular hazardous wastes which are subject to the provisions of the State's Hazardous Waste Management Act. However, West Virginia is not seeking authorization for the regulation of radioactive mixed wastes. The State is planning to apply for this provision in subsequent authorization revision applications to be submitted on an annual basis, as necessary.

Unless EPA receives comments opposing this action by June 9, 2000 and publishes a **Federal Register** document withdrawing the immediate final rule or portions thereof, this Final authorization approval will become effective without further notice on July 10, 2000.

I. Who Handles Permits After This Authorization Takes Effect?

EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based on the Federal provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization. EPA will also transfer any pending permit applications and pertinent file information to the State within thirty (30) days of the effective date of this authorization.

Upon authorization of the State program for any additional portions of HSWA, EPA will suspend issuance of Federal permits for hazardous waste treatment, storage, and disposal

facilities mandated by HSWA in the State, in those areas for which the State is receiving authorization. If EPA promulgates standards for additional processes or regulations mandated by HSWA not covered by the State's authorized program, EPA will process and enforce RCRA permits in the State in those new areas until the State receives final authorization of equivalent State standards. At such time that the State program is approved in the new areas, EPA will suspend issuance of Federal permits issued at the request of the permittee pursuant to 40 CFR 124.5 and 271.8.

EPA will be responsible for enforcing the terms and conditions of the Federal portion of the permits until they expire or are terminated in accordance with 40 CFR 124.5 and 271.8.

The State and EPA will jointly administer implementation of those HSWA provisions for which the State has not received authorization until such time as it receives authorization from EPA to implement the remaining HSWA provisions in lieu of EPA.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in West Virginia?

West Virginia is not seeking authorization to operate the program on Indian lands, since there are no Federally-recognized Indian Lands in the State.

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

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA uses 40 CFR part 272 for codification of the decision to authorize West Virginia's program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. EPA reserves amendment of 40 CFR part 272, subpart XX, for such future use.

L. Regulatory Analysis and Notices

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 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 and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the West Virginia program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not apply to duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's action on small entities, small entity is defined as: (1) a small business as specified in the Small Business Administration regulations; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this authorization on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any new requirements on small entities because small entities that are hazardous waste generators, transporters, or that own and/or operate TSDF's are already subject to the regulatory requirements under the State laws which EPA is now authorizing. This action merely authorizes for the purpose of RCRA section 3006 those existing State requirements.

Submission to Congress and the Comptroller General

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

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

Compliance With Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This authorization does not have federalism implications. It will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because this rule affects only one State. This action simply approves West Virginia's proposal to be authorized for updated requirements of the hazardous waste program that the State has voluntarily chosen to operate. Further, as a result of this action, newly authorized provisions of the State's program now apply in West Virginia in lieu of the equivalent Federal program provisions implemented by EPA under HSWA. Affected parties are subject only to those authorized State program provisions, as opposed to being subject to both Federal and State regulatory requirements. Thus the requirements of section 6 of the Executive Order do not apply.

Compliance With Executive Order 13045

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any rule that: (1) the Office of Management and Budget determines is "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not concern an environmental health or safety risk that may have a disproportionate effect on children.

Compliance With Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with the consulting option, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affect communities of Indian tribal governments. West Virginia is not authorized to implement the RCRA hazardous waste program in Indian country, since there are no Federally-recognized Indian lands in the State.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA 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, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve such technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 271

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

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

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–11426 Filed 5–9–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6604–3]

Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Oklahoma has applied for Final authorization to revise its Hazardous Waste Program under the Resource Conservation and Recovery Act (RCRA). The EPA is now making an immediate final decision, subject to receipt of written comment that oppose this action, that Oklahoma's Hazardous Waste Program revision satisfies all of the requirements necessary to qualify for final authorization.

DATES: This immediate final rule is effective on July 10, 2000 without further notice, unless EPA receives adverse comments by June 9, 2000. Should EPA receive such comments, it will publish a timely document withdrawal informing the public that the rule will not take effect or affirm that the immdediate final rule will take effect as scheduled.

ADDRESSES: Written comments, referring to Docket Number Ok-00–2, should be sent to Alima Patterson Region 6 Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1145 Ross Avenue, Dallas, Texas 75202–2733. Copies of Oklahoma program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101–1677, (405) 702–7180–7180 and EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444.

FOR FURTHER INFORMATION CONTACT: Alima Patterson (214) 665–8533.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

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

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

The effect of this decision is that a facility in Oklahoma subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent federal requirements in order to comply with RCRA. Oklahoma has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to: (1) Do inspections, and require monitoring, tests, analyses or reports, (2) enforce RCRA requirements and suspend or revoke permits, and (3) take enforcement actions regardless of whether the State has taken its own actions. This action does not impose additional requirements on the regulated community because the regulations for which Oklahoma is being authorized by today's action are already effective, and are not changed by today's action.

C. What Is the History of Oklahoma's Final Authorization and Its Revisions?

Oklahoma initially received Final Authorization on January 10, 1985, (49 FR 50362) to implement its base hazardous waste management program. We authorized the following revisions: Oklahoma received authorization for revisions to its program on June 18, 1990 (55 FR 14280), effective November 27, 1990; (55 FR 39274) effective June 3, 1991; (56 FR 13411) effective November 19, 1991; (56 FR 47675) effective December 21, 1994; (59 FR 51116–51122) effective April 27, 1995; (60 FR 2699–2702) effective October 9, 1996; (61 FR 52884–52886), Technical Correction effective March 14, 1997 (62 FR 12100); effective February 8, 1999 (63 FR 67800–67802) and (65 FR 16528) effective April 28, 2000. The authorized Oklahoma RCRA program was incorporated by reference into the CFR effective December 13, 1993, and July 14, 1998. On October 21, 1999, Oklahoma applied approval of its complete program revision. In this application, Oklahoma is seeking approval of its program revision in accordance with § 271.21(b)(3).

Oklahoma statutes provide authority for a single State agency, the Oklahoma Department of Environmental Quality (ODEQ,) to administer the provisions of the State Hazardous Waste Management Program. These statutes are the Oklahoma Environmental Quality Act, 27 O.S. Supplement (Supp) 1997 §§ 1–1–101 *et seq*. General provisions of the Oklahoma Environmental Quality Code which may affect the Hazardous Waste Program, 27A O.S. Supp. 1997 §§ 2–1–101 through 2–3–507; and the Oklahoma Hazardous Waste Management Act (OHWMA), 27A O.S. Supp. 1997 §§ 2–7–101 *et seq*. No amendments were made to the above statutory authorities during the 1999 legislative session which will substantially affect the State Hazardous Waste Management Program.

On January 12, 1999, the Council voted to recommend permanent revocation of Oklahoma Administrative Code (OAC) 252:200 and permanent adoption of OAC 252:205. The permanent revocation of OAC 252:200 and permanent adoption of OAC 252:205 is a part of the ODEQ's effort to simplify and streamline it rules for the benefit of regulated entities and the public as well as the agency itself. This "rewrite" of Oklahoma's hazardous waste regulations is not intended to change substantive requirements previously found in OAC 252:200, but to make the requirements clearer and more concise. The effort stems in part from 1997 legislation requiring most Oklahoma administrative agencies to perform regulatory reviews. Due to extensive reworking of the language and rearrangement of the text, the ODEQ believes it is more understandable and straightforward to revoke Chapter 200 in its entirety and replace it with a new chapter, Chapter 205, than to present an amended version of Chapter 200.

These rules include provisions, found at OAC 252:205–3–1 through 252:200–3–7, to incorporate by reference, in accordance with the Guidelines For State Adoption of Federal Regulations By Reference, the following EPA Hazardous Waste Management Regulations as amended through July 1, 1998. [The provisions of Title 40 CFR part 124 which are required by 40 CFR part 271.14 as well as parts 124.31, 124.32, and 124.33; 40 CFR parts 260–266, with the exception of 40 CFR parts 260.20 through 260.22, 264.149, 264.150, 264.301(1), the Appendix VI to part 264, 265.149, and 265.150; 40 CFR part 268 except 268.5, 268.6, 268.10–13, 268.42(b) and 268.44; 40 CFR part 270

except 270.14(b)(18); 40 CFR part 273; and 40 CFR part 279]. Additionally, the rules adopt the new or superseding amendments to 40 CFR found in 63 FR 37780–37782 published July 14, 1998 dealing with used oil management standards. Oklahoma has added mercury-containing lamps as a "State only" universal waste, thereby modifying appropriate provisions of the above CFR citations.

The Board adopted these amendments on March 5, 1999 as permanent rules. These permanent rules which became effective on June 11, 1999, implement the State hazardous waste program, and are codified in the OAC at OAC 252:205 *et seq.*

The ODEQ remains the official agency of the State of Oklahoma, as designated by 27A O.S. Supp. 1998 Section 2–7–105(13) to cooperate with Federal agencies for purposes of hazardous waste regulation.

The OHWMA delegates authority to the ODEQ to administer the State hazardous waste program, including the statutory and regulatory provisions necessary to administer the RCRA cluster VIII provisions. Currently, Oklahoma Corporation Commission (OCC) regulates certain aspects of the oil and gas production and transportation industry in Oklahoma, including certain wastes generated by pipelines, bulk fuel sales terminals and certain tank farms. The ODEQ and the OCC have in place a ODEQ/OCC jurisdictional Guidance Document that reflects the current sate of affairs between the two agencies. The ODEQ exclusively regulates hazardous waste in Oklahoma (excluding Indian lands) and the OCC does not regulate hazardous waste in Oklahoma. The current ODEQ/OCC Jurisdictional Guidance Document was signed on January 27, 1999.

D. What Revisions Are We Approving With Today's Action?

Oklahoma applied for final approval of its revision to its complete program in accordance with 40 CFR 271.21. Oklahoma's revisions consist of regulations which specifically govern RCRA Cluster VIII. Oklahoma requirements are included in a chart with this document. EPA is now making a final decision, subject to receipt of written comments that oppose this action, that Oklahoma's revisions of its hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant Oklahoma final authorization for the following program revisions:

Federal Citation	State Analog
1. Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance [62 FR 37694–37699], July 14, 1997. (Checklist 160).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, Annotated Oklahoma Statutes, 27 A. O.S. Supp 1998 § 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.
2. Second Emergency Revision of the Land Disposal Restrictions Treatment Standards for Listed Hazardous Wastes From Carbamate Production [62 FR 45568–45573], August 28, 1997] (Checklist 161).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, 27A O.S. Supp 1998 § 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.
3. Clarification of Standards for Hazardous Waste Land Disposal Restriction Treatment Variances [62 FR 64504–6409], December 5, 1997. (Checklist 162).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, 27A O.S. Supp 1998 § 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.
4. Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators, Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers [62 FR 64636–64671], December 8, 1997. (Checklist 163).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, 27A O.S. Supp 1998 § 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.
5. National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Pulp, Paper, and Paperboard Category [63 FR 18504–18751], April 15, 1998. (Checklist 164).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, 27A O.S. Supp 1998 § 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.
12. Land Disposal Restrictions Phase IV—Exclusion of Recycled Wood Preserving Wastewaters [63 FR 28556], May 26, 1998. (Checklist 167F).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, 27A O.S. Supp 1998 § 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.
13. Hazardous Waste Combustors; Revised Standards; Final Rule—Part 1: RCRA Comparable Fuel Exclusion; Permit Modifications for Hazardous Waste Combustion Units; Notification of Intent to Comply; Waste Minimization and Pollution Prevention Criteria for Compliance Extensions [63 FR 33782–33829], June 19, 1998. (Checklist 168).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, 27A O.S. Supp 1998 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.

E. What Decisions Has EPA Made?

We conclude that Oklahoma's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Oklahoma final authorization to operate its hazardous waste program as revised, assuming we receive no adverse comments as discussed above. Upon effective final approval Oklahoma will be responsible for permitting treatment, storage, and disposal facilities within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Oklahoma, including issuing permits, until the State is granted authorization to do so.

F. How Do the Revised State Rules Differ From the Federal Rules?

In this authorization of the State of Oklahoma's program revisions for RCRA Cluster VIII, there are no provisions that are more stringent or broader in scope. Broader in scope requirements are not part of the authorized program and EPA can not enforce them.

G. Who Handles Permits After This Authorization Takes Effect?

The EPA will administer any RCRA permits or portions of permits it has issued to facilities in the State until the State becomes authorized. At the time the State program is authorized for new rules, EPA will transfer all permits or portions of permits issued by EPA to the State. The EPA will not issue any more permits or portions of permits for the provisions listed in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which the State is not yet authorized.

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

The EPA is authorizing the State's changes through this immediate final action and is publishing this rule without a prior proposal to authorize the changes because EPA believes it is not controversial we expect no comments that oppose this action. The EPA is providing an opportunity for public comment now. In addition, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State changes. If EPA receives comments opposing this authorization, that document will serve as a proposal to authorize the changes.

I. Where Do I Send My Comments and When Are They Due?

You should send written comments to Alima Patterson, Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533. Please refer to Docket Number OK–00–2. We must receive your comments by June 9, 2000. You will not have an opportunity to comment again. If you want to comment on this action, you must do so at this time.

J. What Happens If EPA Receives Comments Opposing This Action?

If EPA receives comments opposing this authorization, we will publish a second **Federal Register** document before the immediate final rule takes effect. The second document will withdraw the immediate final rule or identify the issues raised, respond to the comments, and affirm that the immediate final rule will take effect as scheduled.

K. When Will This Approval Take Effect?

Unless EPA receives comments opposing this action, this final authorization approval will become effective without further notice on July 10, 2000.

L. Where Can I Review the State's Application?

You can review and copy the State of Oklahoma's application from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101–1677, (405) 702–7180–7180 and EPA, Region 6 Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444. For further information contact Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533.

M. How Does Today's Action Affect Indian Country in Oklahoma?

Oklahoma is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect on Indian Country.

N. What Is Codification?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. The EPA does this by referencing the authorized State rules in 40 CFR part 272. The EPA reserves the amendment of 40 CFR part 272, Subpart LL for this codification of Oklahoma's program changes until a later date.

Regulatory Requirements

Compliance With Executive Order 12866

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of Executive Order 12866.

Compliance With Executive Order 13045

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" applies to any rule that: (1) The OMB determines is "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions based on environmental health or safety risks.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA 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, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involved technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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, the EPA must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating 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 objective 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 and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that sections 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the State of Oklahoma's program, and today's action dos not impose any additional obligations on regulated entities. In fact EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate Treatment, Storage, Disposal, Facilities, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organization, and small governmental jurisdictions.

For purposes of assessing the impacts of today's action on small entities, small entity is defined as: (1) A small business as specified in the Small Business Administration regulations; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any new requirements on small entities because small entities that are hazardous waste generators, transporters, or that own and/or operate Treatment, Storage, Disposal, Facilities are already subject to the regulatory requirements under the State laws which EPA is now authorizing. This action merely authorizes for the purpose of RCRA 3006 those existing State requirements.

Submission to Congress and the Comptroller General

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

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance cost incurred by the tribal governments. If EPA complies with consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities".

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affect the communities of Indian governments. The State of Oklahoma is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State.

Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications". "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government".

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that impose substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with

State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This action does not have federalism implication. It will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it affects only one State. This action simply approves Oklahoma's proposal to be authorized for updated requirements of the hazardous waste program that the State has voluntarily chosen to operate. Further, requirements of the hazardous waste program that the State has voluntarily chosen to operate. Further, as result of this action, those newly authorized provisions of the State's program now apply in the State of Oklahoma in lieu of the equivalent Federal program provisions implemented by EPA under HSWA. Affected parties are subject only to those authorized State provisions, as opposed to being subject to both Federal and State regulatory requirements. Thus, the requirements of section 6 of the Executive Order do not apply.

List of Subjects in 40 CFR Part 271

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

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

Dated: March 30, 2000.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 00–11560 Filed 5–9–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 11, 73, and 74

[MM Docket No. 00–10; FCC 00–115]

Establishment of a Class A TV Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document implements the Community Broadcasters Protection Act of 1999, which directs the FCC to establish a Class A television service to provide a measure of primary status to certain low-power television stations. This document addresses a wide range of issues related to the implementation of the statute, including the protected service area of Class A stations, Class A interference protection requirements vis a vis other TV stations, eligibility criteria for Class A status, common ownership restrictions applicable to Class A stations, the treatment of modification applications filed by Class A licensees, and general operating requirements.

DATES: Effective July 10, 2000.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Policy and Rules Division, Mass Media Bureau, (202) 418–2130, or Keith Larson, Office of the Bureau Chief, Mass Media Bureau, (202) 418–2600.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (''*R&O*''), FCC 00–115, adopted March 28, 2000; released April 4, 2000. The full text of the Commission's *R&O* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room TW–A306), 445 12 St. SW., Washington, DC. The complete text of this *R&O* may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857–3800, 1231 20th St., NW., Washington, DC 20036.

Synopsis of Report and Order

I. Introduction

1. In this *R&O*, we establish a Class A television service to implement the Community Broadcasters Protection Act of 1999 (CBPA), which was signed into law November 29, 1999, Pursuant to the CBPA and our implementing rules, certain qualifying low-power television (LPTV) stations will be accorded Class A status. Class A licensees will have ''primary'' status as television broadcasters, thereby gaining a measure of protection from full-service television stations, even as those stations convert to digital format. The LPTV stations eligible for Class A status under the CBPA and our rules provide locally-originated programming, often to rural and certain urban communities that have either no or little access to such programming. LPTV stations are owned by a wide variety of licensees, including minorities and women, and often provide ''niche'' programming to residents of specific ethnic, racial, and interest communities. The actions we take today will facilitate the acquisition of capital needed by these stations to allow them to continue to provide free, over-the-air programming, including locally-originated programming, to their communities. In addition, by improving the commercial viability of LPTV stations that provide valuable programming, our action today is consistent with our fundamental goals of ensuring diversity and localism in television broadcasting.

II. Background

2. From its creation by the Commission in 1982, the low power television service has been a ''secondary spectrum priority'' service whose members ''may not cause objectionable interference to existing full-service stations, and . . . must yield to facilities increases of existing full-service stations or to new full-service stations where interference occurs. Currently, there are approximately 2,200 licensed LPTV stations in approximately 1,000 communities operating in all 50 states. These stations serve both rural and urban audiences. Because they operate at reduced power levels, LPTV stations serve a much smaller geographic region than full-service stations and can fit into areas where a higher power station cannot be accommodated in the Table of Allotments. In many cases, LPTV stations may be the only television station in an area providing local news, weather, and public affairs programming. Even in some well-served markets, LPTV stations may provide the only local service to residents of discrete geographical communities within those markets. Many LPTV stations air ''niche'' programming, often locally produced, to residents of specific ethnic, racial, and interest communities within the larger area, including programming in foreign languages.

3. In the CBPA, Congress found that the future of low-power television is uncertain. Because LPTV stations have secondary spectrum status, they can be displaced by full-service TV stations that seek to expand their own service area, or by new full-service stations seeking to enter the same market. The statute finds that this regulatory status affects the ability of LPTV stations to

raise necessary capital. In addition, Congress recognized that the conversion to digital television further complicates the uncertain future of LPTV stations. To facilitate the transition from analog to digital television, the Commission has provided a second channel for each full-service television licensee in the country that will be used for digital broadcasting during the period of conversion to an all-digital broadcast service. In assigning DTV channels, the Commission maintained the secondary status of LPTV stations and TV translators and, in order to provide all full-service stations with a second channel, was compelled to establish DTV allotments that will displace a number of LPTV stations. Although the Commission has taken a number of steps to mitigate the impact of the DTV transition on stations in the LPTV service, that transition nonetheless will have significant adverse effects on many stations, particularly LPTV stations operating in urban areas where there are few, if any, available replacement channels.

4. Congress sought in the CBPA to address some of these issues by providing certain low power television stations "primary" spectrum use status. The CBPA requires the Commission, within 120 days after the date of enactment, to prescribe regulations establishing a Class A television license available to qualifying LPTV stations. The CBPA directs that Class A licensees be subject to the same license terms and renewal standards as full-power television licensees, and that Class A licensees be accorded primary status as television broadcasters as long as they continue to meet the requirements set forth in the statute for a qualifying low-power station. In addition, among other matters, the CBPA sets out certain certification and application procedures for low-power television licensees seeking Class A designation, prescribes the criteria low-power stations must meet to be eligible for a Class A license, and outlines the interference protection Class A applicants must provide to analog (or NTSC), digital (DTV), LPTV, and TV translator stations.

5. Congress also recognized, however, that, because, of the emerging DTV service, not all LPTV stations could be guaranteed a certain future. Congress recognized the importance and engineering complexity of the FCC's plan to convert full-service stations to digital format, and protected the ability of these stations to provide both digital and analog service during the transition.

III. Discussion

A. Certification and Application for License

1. Statutory Timeframes

6. Section (f)(1)(A) of the CBPA requires the Commission, within 120 days after the date of enactment (November 29, 1999), to prescribe regulations establishing a Class A television service. The CBPA establishes a two-part certification and application procedure for LPTV stations seeking Class A status. First, the CBPA directed the Commission to send a notice to all LPTV licensees describing the requirements for Class A designation. Within 60 days of the date of enactment, licensees intending to seek Class A designation were required to submit to the Commission a certification of eligibility based on the applicable qualification requirements.

7. The CBPA provides that, absent a material deficiency in a licensee's certification of eligibility, the Commission shall grant the certification of eligibility to apply for Class A status. The CBPA further provides that licensees "may" submit an application for Class A designation "within 30 days after final regulations are adopted" implementing the CBPA. We will construe the phrase "final regulations" in this context to mean the effective date of the Class A rules adopted herein. Thus, Class A applications may be filed beginning on the effective date of the rules. Within 30 days after receipt of an application that is acceptable for filing, the Commission must act on the application.

2. Ongoing Eligibility

8. *Decision.* We believe that the basic purpose of the CBPA was to afford existing LPTV stations a window of opportunity to convert to Class A stations. Therefore, we will not accept applications from LPTV stations that did not meet the statutory criteria and that did not file a certification of eligibility by the statutory deadline, absent compelling circumstances. To be eligible for a Class A license, an LPTV station must go through several steps. First, it must have filed a certification of eligibility within 60 days of the enactment of the CBPA. Second, the certification of eligibility must be approved by the Commission. Third, it must file an application for a Class A license, as we determine below, within 6 months from the effective date of the Class A rules. And fourth, that license must be granted. The first stage of this process has already ended; those potential applicants who seek Class A status must have already filed their certifications of eligibility.

9. The statute states that applicants "may" apply for licenses within 30 days after the adoption of final implementing rules, but gives no ultimate deadline. In order to allow sufficient time to potential applicants to prepare their applications, we will allow licensees that have filed timely certifications of eligibility to file Class A applications up to 6 months after the effective date of the rules we adopt today. We believe that establishing a 6 month period in which applications may be filed is consistent with the CBPA. The statute states that applicants "may" file license applications within 30 days from the adoption of final implementing rules. In contrast, the statute states that licensees intending to seek Class A designation "shall" file a certification of eligibility within 60 days after enactment. We believe that the use of the word "may" in relation to applications indicates that the 30 day filing period is permissive only. Thus, applicants are not required to file within 30 days following the adoption of final rules, and we have authority to provide for a longer filing period.

10. We find that the 6 month deadline for filing a Class A application is a reasonable time frame that will afford all LPTV applicants, including those who must file displacement applications, adequate time to prepare and file their Class A applications consistent with the rules we adopt today. Where potential applicants face circumstances beyond their control that prevent them from filing within 6 months, we will examine those instances on a case-by-case basis to determine their eligibility for filing. We will not, however, accept license applications from LPTV licensees who did not timely file certifications of eligibility because we do not believe that Congress intended to create an open-ended class of potential Class A stations.

B. Qualifying Low-Power Television Stations

1. Statutory Eligibility Criteria

11. Section (f)(2)(A) of the CBPA provides than an LPTV station may qualify for Class A status if, during the 90 days preceding the date of enactment of the statute: (1) The station broadcast a minimum of 18 hours per day; (2) the station broadcast an average of at least 3 hours per week of programming produced within the market area served by the station, or the market area served by a group of commonly controlled low-power stations that carry common local

programming produced within the market area served by such group; and (3) the station was in compliance with the Commission's requirements for LPTV stations. In addition, from and after the date of its application for a Class A license, the station must be in compliance with the Commission's operating rules for full-power television stations. Alternatively, section (f)(2)(B) of the CBPA provides that a station may qualify for Class A status if "the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission."

2. Locally-Produced Programming

12. *Decision.* We will expand our definition of "market area" to encompass the area within the predicted Grade B contour determined by the Class A station's antenna height and power, which encloses a larger area than that of an LPTV station's protected service contour. With respect to a group of commonly controlled stations, the market area will be the area within the predicted Grade B contours of any of the stations in the commonly owned group.

13. Some commenters are concerned about the possible conflicts between the locally produced programming requirement and the existing main studio rule, arguing that we should either consider waivers of the main studio rule or not adopt so restrictive a definition of market area as to conflict with the rule. As discussed in this *R&O,* we have decided to require Class A stations to maintain a main studio located within their predicted Grade B contours. We have also decided to grandfather all main studio locations now in existence and operated by LPTV stations. To avoid any conflicts between the local market definition and our main studio rule, we will consider programming produced at the main studio of such grandfathered Class A stations to be locally produced programming even though the main studio is located outside the stations' Grade B contours.

3. Operating Requirements

14. *Decision.* We will adopt our proposal to apply to Class A applicants and licensees all part 73 regulations except for those that cannot apply for technical or other reasons. We believe that this course of action is most consistent with the language of the statute, which provides that from and after the date of an application for a Class A license, LPTV stations must comply with the operating rules for full-power television stations to be eligible for Class A status. Most commenters that addressed this issue agree that Class A stations should be required to comply with most part 73 obligations except for those that are clearly inappropriate or inapplicable.

15. The part 73 requirements that we will apply to Class A applicants and licensees are set forth below. Among other part 73 obligations, we will require that Class A applicants and licensees comply with the following: our rules governing informational and educational children's programming and the limits on commercialization during children's programming; the requirement to identify a children's programming liaison at the station and to provide information regarding the "core" educational and informational programming aired by the station to publishers of television program guides; the requirement to place in their file the quarterly forms 398; the political programming rules; the public inspection file rule, including the requirement to prepare and place in the public inspection file on a quarterly basis an issues/programs list; and station identification requirements. We will require Class A stations to comply with the Emergency Alert System (EAS) rules applicable to full-service television stations; for example, they will be required to have and operate a digital EAS encoder and perform the weekly and monthly EAS tests required of full-service stations. As provided in section (f)(1)(A)(ii) of the CBPA, Class A licensees must also continue to meet the requirements for a qualifying low-power station in order to continue to be accorded Class A status.

16. We will require Class A applicants and licensees to maintain a main studio. As Class A stations will be low-power and thus serve a smaller area than most full-service stations, we do not believe it is appropriate to permit Class A stations to locate their main studio within the principal community contour of any station serving that market, or 25 miles from the center of its community of license, as we permit for full-service stations. Instead, we will require Class A stations to locate their main studios within the station's Grade B contour, as determined pursuant to the Commission's rules. This will ensure that newly created main studios are more accessible to the population that receives the station's programming. We will grandfather all main studios now in existence and operated by LPTV stations. We do not believe it is necessary to require these stations to change the location of their existing studio, or build a new studio, to comply with our Class A rules. We will grandfather those main studios for purposes of our Class A main studio rule adopted in this *R&O.*

17. For purposes of our Class A rules, we will also modify a number of other requirements applicable to full-service television broadcast stations, including: (1) Minimum hours of operation of 18 hours per day, as required by the statute; (2) grandfather the use of LPTV broadcast transmitters; and (3) permit Class A stations to operate without a carrier frequency offset. We will permit qualified Class A station licensees to continue to operate their existing LPTV transmitters, provided these transmitters do not cause interference due to excessive emissions on frequencies outside of the station's assigned channel. We will require Class A stations seeking facilities increases under the more inclusive definition of "minor" changes we are adopting for these stations to specify operation on an offset frequency and to operate with a transmitter meeting the required frequency tolerance for offset operation.

18. We will not apply to Class A facilities the following provisions of part 73: (1) The NTSC and DTV Tables of Allotments (§§ 73.606 and 73.607); (2) mileage separations (§ 73.610); and (3) minimum power and antenna height requirements (§ 73.614). As qualifying LPTV stations are not governed by mileage separations, do not have allotted technical parameters, and will not have a community coverage requirement, these provisions of part 73 will not apply to Class A. LPTV stations are not subject to minimum power and antenna height requirements under part 74, and we will not impose any such requirements on Class A stations.

19. We will also exempt Class A facilities from the principal city coverage requirement of § 73.685(a) of the rules. At this time, we believe that it is unnecessary to require Class A stations to provide a requisite level of coverage over their community. Although LPTV stations are associated with a specific community on their license application, they are not subject to any requirement to provide a specified level of coverage to that community. As we indicated in the Notice of Proposed Rule Making ("*NPRM*"), (65 FR 3188, January 20, 2000), those Class A stations that are intended to serve an entire community that is otherwise unserved or underserved have ample incentive to provide service to the residents of the whole of that community without a mandatory requirement to do so. Other stations may intend to serve only a

narrow segment of their community. In view of the lower power levels at which LPTV stations now operate and at which Class A facilities will continue to operate, and the fact that in many cases these stations provide programming to areas where a higher power station could not be accommodated in the Table of Allotments, we do not believe a minimum coverage requirement is appropriate. If the circumstances regarding operation of Class A stations change in the future, including, for example, the permitted power levels of such facilities, we reserve the right to revisit the issue of minimum coverage requirements at that time.

20. As we proposed in the *NPRM,* we will also maintain for now the current LPTV maximum power levels for Class A stations. We believe that these power levels are sufficient to preserve existing service, which is consistent with Congress' objective underlying the CBPA. We believe that further power increases at this time could hinder the implementation of digital television, as well as limit the number of Class A stations that could be authorized. Moreover, we recently increased power levels for LPTV stations in our DTV *Sixth R&O* (62 FR 26684, May 14, 1997) and have not yet opened a filing window to permit stations to modify their facilities to take advantage of this power increase.

21. Several commenters propose that we require Class A licensees to certify annually their continued compliance with the Class A eligibility criteria and with applicable part 73 requirements. As we noted above, in addition to requiring Class A applicants and licensees to comply with the operating requirements for full-power television stations, the CBPA also requires that Class A licensees continue to meet the eligibility criteria established for a qualifying low-power station in order to retain Class A status. We will not adopt an annual certification or reporting requirement for Class A stations. We do not have such a general requirement for other television broadcast stations, and see no need to treat Class A stations differently. However, like other part 73 licensees, we will require Class A licensees to certify compliance with applicable FCC rules at time of renewal. In addition, as in the case of other part 73 licensees, Class A renewal applications will be subject to petitions to deny. Finally, we will require licensees seeking to assign or transfer a Class A license to certify on the application for transfer or assignment of license that the station has been operated in compliance with the rules applicable to Class A stations. We will also require Class A assignees and transferees to certify on their portion of the transfer or assignment application that they will operate the station in accordance with these rules.

22. We will place our rules governing the new Class A television service under part 73. As Class A stations must comply with the operating rules for full-service stations, which are found in part 73, it appears most logical to group the rules for Class A service with the full-service broadcast rules. LPTV stations that are not eligible for or choose not to apply for Class A status will continue to be governed by part 74 of our rules.

4. Alternative Eligibility Criteria

23. *Decision.* Congress mandated three Class A eligibility qualifications in the CBPA. For the 90 days prior to enactment of the CBPA, an applicant must have: (1) Broadcast a minimum of 18 hours per day, (2) broadcast an average of at least 3 hours per week of programming produced within the market area served by the station, and (3) been in compliance with Commission requirements of LPTV stations. We will allow deviation from the strict statutory eligibility criteria only where such deviations are insignificant or when we determine that there are compelling circumstances, and that in light of those compelling circumstances, equity mandates such a deviation Examples of such compelling circumstances include a natural disaster or interference conflict which forced the station off the air during the 90 day period before enactment of the CBPA.

24. We will not establish a different set of criteria for foreign language stations that do not meet the local programming criteria. We recognize the valuable service provided by foreign language stations, but conclude that Congress' intent was to preserve the service of a small class of existing LPTV stations that were providing local programming. We appreciate the comments submitted by groups with foreign language programming that encourage us to allow such programming to meet the statutory requirement. We conclude, however, that foreign language stations should have the same eligibility requirements as any other potential Class A station.

25. We will not adopt separate eligibility criteria for translator stations under the CBPA, as requested by the National Translator Association (NTA). The statute limits eligibility to LPTV stations that produce local programming and can meet the operating rules applicable to full-service stations. We recognize, however, the extremely valuable service that translators provide, often representing the only source of free, over-the-air broadcasting in rural areas. Indeed, we expressly asked about according translators Class A status in the September 22 *NPRM.* While that proceeding has been terminated, we still believe that this is an issue that should be examined. Thus, we will institute a new proceeding seeking comment on whether translators should be permitted to qualify for some form of primary status, and what the eligibility requirements for such protection should be.

C. Class A Interference Protection Rights and Responsibilities

1. Class A Protected Service Area

26. *Decision.* We will adopt the proposal in the *NPRM* with respect to analog stations and define the following protected signal contour values for these stations: 62 dBu for channels 2–6, 68 dBu for channels 7–13, and 74 dBu for channels 14 and above, as calculated using the Commission's F(50,50) signal propagation curves. CBA and several LPTV station operators urge an expanded Class A protected contour, such as the TV Grade B contour. We recognize, as these commenters point out, that LPTV stations can be viewed in the areas between their protected contour and the Grade B contour of their facilities, just as the signals of NTSC stations are often viewed beyond their Grade B contours. In enacting the CBPA, Congress equated the service areas to be preserved with the LPTV signal contours, which have always been defined by the above field strength values. We agree with Fox that expanding contour protection for Class A stations would be inconsistent with the intent of the CBPA to preserve existing service. Also, as noted by the Association of Federal Communications Consulting Engineers (AFCCE), this would be likely to create new situations of prohibited contour overlap between LPTV stations where none currently exist. More than 2,000 LPTV stations have been engineered to fit into the broadcast landscape on the basis of protection to the LPTV service contours. The LPTV service is now mature, and service expectations are well established. We do not want to upset the balance that has been achieved between service and interference considerations. For these reasons, we will apply the LPTV service contour definitions to Class A stations as the basis for interference protection.

27. The above considerations are also relevant to our choice of protected signal contours for digital Class A stations. Some commenters favor use of

the DTV noise-limited signal contours for this purpose, which are comparable to NTSC Grade B contours. Use of these values would, in effect, expand protection for digital Class A stations, compared to that for analog Class A stations, whose protected contours are comparable to NTSC Grade A contours. Using these values would also create situations where Class A digital service contours would overlap with the interference-limited contours of analog LPTV and Class A stations. This "built-in" interference would occur to a lesser extent if the Class A digital protected contours were geographically smaller. Also, digital conversion opportunities for Class A and other services would be precluded to a lesser extent through the use of digital contour values more comparable to the Class A analog values. We will adopt the protected contour values suggested by the AFCCE, du Treil, Lundin & Rackley (du Treil), and the Society of Broadcast Engineers (SBE): 43 dBu for channels 2–6, 48 dBu for channels 7–13 and 51 dBu for channels 14–51. These values reflect the differences between analog LPTV protected contours and NTSC Grade B contours. For example, the analog LPTV and Grade B values for UHF stations are 74 dBu and 64 dBu, respectively—a 10 dB difference. This difference (or scaling factor) is added to the 41 dBu DTV noise-limited field strength value to obtain a protected contour of 51 dBu for UHF digital Class A stations. In a future proceeding, we will consider rules for permitting on-channel digital conversion for TV translator and non-Class A LPTV stations. We may wish to revisit the issue of Class A digital protected contour values at that time.

2. Time Protection Begins

28. *Decision.* We will adopt our proposal to commence preservation of the service area of LPTV stations from the date of receipt of an acceptable certification of eligibility filed pursuant to section (f)(1)(B) of the CBPA. As we stated in the *NPRM,* this timing appears most consistent with the CBPA's dual certification and application scheme for Class A status, despite the reference in the statute to the pendency of an application, as opposed to a certification, to trigger contour protection. Senator Conrad Burns, a sponsor of the CBPA in the Senate, introduced a statement on the Senate floor clarifying the issue of when an LPTV station's contour should be preserved. He stated in part: "It is clearly our intent that as soon as the Commission is in receipt of an acceptable certification notice, it should protect the contours of this station until final resolution of that application."

29. We disagree with MSTV/NAB that protection should begin from the time a Class A application is filed, rather than the date of filing of a certification of eligibility. This reading of the statute would render the separate certification of eligibility requirement meaningless. MSTV/NAB argue that protecting the more than 1700 eligibility certifications filed by the January 28, 2000 deadline would "paralyze" the Commission. However, more than a third of these certifications, on their face, do not comply with the eligibility criteria established in the CBPA and our rules adopted herein. Included in this group are certifications submitted by translator station licensees and permittees of unbuilt LPTV stations. Such licensees and permittees do not meet the eligibility standards of the CBPA and our rules. Accordingly, their certifications are not acceptable and will be dismissed. Similarly deficient are those certifications filed after the January 28, 2000 deadline and those certifications submitted by LPTV licensees whose stations aired no locally produced programming during the entire 90-day period preceding enactment of the CBPA. They too will be dismissed.

30. As discussed above, the CBPA permits the Commission to establish alternative criteria for Class A eligibility if it determines that the public interest, convenience and necessity would be served thereby, or for other reasons. Thus, there may be instances in which a certification of eligibility is filed but the corresponding Class A application may not be granted because the alternative eligibility showing cannot be approved. We also note that a Class A application could be denied if a certification of eligibility were later determined to be incorrect. In situations where the Commission determines that a Class A certification of eligibility or Class A application may not be granted, protection of the service contour of that facility will cease from the date the Commission determination is made.

3. Protection of Pending NTSC TV Applications and Facilities

31. *Decision.* Upon further reflection, and after careful consideration of the comments, we have reconsidered our proposal regarding interpretation of the interference protection that must be accorded by Class A to pending NTSC applications. Instead, we will adopt the proposal similar to that advanced by CBA in its comments to require Class A stations to protect both existing analog stations and full-service applicants that have completed all processing short of grant necessary to provide a reasonably ascertainable Grade B contour. We believe this proposal is both equitable and consistent with the CBPA. Specifically, we will require Class A applicants to protect the predicted Grade B contour (as of November 29, 1999, or as proposed in a change application filed on or before that date) of full-power analog stations licensed on or before November 29, 1999. We will also require Class A applicants to protect the Grade B contour of full-power analog facilities for which a construction permit was authorized on or before November 29, 1999. Finally, we will require Class A applicants to protect the facilities proposed in any application for full-power analog facilities that was pending on November 29, 1999, that had completed all processing short of grant as of that date, and for which the identity of the successful applicant is known. The applications in this latter category are post-auction applications, applications proposed for grant in pending settlements, and any singleton applications cut off from further filings. We will not require Class A applicants for initial Class A authorization to protect pending rule making petitions for new or modified NTSC channel allotments or full-service applications that were not accepted for filing by November 29, including most pending television freeze waiver applications.

32. We believe that protecting these categories of pending NTSC applications is consistent with both the language of the CBPA and the underlying intent of Congress. Section (f)(7)(A)(i) requires Class A applicants to show that they "will not cause" interference within "the predicted Grade B contour (as of the date of the enactment of [CBPA] * * *) of any television station[s] transmitting in analog format." It is not immediately clear from the statutory language whether the station entitled to interference protection must have been "transmitting in analog format" as of the date of enactment of the CBPA in 1999, or as of the date it would experience the interference. We believe that a sound interpretation of the statutory language, in light of the considerations that follow, is that it refers to the nature of the service entitled to protection (*i.e.,* analog) rather than to its operational status on the date of enactment of the CBPA. Therefore, the analog station could be licensed, one for which an application is currently pending, or one for which a construction permit has been granted but which is not yet built.

The statute does require that analog stations entitled to protection must have had a "predicted Grade B contour (as of the date of the enactment of the [CBPA], or November 1, 1999, whichever is later, or as proposed in a change application filed on or before such date)." A station does not have to be operating, however, to have a "predicted grade B contour" as described in section (f)(7)(A)(i). A station proposed in a pending application or an unbuilt station with an outstanding construction permit may also have a predicted Grade B contour. Indeed, the clause referring to the predicted Grade B contour specifically includes predicted Grade B contours proposed in change applications filed before the specified date. Thus, this section explicitly contemplates that interference protection by Class A stations may extend to at least some analog stations that are not yet operating, but nonetheless had predicted Grade B contours as of the date specified in the statute. It would make no sense to protect pending change applications and licensed stations but not outstanding construction permits, which are closer to operational status. We believe that Congress included the reference to change applications to make it clear that those are entitled to protection, rather than to suggest that other applications or construction permits are not similarly protected.

33. Under this reading of the statute, section (f)(7)(A)(i) requires Class A applicants and licensees to protect "the predicted Grade B contour (as of * * * [November 29, 1999], or as proposed in a change application filed on or before such date)" of analog facilities. Thus, Class A stations must protect the predicted Grade B contour of analog stations licensed or granted a construction permit as of November 29, 1999, as well as of facilities proposed in certain pending analog applications. We note that the phrase "predicted Grade B contour" is singular. We believe that the best interpretation of this phrase, as modified by the parenthetical in section (f)(7)(A)(i), is that it limits the facilities proposed in applications pending as of November 29, 1999 that must be protected by Class A stations to those for which there is a single, reasonably ascertainable predicted Grade B contour as of that date. These applications consist of post-auction applications, applications proposed for grant in pending settlements, and any singleton applications cut off from further filing. The applications in each of these categories have progressed through the cut off stage and the identity of the successful applicant in each case has been determined. Class A applicants thus can identify a single predicted Grade B contour with respect to these applications for which protection must be afforded and are not required to show that they will not interfere with multiple, hypothetical contours that may not turn out to be actual contours, if the applicant in question does not ultimately receive the station license.

34. Moreover, we believe that this interpretation of the statute best reflects the intent of Congress as expressed in the overall statutory scheme. Under the interpretation we proposed in the *NPRM,* Class A applicants and licensees would not have been required to protect post-auction applications for which a construction permit had not been issued as of the date of enactment of the CBPA. There is no language in the statute or the legislative history that suggests that Congress intended a result so dramatically inconsistent with its grant of auction authority to the Commission in the Balanced Budget Act of 1997. As the Supreme Court recently noted, it is a "fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." The Court further stated that "the meaning of one statute may be affected by other Acts . . ." We agree with CBA that, in securing the future of qualified LPTV stations, Congress did not intend to disrupt the rights and long-settled expectations of applicants for pending NTSC facilities that have prosecuted their applications past the cut off stage and to the point that a final successful applicant has been identified. Instead, Congress intended to place Class A licensees on roughly even footing with full-service licensees, while protecting the DTV transition. These pending cut-off NTSC applications are protected against new full-service analog applicants, and therefore should be protected by Class A applicants.

35. We believe making these distinctions is consistent with Congress' intent because requiring Class A applicants to protect applications that have progressed through the cut-off stage strikes an appropriate balance between the rights of pending applicants versus the interests of LPTV stations seeking primary status. Applicants that have prosecuted their applications through the cut off stage and to the point that the identity of the successful applicant is known have in most cases invested substantial resources in filing and prosecuting their applications. Most of these applications have been pending for some time, and LPTV stations affected by the facilities proposed in these applications have long been on notice that they would ultimately be displaced or be required to reduce their facilities. Requiring Class A applicants to protect applications that had progressed through this stage by November 29, 1999 is both equitable and a reasonable reading of the CBPA.

4. New DTV Service

36. *Decision.* Upon further reflection, we have decided we should treat new DTV station applications in the same manner as we are treating new NTSC station applications. That is, we would require Class A applicants to protect pending applications for a new DTV station that were on file November 29, 1999 and that had completed all processing short of grant as of that date. However, there are no new DTV station applications that were pending November 29, 1999 or that are currently pending. Before such an application will be accepted, a rule making proceeding must be completed to allot a new DTV channel to a community. At this time, we have not completed any such rule making proceeding. In a new DTV allotment rule making, we will require protection of Class A stations. We will not require Class A applicants to protect pending allotment proposals from new DTV entrants, that is, petitioners who do not already have a DTV authorization.

5. DTV Maximization

a. Definition of Maximization—

37. *Decision.* We believe that the best interpretation of the term "maximization," as used in the statute, refers both to power and antenna height increases above the values allotted in the DTV Table, and to site changes that extend the service area of DTV facilities beyond the NTSC replication facilities. A broad interpretation of the term maximization is consistent with the CBPA's emphasis on protecting the digital transition. Permitting changes to technical parameters and sites gives broadcasters wider flexibility to maximize coverage and maximize service to the public. In addition, by construing the term maximization to include site changes sought by full-service DTV stations, we allow such stations greater flexibility to seek engineering solutions that provide for efficient spectrum use. In this regard, we have historically encouraged applicants to employ coordination and interference agreements, including co-location of facilities, as a means of resolving interference conflicts. Site changes are often integral to such agreements.

38. We indicated in the *NPRM* that the statutory language is ambiguous regarding the protection to be accorded by Class A applicants to DTV stations seeking to replicate or maximize power. Section (f)(1)(D), entitled "Resolution of Technical Problems," directs the Commission to preserve the service areas of LPTV licensees pending final resolution of a Class A application. That section further provides that if, after certification of eligibility for a Class A license, "technical problems arise requiring an engineering solution to a full-power station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission shall make such modifications as necessary (1) to ensure replication of the full-power digital television applicant's service area * * *; and (2) to permit maximization of a full-power digital television applicant's service area * * * " (if the applicant has complied with the notification and application requirements established by that section). Although section (f)(1)(D) appears to tie replication and maximization to resolution of technical problems, section (f)(7) appears to require all applicants for a Class A license or modification of license to demonstrate protection to stations seeking to replicate or maximize power, as long as the station seeking to maximize has complied with the notification and application requirements of section (f)(1)(D), without reference to any need to resolve technical problems on the part of the DTV station. Despite the reference in section (f)(1)(D) to technical problems, we continue to believe it is more consistent with the statutory schemes both for Class A LPTV service and for digital full-service broadcasting to require Class A applicants to protect all stations seeking to replicate or maximize DTV power, as provided in section (f)(7)(ii), regardless of the existence of "technical problems." The large majority of commenters that addressed this issue concur with this view. Stations seeking to maximize must comply with the notification requirements in section (f)(1)(D). This interpretation seems most consistent with the intent of Congress to protect the ability of DTV stations to replicate and maximize service areas.

b. Preserving the Right to Maximize—39. *Decision.* As a preliminary matter, we believe that all DTV licensees are entitled, at a minimum, to replicate the service area of their analog station. As we stated in the *Sixth R&O* in the DTV proceeding, we believe that service replication is important to ensure that digital broadcasters can continue to reach the audiences to which they provide analog service and that viewers continue to have access to the stations they can receive over-the-air. In enacting the CBPA, Congress made clear that Class A service would not interfere with this service replication principle. As Congress stated, "recognizing the importance of, and the engineering complexity in, the FCC's plan to convert full-service television stations to digital format, [the CBPA] protects the ability of these stations to provide both digital and analog service *throughout their existing service areas.*"

40. The CBPA also recognizes and preserves the right of full-service television broadcasters to maximize their digital television service area, but balances this right against the provision of stability to Class A applicants and licensees. Sections (f)(1)(D) and (f)(7)(A) of the CBPA require Class A applicants to protect stations seeking to maximize power, if such stations have filed an application for maximization or a notice of intent to seek maximization by December 31, 1999, and filed a bona fide application for maximization by May 1, 2000.

41. There are 17 full-service television stations that have been allotted both NTSC and DTV channels that lie outside the DTV core spectrum. The Commission has stated that stations with both NTSC and DTV channels outside the core spectrum will be assigned new channels within the core from spectrum recovered after the transition. As a number of commenters in this proceeding point out, the deadlines established in the CBPA for filing an application for maximization create a dilemma for these stations. These stations are required to file a maximization application to preserve their rights; however, they either cannot or do not want to maximize facilities on an out-of-core channel. Several commenters argue that these stations should not be required to file a maximization plan based on their temporary out-of-core DTV assignment, as maximization is expensive and these stations will not be operating on those channels after the transition. Moreover, these commenters argue that requiring maximization on an out-of-core channel does not provide certainty to Class A stations because the required interference protection will ultimately involve a different in-core channel.

42. The problem of preserving the rights of full-service stations in this situation, and balancing those rights against the provision of certainty to Class A stations, is extremely complex. After careful consideration, we will adopt the following compromise. To preserve their ability to maximize once assigned a channel within the core, we will require stations with both NTSC and DTV channels outside the core to nonetheless maximize their DTV service area on their temporary out-of-core DTV channel. These stations must have filed a notice of intent to maximize and must file an application to maximize within the deadlines mandated by the CBPA. Once these stations are assigned a permanent in-core DTV channel, we will allow these stations to carry over to their in-core channel the maximized digital service area achieved on the out-of-core channel, to the extent that the in-core channel facilities for maintaining the maximized service area provide required interference protection to other DTV stations. Section (f)(1)(D) of the statute gives us broad authority to resolve problems arising with respect to replication and maximization, including problems involving the assignment of channels such as those faced by stations with out-of-core channel assignments. Thus, stations seeking to carry over their maximized service areas to their newly assigned in-core DTV channels will have priority over conflicting Class A facilities.

43. We believe this approach strikes a reasonable balance between the rights of full-service stations and Class A facilities. While we recognize that there may be inefficiencies involved in requiring maximization on an out-of-core channel to preserve the right to maximize later on an in-core channel, allowing all full-service stations outside the core to "reserve" the right to maximize on unidentified channels within the core reduces substantially the certainty that can be accorded to Class A facilities. As we recognized in our DTV biennial review, core spectrum is becoming increasingly crowded and it will become increasingly difficult to locate channels for all parties seeking DTV spectrum in the core after the transition. In view of the difficulty in establishing priorities among the numerous parties seeking in-core spectrum, we believe it is reasonable to require stations with both NTSC and DTV assignments outside the core to first maximize DTV service on an out-of-core channel in order to retain the right to replicate that maximized service area on an in-core channel.

44. We will apply a similar requirement to stations with an analog channel within the core and a DTV channel outside the core, as well as to those stations with both channels inside the core that intend to convert their DTV operations to their analog channel

at the end of the transition. These stations will also be required to maximize on their DTV channel in order to preserve their right to carry over that maximized service area to their analog in-core channel. We also believe that the CBPA requires that these stations must have filed a notice of intent to maximize and must file an application to maximize within the deadlines established in the statute. In addition, the maximized facilities they ultimately propose for DTV operation on their analog channel must provide required interference protection to other DTV stations. The election of a post-transition DTV channel by stations with both the analog and DTV allotments within the core is an issue discussed in our DTV biennial review.

c. Allotment Adjustments.—

45. *Decision.* As we indicated in the *NPRM*, we recognize that it may be necessary to permit DTV stations to change channels and make adjustments to station facilities in order to correct unforeseen technical problems. For example, it was necessary in some cases to make DTV Table allotments on adjacent channels at noncollocated antenna sites in the same markets, which raised concerns among broadcasters over possible adjacent channel interference. In addition to changing some of those allotments, we stated that we would address these concerns by tightening the DTV emission mask and by "allowing flexibility in our licensing process and for modification of individual allotments to encourage adjacent channel co-locations * * *" We also provided broadcasters with flexibility to deal with allotment problems, for example, by permitting allotment exchanges among licensees in the same or adjacent markets.

46. Section (f)(1)(D) of the CBPA gives full-service stations the flexibility to make these kinds of necessary adjustments to DTV allotment parameters, including channel changes, even after certification of an LPTV station's eligibility for Class A status. That section provides for an exception to protection of Class A facilities to resolve "technical problems" associated with DTV replication and maximization, and provides for such modifications when necessary to "a full-power station's allotted parameters or channel assignment in the digital television Table of Allotments." This language indicates that maximization encompasses channel changes as well as site changes and changes to technical parameters. Thus, stations that have filed an application for maximization or a notice of intent to maximize by December 31, 1999 and an application for maximization by May 1, 2000 have flexibility to make adjustments to the facilities proposed in these maximization applications where necessary to resolve technical problems that prevent implementation of the facilities proposed in these applications.

47. We will not require full-service stations requesting an adjustment to the DTV Table that will cause interference to the protected service contour of a Class A station to demonstrate that the adjustment can *only* be made in this fashion. We have outlined above the replication and maximization rights of full-service DTV licensees vis-a-vis Class A facilities, and do not believe that imposing additional obligations on DTV licensees to justify a modification request is warranted. However, we note that in the interest of ensuring efficient spectrum utilization we may question modification requests that unnecessarily impinge on Class A service. In addition, while we will not give Class A stations affected by allotment adjustments made to accommodate DTV stations the automatic right to exchange channels with the DTV station, we will consider such allotment exchanges on a case-by-case basis where both parties consent and where the parties meet all applicable interference requirements on the new channel. Where we determine such swaps meet interference and other criteria, we will not consider competing applications for these channels.

D. Methods of Interference Protection to Class A Facilities

48. *Decision.* We will adopt the protection methods proposed in the *NPRM*. We first present the standard methods for protecting Class A service and then discuss alternative methods that may be used on a waiver basis.

1. Analog Full-Service TV Protection to Analog Class A

49. We will require full-service analog TV stations to protect Class A stations by using the criteria in § 74.705, a position supported by the CBA, MSTV/NAB and other commenters. We agree with CBA that protection requirements generally based on distance separations would be impractical and spectrally inefficient because LPTV stations have been authorized at different antenna heights and powers on the basis of a contour protection methodology. Table 1 below gives the D/U ratios that must be met or exceeded at the Class A protected signal contours.

TABLE 1

Service band	Protected Class A contour (dBu)	Co-channel D/U ratio (dB)	1st upper adjacent channel D/U ratio (dB)	1st lower adjacent channel D/U ratio (dB)	14th upper adjacent channel D/U ratio (dB)	15th upper adjacent channel D/U ratio (dB)
Low VHF (channel 2–6)	62	+28/45	−12	−6	n/a	n/a
High VHF (channels 7–13)	68	+28/45	−12	−6	n/a	n/a
UHF (channels 14–69)	74	+28/45	−15	−15	−23	−6

The Class A protected signal contours are to be determined by using the Commission F(50,50) signal propagation model. Potentially interfering signal levels at the protected contour are to be determined by using the F(50,10) propagation model for co-channel signals and the F(50,50) model for the 1st, 14th and 15th adjacent channel signals. Interference predictions will be based on the facilities proposed in the NTSC application. Parties with pending petitions for new NTSC channel allotments or those requesting modified channel allotments must identify reference facilities (site coordinates and elevation above mean sea level (msl), effective radiated power, antenna radiation center height above msl, and, if desired, antenna radiation pattern and orientation) for the purpose of showing the necessary contour protection.

50. We will adopt a 45 dB D/U ratio for co-channel interference protection for situations where a Class A station proposal does not specify a carrier frequency offset or where the proposed and protected co-channel stations specify the same offset. Where different offsets are specified between the proposed and protected stations, a 28 dB D/U ratio will apply. The TV Table of Allotments is constructed on the

basis of frequency offsets; that is, all full-service TV stations operate on different offset frequencies with respect to their nearby co-channel stations. Offset operation permits significantly more efficient utilization of the broadcast spectrum; there is a difference of 17 dB between the co-channel D/U ratios for offset and nonoffset operations. The LPTV rules permit, but do not require offset operation. As a means of facilitating a "minimization of interference and maximization of service" we agree with du Triel, Lundin & Rackley, Inc. (du Triel) that analog Class A stations should operate with a carrier frequency offset and realize the advantages of offset operation wherever possible. Many LPTV stations already operate on this basis. Nevertheless, we will not make operation with a carrier offset a condition for an initial Class A license. However, we will require Class A licensees seeking facilities increases to specify an offset in their modification applications unless they can demonstrate it would not be possible to realize the efficiencies of offset operation. For example, a Class A station could be situated between three or more neighboring co-channel NTSC, LPTV or translator stations that use all available carrier offsets: plus, minus and zero. Any offset chosen by the Class A station would be the same as that of one of the neighboring stations, rendering the 28 dB co-channel D/U ratio inapplicable. In that event, use of the 28 dB ratio could result in interference to the Class A station, and, therefore, the 45 dB co-channel D/U ratio will be applied.

51. Section 74.705 (a) of the LPTV rules generally requires the site of a proposed UHF LPTV station to be located at least 100 kilometers from the site of a protected full-service station operating on the 7th adjacent channel above the proposed channel. It also requires LPTV proposals for stations with more than 50 kilowatts of effective radiated power to be separated by at least 32 kilometers from full-service stations operating on the 2nd, 3rd, and 4th adjacent channel above or below the requested channel. We disagree with du Triel's proposal that we eliminate the 14th adjacent channel protection requirements in Table 1 above and the 32-kilometers spacing requirements for protection of Class A stations. Du Triel states that the potential for interference to a Class A station from stations operating on these "UHF taboo channels" is limited to the immediate vicinity of the "taboo channel" station's transmitter site. It also notes that because of their secondary status, LPTV stations have been authorized without consideration of interference that would be caused to them by "taboo channel" stations and that it is unaware of any instances of significant interference to LPTV stations by "taboo channel" full-service stations. Du Triel concludes that, with declining spectrum availability, it is "unreasonable" to require other NTSC stations (full-service, Class A and LPTV) to protect Class A stations operating on any "taboo" channel other than the upper 15th adjacent channel, which has a greater potential for interference. DLR does not propose eliminating the "taboo" interference requirements for Class A, LPTV and TV translator protection of full-service NTSC stations. If the operation of a full-service "taboo channel" TV station, with 1 megawatt or more of power, would pose a minimal interference risk to Class A service, the much lower power levels of Class A stations would pose even less risk to the service of full-power stations. Thus, if we were to eliminate requirements to protect Class A stations from interference on the "taboo channels," we would also eliminate all remaining requirements that Class A stations protect full-service stations operating on these channels. In the recently concluded DTV proceeding, the Commission relaxed several interference protection requirements for LPTV stations. While we understand du Triel's reasoning, it would not be appropriate to adopt further relaxation on the basis of the scant record on this issue in this proceeding. However, we believe du Triel's suggestions may warrant further consideration in a subsequent proceeding. We will also adopt our proposal in the *NPRM* to accept applications for NTSC facilities modifications that would not create new interference to Class A stations, beyond the interference already predicted by the authorized facilities of such NTSC stations; these would include, for example, facilities modifications that would not further decrease the D/U ratios at the Class A protected contour.

2. Analog LPTV, TV Translator, and Class A Protection to Analog Class A

52. We are adopting the proposal in the *NPRM* to apply the protection requirements in § 74.707 to protect Class A stations from LPTV, TV translators, and other Class A stations. Commenters supported this proposal to use the protection methods by which LPTV stations protect each other. This method is well-established and has been well-tested.

3. Full-Service DTV Protection to Analog Class A

53. Where interference protection to Class A stations is required, full-service DTV proposals must protect the Class A service contours in accordance with the D/U ratios in § 73.623(c)(2) of the DTV rules for "DTV into analog TV" protection. We will not eliminate protection requirements from DTV stations proposing operation on the "taboo" channels, as suggested by du Triel. The potential for interference to Class A stations, du Triel contends, would be limited to the immediate vicinity of the "taboo" channel DTV station's transmitter site. However, neither du Triel nor any other commenter analyzes the extent of such interference. Moreover, digital Class A stations, with significantly lower power levels, will be required to protect NTSC stations on the taboo channels. Parties filing petitions to amend the DTV Table, where required to protect Class A stations, must specify reference facilities that meet the above criteria. Several commenters favor basing protection on the provisions in § 73.622 of the DTV rules and OET Bulletin 69 ("OET 69") or, alternatively, allowing use of this methodology where contour protection requirements cannot be met. We agree that use of the methods by which DTV stations protect full-service NTSC stations would permit flexibility and could provide more accurate predictions of interference. However, at this time we will not adopt Class A protection standards centered around these methods. To do so would require extensive revisions to the computer interference model (FLR) used by the Commission and outside engineers to include the effects of LPTV, TV translator, and Class A stations. For now, the contour protection approach is straight forward and can be readily implemented without unduly affecting the preparation and processing of DTV applications. We will, however, permit use of the Longley-Rice terrain dependent propagation model and OET Bulletin 69 to support waivers of the Class A interference protection requirements. We will also permit Class A station and full-service station parties to negotiate interference agreements.

4. Full-Service NTSC and DTV Protection to Digital Class A

54. We will require full-service NTSC and DTV proposals to protect digital Class A service contours based on the protection ratios (D/U) in § 73.623(c)(2) of the DTV rules for "Analog TV into DTV" and "DTV into DTV." These ratios must be met or exceeded at the

protected digital signal contours of Class A stations. Where protection to a Class A station is required, parties filing petitions to amend the TV or DTV allotment tables must specify reference facilities that meet the applicable requirements. We will permit the use of OET 69 type showings in support of requests to waive these requirements, and we will permit interference agreements among the affected parties.

5. LPTV, TV Translator, and Class A Modification Protection to Digital Class A

55. We will adopt the requirements in § 74.706 of the LPTV rules for the contour protection of digital Class A stations. Application proposals for analog LPTV, TV translator and those of Class A facilities modifications must protect the service contours of digital Class A stations to the extent provided by the D/U ratios in this rule. Application proposals for digital Class A stations must protect the service contours of other digital Class A stations to the extent provided by the "DTV into DTV" D/U ratios of § 73.623(c) of the Commission's Rules. For both analog and digital applicants, we will permit terrain shielding, OET 69-type analysis, or interference agreements in support of requests to waive the protection requirements.

6. Alternative Means of Interference Protection

56. LPTV and TV translator applicants currently are permitted to support requests for waiver of certain interference protection rules on the basis of D/U ratio protection for co-located stations on 1st and 14th adjacent channels, terrain shielding and Longley-Rice terrain dependent propagation and OET 69-type methods. We are not adopting protection standards for Class A service based on these methods. However, we agree with AFCCE and other commenters that we should permit use of available means of interference analysis to support requests to waive the Class A contour protection requirements. We will permit waiver requests to be supported by interference analysis based on OET Bulletin 69, D/U ratios, terrain shielding and other considerations. With regard to OET Bulletin 69 studies, we will not permit a *de minimis* interference allowance. Interference among full-service stations that is *de minimis* usually occurs in the outer reaches of a station's service area between the NTSC Grade A and Grade B contours. Analog and digital Class A stations will not receive interference protection to the Grade B contour. Their protected service contours will be similar in extent to an NTSC station's Grade A contour, which is not nearly as vulnerable to *de minimis* service population reductions. Class A service areas will be smaller and to a greater extent more interference-limited than those of full-service stations. The viewing audience beyond the Class A LPTV service contour is unprotected, and we believe it would be unfair to subject Class A stations to additional reductions in service population. For these reasons we will not at this time apply a *de minimis* interference allowance to the protection of Class A stations. Where analysis is based on OET Bulletin 69 methods, we will allow a "service population" rounding tolerance of 0.5%, which is also allowed for NTSC applicants protecting DTV service. We will permit OET 69-type studies to take into account reductions in a Class A service population due to predicted interference from existing full-service, LPTV and TV translator stations (the "masking" of service) and, on this basis, applicants may demonstrate that their proposed facilities would not result in additional interference within the protected contours of Class A stations.

57. We concur with commenters who favor permitting Class A stations to enter into interference or relocation agreements with full-service, LPTV, TV translator and other Class A licensees, permittees or applicants. Paxson notes that full-service stations may now enter into voluntary channel coordination and interference agreements and believes that Class A stations with "quasi-primary" status should similarly be permitted to enter into agreements to resolve interference concerns. Our rules permit DTV stations to negotiate interference agreements with other analog and DTV stations, including the exchange of money or other compensation. Agreements will be approved if the Commission finds them to be consistent with the public interest. LPTV and TV translator licensees, permittees and applicants are also permitted to enter into interference agreements, such as those involving terrain shielding. We are persuaded that Class A stations should also be permitted to negotiate interference agreements or relocation arrangements with full-service, low power service and other Class A licensees, permittees or applicants. Agreements may include monetary compensation or other considerations from one station to another. Agreements must be submitted with the related applications for initial or modified broadcast facilities. The Commission will grant applications submitted pursuant to agreements if it finds the public interest would be served.

E. Methods of Interference Protection by Class A to Other Facilities

1. Class A Protection of NTSC

58. *Decision.* We are adopting the proposal from the *NPRM* that Class A stations protect the NTSC Grade B contour in the manner given in § 74.705 of the LPTV rules. It is supported by most of the commenters that addressed this issue. However, SBE suggests a different analysis based on the Longley-Rice propagation model with an NTSC TV station allowed to object if a Class A station would be the source of unique (not masked) interference to any viewers. SBE also indicates that this interference analysis should be based on the proposed main beam effective radiated power (ERP) and not on the ERP toward the radio horizon that LPTV and TV translator applicants are now permitted to use. We believe the SBE proposals would add unnecessary complexity to a well-established and well-tested process. Class A stations can be established without undue risk of excessive interference to NTSC TV stations if the Class A facilities conform to the LPTV protection standards contained in § 74.705 of our rules. Moreover, where a requested Class A station does not provide the protection required by that rule, § 74.705(e) specifies that a waiver can be requested based on terrain shielding and use of the Longley-Rice model to demonstrate that actual interference would not be predicted to occur.

2. Class A Protection of DTV

59. *Decision.* We are adopting the proposal from the *NPRM* regarding Class A protection of DTV service. Analog and digital Class A station proposals generally will be subject to the protection criteria in §§ 73.622 and 73.623 of our rules and in OET Bulletin 69. Commenters generally supported this proposal. Some commenters question allowing interference to 0.5% of the DTV service population as a rounding tolerance. NAB/MSTV are concerned about the cumulative effect of several Class A stations. SBE suggests that a DTV station should be allowed to object if a Class A station would be the source of unique (not masked) interference to any viewers in its authorized service area, although it agrees with use of the 0.5% criteria for interference to allotted DTV facilities. Media-Com Television, Inc. (Media-Com) supports the DTV interference analysis procedure, but suggests that we

should allow interference to 2% of the population served by the DTV station to be considered *de minimis,* as we generally allow that amount of interference to be caused by other DTV stations. We are not persuaded that more than 0.5% interference should be allowed. Full-service NTSC stations are limited to that amount and the statute does not require higher status for Class A stations in this regard. Neither are we convinced that any one DTV station will be subject to interference from so many Class A stations that the cumulative loss of DTV service would be significant. Finally, we note that the statute provides that Class A applicants also must protect the DTV service areas provided in the DTV Table of Allotments and the DTV Table includes approximately 40 vacant noncommercial educational DTV allotments that must be protected.

3. Protection of LPTV and TV Translators

60. *Decision.* We are adopting the proposal from the *NPRM* that Class A stations protect the LPTV and TV translator protected contours on the basis of the standards given in § 74.707 of the LPTV rules, *i.e.,* on the basis of compliance with certain desired-to-undesired signal strength ratios. Commenters generally supported this proposal. SBE did request that we clarify that the specified LPTV and TV translator protection rule involves contour overlap prohibitions and not simply application of desired-to-undesired signal strength ratios. We will require protection pursuant to all provisions in § 74.707 of the rules, which are based on prohibited contour overlap. For purposes of implementing section (f)(7)(B) of the CBPA, we agree with K Licensee, Inc. (K Licensee) that interference caused within the protected contour of a licensed LPTV or TV translator station or that of a construction permit or pending application should not be counted against an applicant for a Class A authorization if that interference is permitted by the LPTV rules, taking into account the manner in which LPTV and TV translator stations are authorized. The rules require new LPTV stations to protect existing LPTV and TV translator stations within their defined protected contours. However, the rules do not prohibit new stations from receiving interference from existing stations. LPTV and TV translator stations may also enter into written agreements to accept interference from other LPTV or TV translator stations. As a result of these provisions, many LPTV stations or proposed stations may be predicted to receive interference within their protected contours from earlier-authorized stations. We believe it would be inconsistent with the objectives of the CBPA to count such permissible interference against applicants for Class A stations, nor should interference resulting from a negotiated agreement be counted. We are not permitting LPTV licensees to request facilities modifications in their applications for initial Class A authorizations. Therefore, any interference from existing LPTV facilities within the protected contours of later authorized and proposed LPTV and TV translator facilities is permitted by the LPTV rules and will be grandfathered for the purposes of section (f)(7)(B) of the CBPA.

4. Land Mobile Radio Services and TV Channel 16

61. *Decision.* With respect to general land mobile protection, we are adopting our proposal to use the criteria in § 74.709 of the rules. This proposal was supported by the NY Police and no commenters opposed it. With respect to the Channel 16 New York City situation, the NY Police object to the premise that there is no obligation for WEBR–LP, due to the waiver, to protect land mobile operations, indicating that the *NPRM* ignores the current practice between the member public safety agencies and WEBR–LP to coordinate actions and ensure that neither party interferes with the other's transmission. K Licensee argues that the Commission must implement specific interference requirements in a manner consistent with congressional intent and with sensitivity to the impact such implementation will have on deserving stations such as WEBR–LP, the only free Korean-language licensee serving New York City metropolitan area. We believe that it is most consistent with the statutory scheme and with the waiver granted for public safety land mobile use of Channel 16 in New York City that WEBR–LP and the NY Police continue to cooperate to ensure that neither party interferes with the other's transmission on Channel 16. The parties have entered into a written agreement pursuant to which they will advise each other at least 60 days in advance of any change, alteration, or modification in its transmission facilities that may adversely affect or cause interference to the other party's communications system(s). As requested by both parties, we have included a copy of this agreement in the record of this proceeding, and will include it in the record of any application filed by WEBR–LP to become a Class A television station. We believe that the current situation is satisfactory and that continued cooperation between the parties will permit maximal use of the spectrum in New York City.

F. Change Applications

62. *Decision.* In the event that a DTV station that has been granted a construction permit to maximize or significantly enhance its digital television service area later files an application to reduce its digital television service area, the protected contour of that station will be the reduced digital service area as long as that area is not less than the area resulting from the "replication" facilities provided in the DTV Table of Allotments. Where a DTV station chooses to operate with technical parameters less than those allotted in DTV Table, we will require Class A stations to nonetheless protect the service area produced by the "replication" facilities established in the Table. We agree with MSTV/NAB that the service areas in the DTV Table represent the minimum degree of interference protection that must be accorded by Class A stations to full-service stations. Section (f)(7)(A)(ii)(I) of the CBPA requires that Class A stations cause no interference to the digital service areas provided in the Table.

G. Common Ownership

63. *Decision.* After review of the record, we will adopt our initial tentative conclusion and will not impose any common ownership limitations on holders of the new Class A licenses. We agree with the commenters who argue that Congress intended that Class A stations be exempt from existing common ownership requirements and that this exemption should apply when a license is subsequently transferred to a buyer with other media interests. As noted above, Congress directed that common ownership with any other medium of mass communication will not disqualify a potential Class A licensee. We believe that the only logical outgrowth of Congress' language here is that the lack of common ownership rules would also apply to transferred ownership.

H. Issuance of DTV Licenses to Class A, TV Translator, and LPTV Stations

64. *Decision.* As an initial matter, we note that Class A stations may convert their existing channel to digital broadcasting at any time. However, we conclude that the plain reading of the CBPA, as well as the legislative history of the Act, does not require us to issue an additional license for DTV services to Class A or TV translator licensees, but

does require us to accept DTV applications from licensees of Class A or TV translator stations that meet the interference protection requirements that are identified in the statute.

65. As we stated in the *NPRM*, there currently are a number of full-service permittees and licensees who do not have a paired DTV channel because they received their construction permits after the cut-off date for eligibility for the initial paired DTV licenses. Some commenters contend that, if we decide to award additional channels for DTV, we should give priority to such full-service licensees and permittees who are currently precluded from applying for a paired DTV channel. WB, for example, suggests that any additional channels should first be awarded to full-service licensees, and that we should apply to Class A licensees the same technical and service rules as are applied to full-service licensees.

66. Although the statute requires us to accept Class A applications for additional DTV licenses, it does not direct us to issue such licenses to Class A licensees. We agree with MSTV and NAB that we should exercise restraint with respect to issuing additional DTV licenses in order to preserve spectrum to accommodate needs associated with the transition of full-service stations to digital service. Moreover, we find that the various issues concerning the means of issuing additional DTV licenses for Class A stations to be outside the scope of this rulemaking. We note that the transition to DTV is scheduled to end in 2006, and that a number of issues regarding the transition are yet to be resolved in future DTV proceedings. We therefore defer matters regarding the issuance of additional DTV licenses for Class A stations to a future rulemaking.

I. Interim Qualifications

1. Stations Operating Between 698 and 806 MHz

67. *Decision.* We will extend the presumption of displacement to LPTV stations and TV translators authorized on channels 52–59. We will permit these stations to file displacement applications immediately if they can locate a replacement channel within the core spectrum. The majority of the commenters that addressed this issue supported extending the presumption of displacement to these stations. Many of these stations would be barred from becoming Class A stations if they cannot secure a replacement channel below channel 52. We believe it is most consistent with Congress' intent to provide qualified LPTV stations the opportunity to obtain Class A status to permit such stations on channels 52–59 to seek a replacement channel now on which they may apply for a Class A license. Any displacement applications filed by LPTV (Class A or non-Class A) or TV translators will receive equal treatment for processing purposes.

68. We recognize that full-service NTSC broadcasters on channels 52–59 may also seek to relocate to an in-core channel and such a proposal may conflict with a displacement application filed by an LPTV station seeking to move from channels 52–59. For the time being, these full-service stations may continue to operate on their present channel and most of them have an in-core paired DTV channel allotment. Nevertheless, we do not want to grant a displacement application that might preclude a move to an in-core channel without giving these broadcasters an opportunity to seek such a channel change. The process for the full-service station moving to an in-core channel involves filing a petition for rule making seeking to amend the TV Table of Allotments. The Commission invites comments on the proposal in a *NPRM* and based on the record, decides whether or not to make the proposed change in a *R&O*. Conflicting proposals, referred to as counterproposals, must be filed during the time period for initial comments, so that an opportunity exists for comments on the counterproposal to be filed during the time period allowed for reply comments. In order to be considered in a channel-change rulemaking proceeding, a conflicting displacement application from an LPTV station that has been determined to be eligible for Class A status must be filed by the end of the initial comment filing period. Conflicting displacement applications filed after that date will be dismissed.

69. Where such a preclusive displacement application seeking to move from channels 52–59 to an in-core channel is filed by an LPTV station eligible for Class A status before a full-service rulemaking petition, we believe it is appropriate to allow a similar, limited opportunity for a conflicting proposal to be filed. Complete and acceptable displacement applications are announced in a Commission Public Notice called a "Proposed Grant List." We will identify any displacement applications filed by Class A eligible stations in future Proposed Grant Lists. Petitions for a channel change filed by a full-service NTSC licensee or permittee must be filed not later than 30 days from the release of the Public Notice proposing grant of a conflicting displacement application. Conflicting TV rulemaking petitions filed after that date must protect the Class A eligible LPTV station's displacement application. Similarly, we will apply the same procedures and time periods to other displacement applications filed by LPTV stations eligible for Class A status, seeking to move from channels 60–69, or from one in-core channel to another to avoid DTV or new NTSC interference.

70. We will require LPTV stations on channels 52–59 that are seeking Class A status to have filed a certification of eligibility within the time frame established in the statute (*i.e.*, by January 28, 2000). When a qualified LPTV station outside the core seeking Class A status locates an in-core channel, we will require the station to file a Class A application simultaneously with its application for modification of license to move to the in-core channel. We will provide interference protection to such stations on the in-core channel from the date of grant of a construction permit for the in-core channel. As the CBPA prohibits the award of Class A status to stations outside the core, we believe it would be inconsistent with the statute to provide interference protection on a channel outside the core. We believe it is appropriate to commence contour protection with the award of a construction permit on the in-core channel, rather than a license to cover construction, as these permittees will have already certified their eligibility for Class A status. Unlike other Class A applicants, we will not require LPTV licensees on out-of-core channels seeking Class A status to file a Class A application within 6 months of the date of adoption of this order. The CBPA provides that, if a qualified applicant for a Class A license operating on an out-of-core channel locates an in-core channel, the Commission "shall issue a Class A license simultaneously with the assignment of such channel." The statute does not impose a time limit on the filing of such applications. Accordingly, we will not impose any time limit on the filing of a Class A application by LPTV licensees operating on channels outside the core. However, we believe that, in most cases, it would be in the best interest of qualified LPTV stations operating outside the core to try to locate an in-core channel now, as the core spectrum is becoming increasingly crowded and it is likely to become increasingly difficult to locate an in-core channel in the future

2. Channels Off-Limits

71. *Decision.* We continue to believe that the requirement of section (f)(6)(B) of the CBPA that we protect the 175 channel allotments referenced in the

Commission's *Sixth R&O* in the DTV proceeding from Class A stations is effectively accomplished now because these channels are occupied by existing NTSC or DTV allotments. These channels will become available for other parties once full-power stations discontinue operation on one of their paired channels at the end of the DTV transition. Commenters that addressed this issue agreed with this view. Accordingly, we need not take further steps at this time to protect these channels from Class A service, and need not adopt our alternative proposal of prohibiting the authorization of Class A service on television channels 2–6.

J. Class A Applications

1. Application Forms

72. *Decision.* We are required, under the terms of the CBPA, to award Class A licenses within 30 days after receipt of acceptable applications. We have created a streamlined license application form to be used by LPTV stations that seek to convert to Class A status. That form, Form 302–CA, requires a series of certifications by the Class A applicant and is attached to this *R&O*. Where a construction permit to modify licensed facilities has been issued, a licensee may choose whether to file its Class A application on its license or on its authorized construction permit. Until that choice is made, we will protect the facilities reflected in the construction permit. We will not require a letter perfect application, but will accept applications on a "substantially complete" basis and will process them, as required by the statute, within 30 days unless the applications contain omissions or face challenges. For subsequent modification applications, Class A stations will be required to submit modified versions of Forms 301 and 302, to be released at a later date.

73. Normally, license applicants are not required to provide local public notice of their applications. However, since the nature of the underlying service is changing from secondary to primary service, Class A license applicants will be required to provide local public notice of their applications. Two weeks before and after submission of their applications, Class A applicants must provide weekly announcements to their listeners informing them that the applicant has applied for a Class A license, and announcing the public's ability to comment on the application prior to Commission action.

2. Class A Facilities Changes

74. *Decision.* We will adopt our proposal to define Class A facilities modifications in a manner that permits greater flexibility and does not require window application filings for most changes. Channel change requests, other than changes in frequency offset, will be considered major changes. All other proposed facilities changes will be considered "minor", including changes in station power, antenna height and antenna horizontal radiation pattern and orientation of directional antenna. Proposed changes in transmitting antenna site location will also be classified as minor, provided the protected signal contour resulting from the relocated site would overlap some portion of the protected contour based on the Class A station's authorized facilities. This approach will permit flexibility, while preventing Class A stations from relocating completely away from the viewing audiences they presently serve. Proposed site relocations that do meet this requirement will be considered major changes. Proposed changes in Class A facilities must meet applicable interference protection requirements with respect to DTV allotments, authorized DTV and NTSC TV service and must protect those pending station proposals that full-service NTSC TV applicants are required to protect. In addition, the CBPA requires proposals for Class A facilities changes to protect licensed LPTV and TV translator facilities, those authorized by construction permit, and those proposed in pending applications filed with the Commission prior to the filing of the Class A application.

75. Commenters are divided on whether proposed Class A facilities changes should be required to protect NTSC TV service based on authorized or maximum permissible facilities. Several commenters favor protection of maximum facilities. MSTV and NAB contend that this is necessary so as not to threaten the ability of DTV stations to return to their analog channels at the end of the DTV transition without incurring a loss of service area. However, we agree with du Treil and other commenters that this approach is not spectrally efficient because it would require protection of facilities that could never be authorized due to interference constraints. As a result, Class A licensees could be unnecessarily hindered in seeking facilities changes or locating replacement channels in the event of channel displacement. Therefore, Class A facilities modification proposals will be required to protect full-service TV Grade B contours based on authorized facilities. We will, however, permit full-service NTSC and Class A station licensees and permittees to file mutually exclusive minor change applications until grant of the pending NTSC and Class A minor change applications. Mutually exclusive applications will be resolved through the auction process in the event the parties do not eliminate the mutual exclusivity through "minor" engineering amendments to their applications. We will give notice of Class A facilities minor change applications in the manner notice is given for such NTSC TV applications. We will not establish a petition to deny period for Class A minor change applications; however, these applications will be subject to the filing of informal objections. We will also adopt the above provisions for digital Class A stations. Class A stations may file minor change applications for the purpose of converting to digital operations on their analog channels.

76. As contemplated in the *NPRM*, we will apply the more inclusive definition of minor facilities changes to TV translator and non-Class A LPTV stations in order to provide additional flexibility to these stations. NTA indicates that translators and non Class A LPTV stations would also benefit from the ability to file most facilities changes outside of application filing windows. We will continue authorizing in the normal manner those LPTV and TV translator applications that are filed pursuant to the current minor change definition in the LPTV rules. Minor change application proposals of non Class A LPTV and TV translator stations, filed under the more inclusive definition, must meet all applicable interference protection requirements to authorized stations. These applications must also protect the facilities proposed in full-service NTSC TV minor change applications, regardless of which applications are earlier filed. The CBPA requires Class A facilities modification proposals to protect earlier-filed LPTV and TV translator applications. Therefore, we are adopting a first-come, first-served policy with respect to the minor change applications of LPTV, TV translator, and Class A stations. We do not want minor change application proposals, under the more inclusive definition, to complicate the authorization of initial Class A licenses, nor displacement relief applications that may be filed shortly after adoption of this *R&O*. We note that displacement applications would have a higher priority than non-displacement minor change applications, regardless of which are filed earlier. For this reason, we will not permit the filing of Class A, LPTV

and TV translator facilities change applications, pursuant to the more inclusive minor change definition, until October 1, 2000. However, minor change applications under the less inclusive definition in the LPTV rules may continue to be filed by LPTV, TV translator, and Class A permittees and licensees.

3. Class A Channel Displacement Relief

77. *Decision.* The Commission will adopt its proposal and allow displaced Class A station licensees and permittees to apply for replacement channels on a first-come, first-served basis, not subject to mutually exclusive applications. We will adopt generally the displacement relief policies and procedures that apply in the low power television service. Class A stations causing or receiving interference with full-service NTSC TV, DTV or any other service or predicted to cause prohibited interference or to receive interference may apply at any time for a replacement channel, together with any technical changes that are necessary to eliminate or avoid interference or continue serving the area within the station's protected signal contour. Site relocation proposals will be permitted in displacement applications, provided the protected signal contour resulting from the relocated site would overlap some portion of the protected contour based on the Class A station's authorized facilities. Class A displacement relief applications will be filed as major change applications, given their protected status. Applications will not be mutually exclusive with other displacement applications unless filed on the same day and, in that event, will be subject to the auction procedures. These applications will be placed on public notice for a period not less than 30 days and will be subject to the filing of petitions to deny. Class A displacement relief applications will be afforded a higher priority than nondisplacement Class A, LPTV and TV translator applications, to the exclusion of those applications that are mutually exclusive with a Class A displacement application. We will not prioritize among Class A displacement applications, nor will these be afforded a higher priority than LPTV and TV translator displacement applications. Displacement applications filed on the same day by Class A, non-Class A LPTV or TV translator stations will be mutually exclusive and subject to the auction procedures. In such cases, we encourage engineering solutions to remove the mutual exclusivity wherever possible.

K. Remaining Issues

1. Call Signs

78. *Decision.* We will allow Class A stations to use standard television call signs with the suffix "–CA" to distinguish the stations from "–LP" stations. We agree with CBA, National Minority T.V., Inc. (NMTV) and others that use of the suffix "–LP" would create confusion between LPTV, LPFM and Class A stations. Upon grant of its initial Class A application, the qualifying LPTV licensee can change its station's existing numerical or four-letter low power call sign to a four-letter call sign with the "CA" suffix. Class A licensees should use the Mass Media Bureau's automated call sign reservation and authorization system to effectuate this change by accessing the call sign change request screen and providing the required information. While there is no fee payment required for the initial change to a four-letter "–CA" call sign, a subsequent change from one four-letter "–CA" call sign to another will require payment of a fee.

2. Certification of Class A Transmitters

79. *Decision.* We have decided to use the part 73 verification scheme for new Class A transmitters. Existing LPTV transmitters will eventually be replaced by digital equipment, so we will "grandfather" use of these analog transmitters, except where these transmitters cause interference due to spurious emissions on frequencies outside of the assigned channel. As noted above, Class A stations proposing facilities increases, such as increased power, must specify a frequency offset. Upon authorization to operate with a frequency offset, station licensees must use a transmitter capable of meeting a frequency tolerance of +1/−1 kHz.

3. Fees

80. *Decision.* Consistent with the use of a part 73 license application form (302–A), we will apply the existing full-service television license fee to initial Class A applications. This fee is lower than the minor modification fee. However, we will apply the low power regulatory fees to Class A stations going forward. Class A stations, while having greater rights than the preceding LPTV stations, will still be greatly limited in their power and height restrictions. To require the same regulatory fees as are required for full-power stations would be onerous to these small, local operations. We agree with the CBA that these lower regulatory fees are more appropriate in the Class A context, unless Congress legislates otherwise at some future time.

4. International Coordination Provisions

81. In establishing rules for Class A stations, the Commission is mindful of its obligations under its existing bilateral agreements with Canada and Mexico regarding the authorization of LPTV service in the common border areas. These agreements do not contain provisions for analog or digital Class A TV stations. Under the agreements, LPTV stations have a secondary status with respect to Canadian and Mexican primary television stations and allotments and must not cause interference to the reception of these stations, nor are LPTV stations protected against interference from these stations. The agreements also include provisions for notifying and coordinating LPTV station proposals in the border areas. We agree with Grupo Televisa, S.A. (Grupo) that any authorization of Class A stations must be consistent with international agreements. We will continue to apply the LPTV provisions in our existing agreements with Canada and Mexico to LPTV stations, including those that seek Class A status. Grupo believes we should not allow primary status for any LPTV station "that is required under the U.S.-Mexican TV agreements to be operated on a secondary basis or to be coordinated between the two governments." We will not grant an analog or digital Class A license to any LPTV station affected by the U.S.-Mexican or U.S. Canadian agreements without the expressed concurrence of Canada or Mexico. We will work over time to update the current bilateral agreements to recognize when possible Class A assignments. In the interim we will attempt to obtain temporary approval of Class A stations in the border area or on a case by case basis. However, any Class A stations authorized on this basis would be subject to any conditions resulting from the coordination process or any final bilateral agreement reached with Canada and Mexico.

5. Broadcast Auxiliary Frequencies

82. LPTV stations may be authorized to operate remote pickup stations and various TV broadcast auxiliary stations (BAS). Some LPTV stations use studio-to-transmitter links and other fixed microwave links. LPTV stations may also conduct electronic newsgathering operations on BAS frequencies. Licenses for television pickup, studio-transmitter link and point-to-point TV relay stations are issued to LPTV stations on a secondary basis, such that full-service stations may displace LPTV station use of broadcast auxiliary channels. We agree with SBE that once an LPTV

station is authorized as a Class A station, all of that station's BAS licenses should automatically be upgraded to primary status; that is, upon receiving its initial Class A authorization, the station licensee will not be required separately to seek upgraded BAS licenses. Class A stations may also file applications under existing procedures, requesting authority to operate BAS stations on a primary basis. As SBE also points out, we remind Class A licensees of their responsibility to avoid interference with other users of a BAS channel, including the requirement to consult with a local frequency coordinating committee, if one exists.

IV. Conclusion

83. In this *R&O*, we adopt regulations establishing a Class A television license for qualifying low power television stations in accordance with the Community Broadcasters Protection Act of 1999. The measure of primary Class A status afforded to qualifying low power television stations will provide stability and a brighter future to these stations that provide valuable local programming services in their communities, while protecting the transition to digital television.

V. Administrative Matters

84. *Paperwork Reduction Act Analysis.* This *R&O* has been analyzed with respect to the Paperwork Reduction Act of 1995, and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget as prescribed by the Act.

85. *Regulatory Flexibility Analysis.* Pursuant to the Regulatory Flexibility Act of 1980, as amended, *see* 5 U.S.C. 604, the Commission's Final Regulatory Flexibility Analysis for this R&O is amended.

VI. Ordering Clauses

86. Pursuant to authority contained in sections 1, 4(i), 303, and 336(f) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303, and 336(f), part 73 of the Commission's rules, 47 CFR part 73, and part 74 of the Commission's rules, 47 CFR part 74, are amended as set forth below.

87. The amendments set forth shall be July 10, 2000. Class A applications may be filed beginning on the date the rules are effective.

88. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this *R&O*, including the Final Regulatory Flexibility Act Analysis, to the Chief Counsel for the Small Business Administration.

This proceeding is terminated.

IV. Final Regulatory Flexibility Analysis

89. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM*. The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. No comments were received in response to the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Adopted Rules

90. The Community Broadcasters Protection Act of 1999 (CBPA) directed the Commission, within 120 days after the date of enactment, to prescribe regulations establishing a Class A television license available to licensees of qualifying low-power television (LPTV) stations. The CBPA directs that Class A licensees be subject to the same license terms and renewal standards as full-power television licensees, and that Class A licensees be accorded primary status as a television broadcaster as long as the station continues to meet the requirements set forth in the statute for a qualifying low-power station. In addition to other matters, the CBPA sets out certain certification and application procedures for low-power television licensees seeking to obtain Class A status, prescribes the criteria low-power stations must meet to be eligible for a Class A license, and outlines the interference protection Class A applicants must provide to analog (or "NTSC"), digital ("DTV"), LPTV, and TV translator stations. The Commission is adopting the *R&O* to implement the CBPA.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

91. No comments were received in response to the IRFA.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Apply

92. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

93. *Small TV Broadcast Stations.* The SBA defines small television broadcasting stations as television broadcasting stations with $10.5 million or less in annual receipts.

94. As directed by the CBPA, the *R&O* establishes a Class A television license available to licensees of qualifying LPTV stations. According to the Commission staff review of the BIA Publications, Inc., Master Access Television Analyzer Database, virtually all LPTV broadcast stations have revenues of less than $10.5 million. Currently, there are approximately 2,200 licensed LPTV stations. The Commission notes, however, that under SBA's definition, revenues of affiliates that are not LPTV stations should be aggregated with the LPTV station revenues in determining whether a concern is small. The Commission's estimate may thus overstate the number of small entities since the revenue figure on which it is based does not include or aggregate revenues from non-LPTV affiliated companies.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

95. As directed by the CBPA, the *R&O* requires LPTV stations seeking Class A status to file certifications of eligibility and applications to convert to Class A. In addition, as directed by the CBPA, Class A stations must comply with the operating requirements for full-service television broadcast stations, including the requirements for informational and educational children's programming and the limits on commercialization during children's programming, the political programming rules, and the public inspection file rule. These rules contain a number of recordkeeping requirements that will apply to Class A stations.

Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

96. *Creating New Opportunities for Small Businesses.* Pursuant to the CBPA and the Commission's implementing rules, certain qualifying low-power television ("LPTV") stations will be accorded Class A status. Class A licensees will have "primary" status as television broadcasters, thereby gaining a measure of protection against full-service television stations, even as those

stations convert to digital format. The LPTV stations eligible for Class A status under the CBPA and the Commission's rules provide locally-originated programming, often to rural and certain urban communities that have either no or little access to local programming. LPTV stations are owned by a wide variety of licensees, including minorities and women, and often provide "niche" programming to residents of specific ethnic, racial, and interest communities. The provisions adopted in the *R&O* will facilitate the acquisition of capital needed by these stations to allow them to continue to provide free, over-the-air programming, including locally-originated programming, to their communities. In addition, by improving the commercial viability of LPTV stations that provide valuable programming, the *R&O* is consistent with the Commission's fundamental goals of ensuring diversity and localism in television broadcasting.

97. *Minimizing Impact on Existing Small Business Broadcast Stations.* The CBPA directs that Class A licensees be subject to the same license terms and renewal standards as full-power television licensees. However, the *R&O* adopts a number of rules designed to help LPTV stations seeking to convert to Class A status and exempts Class A licensees from part 73 rules that clearly cannot apply, either due to technical differences in the operation of low-power and full-power stations, or for other reasons. For example, although the *R&O* applies the Main Studio rule for the first time to LPTV stations who qualify as Class A stations, requiring them to locate their main studios within the station's Grade B contour, as determined pursuant to the Commission's rules, it grandfathers their main studios at the site in use as of November 28, 1999. The *R&O* also modifies a number of other requirements applicable to full-service television broadcast stations, including: (1) Requiring a minimum hours of operation of 18 hours per day, as required by the Statute; (2) grandfathering the use of LPTV broadcast transmitters and (3) permitting full-service NTSC stations to protect Class A stations on the basis of carrier frequency offsets.

98. In response to comments, the Commission will not apply to Class A facilities the following provisions of part 73: (1) the NTSC and DTV Tables of Allotments (§§ 73.606 and 73.607); (2) mileage separations (§ 73.610); and (3) minimum power and antenna height requirements (§ 73.614). The *R&O* also exempts Class A facilities from the principal city coverage requirement of § 73.685(a) of the rules. As proposed in the *NPRM*, the *R&O* maintains for now the current LPTV maximum power levels for Class A stations. In addition, the *R&O* does not adopt an annual certification or reporting requirement for Class A stations, but it does require licensees seeking to assign or transfer a Class A license to certify on the application for transfer or assignment of license that the station has been operated in compliance with the rules applicable to Class A stations. The *R&O* also requires that Class A renewal applications be subject to petitions to deny.

99. *Alternative eligibility criteria.* The CBPA grants the Commission authority to establish alternative eligibility criteria for LPTV stations seeking Class A designation if "the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission."

100. Congress mandated three qualifications in the CBPA. For the 90 days prior to enactment of the CBPA, an applicant must have: (1) Broadcast a minimum of 18 hours per day, (2) broadcast an average of at least 3 hours per week of programming produced within the market area served by the station, and (3) been in compliance with Commission requirements of LPTV stations. The *R&O* allows deviation from the strict statutory eligibility criteria only where such deviations are insignificant or when the Commission determines that there are compelling circumstances, such as a natural disaster or interference forcing a station off the air, and that in light of those compelling circumstances, the interest of equity mandates such a deviation.

101. The *R&O* does not establish a different set of criteria for foreign language stations that do not meet the local programming criteria for a Class A license. Although the *R&O* recognizes the valuable service provided by foreign language stations, it concludes that congressional intent was to keep the class of stations granted this special status as a small class and that locally originated programming was an integral part of the specifics of the class. Finally, the *R&O* does not adopt separate eligibility criteria for translator stations, concluding that the statute limits eligibility to LPTV stations that produce local programming and can meet the operating rules applicable to full-service stations.

Report to Congress

102. The Commission will send a copy of the *R&O*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *R&O*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *R&O* and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 11

Emergency alert system.

47 CFR Part 73 and 74

Television broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

For the reasons set forth in the preamble parts 1, 11, 73 and 74 of Title 47 of the U.S. Code of Federal Regulations is amended to read as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 1, 154(i), 154(j), 208, and 255.

* * * * *

2. Section 1.1104 is amended by adding an entry for the Class A Television Service to the table to read as follows:

§ 1.1104 Schedule of charges for applications and other filings for the mass media services.

* * * * *

8. Class A Television Service

Action	FCC form No.	Fee amount	Payment type code	Address
a. New or major change construction permit.	301–CA	$3,245	MVT	FCC, Mass Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
b. New license	302–CA	220	MJT	FCC, Mass Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
c. License renewal	303–S	130	MGT	FCC, Mass Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
d. Special Temporary Authority	Corres. and 159	130		FCC, Mass Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
e. License assignment	314 and 159 or	725	MPT	FCC, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.
	316 and 159	105	MDT	
f. Transfer of control	315 and 159 or	725	MPT	FCC, Mass Media Services, P.O. Box 358350, Pittsburgh, PA 15251–5350.
	316 and 159	105	MDT	
g. Main studio request	Corres. and 159	725	MPT	FCC, Mass Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
h. Call sign	Corres. and 159	75	MBT	FCC, Mass Media Services, P.O. Box 358165, Pittsburgh, PA 15251–5165.
VIII. Class A TV (47 CFR, Part 73).		290		FCC, Class A, P.O. Box 358835, Pittsburgh, PA, 15251–5835.

3. Section 1.1153 is amended by adding an entry for Class A TV (47 CFR, part 73) to the table to read, as follows:

§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

* * * * *

PART 11—EMERGENCY ALERT SYSTEM (EAS)

4. The authority citation for part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g) and 606.

5. Section 11.11(a) is amended by adding the words "Class A television (CA) stations;" in the first sentence after the words "TV broadcast stations;" and revising the table "Timetable Broadcast Stations" to read as follows:

§ 11.11 The Emergency Alert System (EAS).

* * * * *

TIMETABLE BROADCAST STATIONS

Requirement	AM and FM	TV	FM Class D	LPTV [1]	Class A TV
Two-tone encoder [2 3]	Y	Y	N	N	Y
Two-tone encoder [4 5]	Y	Y	Y	Y	Y
EAS decoder	Y 1/1/97	Y 1/1/97	Y 1/1/97	Y 1/1/97	Y
EAS encoder	Y 1/1/97	Y 1/1/97	N	N	Y
Audio message	Y 1/1/97	Y 1/1/97	Y 1/1/97	Y 1/1/97	Y
Video message	N/A	Y 1/1/97	N/A	Y 1/1/97	Y

[1] LPTV stations that operate as television broadcast translator stations are exempt from the requirement to have EAS equipment.
[2] Effective July 1, 1995, the two-tone signal must be 8–25 seconds.
[3] Effective January 1, 1998, the two-tone signal may only be used to provide audio alerts to audiences before EAS emergency messages and the required monthly tests.
[4] Effective July 1, 1995, the two-tone decoder must respond to two-tone signals of 3–4 seconds duration.
[5] Effective January 1, 1998, the two-tone decoder will no longer be used.

* * * * *

6. Section 11.53 is amended by revising paragraph (a)(4) to read as follows:

§ 11.53 Dissemination of Emergency Action Notification.

(a) * * *

(4) Wire service to all subscribers (AM, FM, low power FM (LPFM), TV, LPTV, Class A television (CA) and other stations).

* * * * *

PART 73—RADIO BROADCAST SERVICES

7. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

* * * * *

8. Subpart E is amended by adding § 73.613 to read as follows:

§ 73.613 Protection of Class A TV stations.

(a) An application for a new TV broadcast station or for changes in the operating facilities of an existing TV broadcast station will not be accepted for filing if it fails to comply with the requirements specified in this section.

Note to § 73.613 (a): Licensees and permittees of TV broadcast stations that were authorized on November 29, 1999 (and applicants for new TV stations that had been cut-off without competing applications or that were the winning bidder in a TV broadcast station auction as of that date, or that were the proposed remaining applicant in a group of mutually exclusive applications for which a settlement agreement was on file as of that date) may continue to operate with facilities that do not protect Class A TV stations. Applications filed on or before November 29, 1999 for a change in the operating facilities of such stations also are not required to protect Class A TV stations under the provisions of this section.

(b) Due to the frequency spacing which exists between TV channels 4 and 5, between channels 6 and 7, and between channels 13 and 14, first-adjacent channel protection standards shall not be applicable to these pairs of channels. Some interference protection requirements of this section only apply to stations transmitting on the UHF TV channels 14 through 51 (See § 73.603(a) of this part).

(c) A UHF TV broadcast station application will not be accepted if it specifies a site less than 100 kilometers from the transmitter site of a UHF Class A TV station operating on a channel which is the seventh channel above the requested channel. Compliance with this requirement shall be determined based on a distance computation rounded to the nearest kilometer.

(d) A UHF TV broadcast station application will not be accepted if it specifies a site less than 32 kilometers from the transmitter site of a UHF Class A TV station that is authorized an effective radiated power of more than 50 kilowatts and operating on a channel which is the second, third, or fourth channel above or below the requested channel. Compliance with this requirement shall be determined based on a distance computation rounded to the nearest kilometer.

(e) In cases where a TV broadcast station has been authorized facilities that do not meet the distance separation requirements of this section, an application to modify such a station's facilities will not be accepted if it decreases that separation.

(f) New interference must not be caused to Class A TV stations authorized pursuant to Subpart J of this part, within the protected contour defined in § 73.6010 of this part. For this prediction, the TV broadcast station field strength is calculated from the proposed effective radiated power and the antenna height above average terrain in pertinent directions using the methods in § 73.684 of this part.

(1) For co-channel protection, the field strength is calculated using the appropriate F(50,10) chart from Figure 9a, 10a, or 10c of § 73.699 of this part.

(2) For TV broadcast stations that do not specify the same channel as the Class A TV station to be protected, the field strength is calculated using the appropriate F(50,50) chart from Figure 9, 10, or 10b of § 73.699 of this part.

(g) A TV broadcast station application will not be accepted if the ratio in dB of its field strength to that of the Class A TV station at the Class A TV station's protected contour fails to meet the following:

(1) −45 dB for co-channel operations where the Class A TV station does not specify an offset carrier frequency or where the TV broadcast and Class A TV stations do not specify different offset carrier frequencies (zero, plus or minus) or −28 dB for offset carrier frequency operation where the TV broadcast and Class A TV stations specify different offset carrier frequencies.

(2) 6 dB when the protected Class A TV station operates on a VHF channel that is one channel above the requested channel.

(3) 12 dB when the protected Class A TV station operates on a VHF channel that is one channel below the requested channel.

(4) 15 dB when the protected Class A TV station operates on a UHF channel that is one channel above or below the requested channel.

(5) 23 dB when the protected Class A TV station operates on a UHF channel that is fourteen channels below the requested channel.

(6) 6 dB when the protected Class A TV station operates on a UHF channel that is fifteen channels below the requested channel.

(h) New interference must not be caused to digital Class A TV stations authorized pursuant to Subpart J of this part, within the protected contour defined in § 73.6010 of this part. A TV broadcast station application will not be accepted if the ratio in dB of the field strength of the digital Class A TV station at the digital Class A TV station's protected contour to the field strength resulting from the facilities proposed in the TV broadcast station application fails to meet the D/U signal ratios for "analog TV-into-DTV" specified in §§ 73.623(c)(2) and 73.623(c)(3) of this part. For digital Class A TV station protection, the TV broadcast station field strength is calculated from the proposed effective radiated power and the antenna height above average terrain in pertinent directions using the methods in § 73.684 of this part and using the appropriate F(50,10) chart from Figure 9a, 10a, or 10c of § 73.699 of this part.

(i) In cases where a TV broadcast station has been authorized facilities that do not meet the interference protection requirements of this section, an application to modify such a station's facilities will not be accepted if it is predicted to cause new interference within the protected contour of the Class A TV or digital Class A TV station.

(j) In support of a request for waiver of the interference protection requirements of this section, an applicant for a TV broadcast station may make full use of terrain shielding and Longley-Rice terrain dependent propagation methods to demonstrate that the proposed facility would not be likely to cause interference to Class A TV stations. Guidance on using the Longley-Rice methodology is provided in *OET Bulletin No. 69,* which is available through the Internet at http://www.fcc.gov/oet/info/ documents/bulletins/#69.

9. Section 73.623 is amended by adding paragraph (c)(5) to read as follows:

§ 73.623 DTV applications and changes to DTV allotments.

* * * * *

(c) * * *

(5) A DTV station application that proposes to expand the DTV station's allotted or authorized coverage area in any direction will not be accepted if it is predicted to cause interference to a Class A TV station or to a digital Class A TV station authorized pursuant to Subpart J of this part, within the protected contour defined in § 73.6010 of this part. This paragraph applies to all DTV applications filed after May 1, 2000, and to DTV applications filed between December 31, 1999 and April 30, 2000 unless the DTV station licensee or permittee notified the Commission of its intent to "maximize" by December 31, 1999.

(i) Interference is predicted to occur if the ratio in dB of the field strength of a Class A TV station at its protected contour to the field strength resulting from the facilities proposed in the DTV application (calculated using the appropriate F(50,10) chart from Figure 9a, 10a, or 10c of § 73.699 of this part) fails to meet the D/U signal ratios for "DTV-into-analog TV" specified in paragraph (c)(2) of this section.

(ii) Interference is predicted to occur if the ratio in dB of the field strength of a digital Class A TV station at its protected contour to the field strength resulting from the facilities proposed in the DTV application (calculated using the appropriate F(50,10) chart from Figure 9a, 10a, or 10c of § 73.699 of this part) fails to meet the D/U signal ratios for "DTV-into-DTV" specified in paragraphs (c)(2) and (c)(3) of this section.

(iii) In support of a request for waiver of the interference protection requirements of this section, an applicant for a DTV broadcast station may make full use of terrain shielding and Longley-Rice terrain dependent propagation methods to demonstrate that the proposed facility would not be likely to cause interference to Class A TV stations. Guidance on using the Longely-Rice methodology is provided in *OET Bulletin No. 69,* which is available through the Internet at http://www.fcc.gov/oet/info/ documents/bulletins/#69.

* * * * *

10. Section 73.1001 is amended by revising paragraphs (a) and (b) to read as follows:

§ 73.1001 Scope.

(a) The rules in this subpart are common to all AM, FM, TV and Class A TV broadcast services, commercial and noncommercial.

(b) Rules in part 73 applying exclusively to a particular broadcast service are contained in the following: AM, subpart A; FM, subpart B; Noncommercial Educational FM, subpart C; TV, subpart E; LPFM, subpart G; and Class A TV, subpart J.

* * * * *

11. Section 73.1120 is revised to read as follows:

§ 73.1120 Station location.

Each AM, FM, TV and Class A TV broadcast station will be licensed to the principal community or other political subdivision which it primarily serves. This principal community (city, town or other political subdivision) will be considered to be the geographical station location.

12. Section 73.1125 is amended by revising paragraphs (c), (d) and adding paragraph (e) to read as follows:

§ 73.1125 Station main studio location.

* * * * *

(c) Each Class A television station shall maintain a main studio at the site used by the station as of November 29, 1999 or a location within the station's Grade B contour, as defined in § 73.683 and calculated using the method specified in § 73.684 of this part.

(d) Relocation of the main studio may be made:

(1) From one point to another within the locations described in paragraph (a) or (c) of this section, or from a point outside the locations specified in paragraph (a) or (c) to one within those locations, without specific FCC authority, but notification to the FCC in Washington shall be made promptly.

(2) Written authority to locate a main studio outside the locations specified in paragraphs (a) or (c) of this section for the first time must be obtained from the Audio Services Division, Mass Media Bureau for AM and FM stations, or the Television Branch, Video Services Division for TV and Class A television stations before the studio may be moved to that location. Where the main studio is already authorized at a location outside those specified in paragraphs (a) or (c), and the licensee or permittee desires to specify a new location also located outside those locations, written authority must also be received from the Commission prior to the relocation of the main studio. Authority for these changes may be requested by filing a letter with an explanation of the proposed changes with the appropriate division. Licensees or permittees should also be aware that the filing of such a letter request does not imply approval of the relocation request, because each request is addressed on a case-by-case basis. A filing fee is required for commercial AM, FM, TV or Class A TV licensees or permittees filing a letter request under the section (see § 1.1104).

(e) Each AM, FM, TV and Class A TV broadcast station shall maintain a local telephone number in its community of license or a toll-free number.

13. Section 73.1201 is amended by revising paragraph (a) to read as follows:

§ 73.1201 Station identification.

(a) *When regularly required.* Broadcast station identification announcements shall be made: (1) at the beginning and ending of each time of operation, and (2) hourly, as close to the hour as feasible, at a natural break in program offerings. Television and Class A television broadcast stations may make these announcements visually or aurally.

* * * * *

14. Section 73.1202 is revised to read as follows:

§ 73.1202 Retention of letters received from the public.

All written comments and suggestions received from the public by licensees of commercial AM, FM, TV and Class A TV broadcast stations regarding operation of their station shall be maintained in the local public inspection file, unless the letter writer has requested that the letter not be made public or when the licensee feels that it should be excluded from the public inspection file because of the nature of its content, such as a defamatory or obscene letter.

(a) Letters shall be retained in the local public inspection file for three years from the date on which they are received by the licensee.

(b) Letters received by TV and Class A TV licensees shall be placed in one of the following separated subject categories: programming or non-programming. If comments in a letter relate to both categories, the licensee shall file it under the category to which the writer has given greater attention.

15. Section 73.1210 is amended by revising paragraphs (b) introductory text and (b)(3) to read as follows:

§ 73.1210 TV/FM dual-language broadcasting in Puerto Rico.

* * * * *

(b) Television and Class A television licensees in Puerto Rico may enter into dual-language time purchase agreements with FM broadcast licensees, subject to the following conditions:

* * * * *

(3) No television, Class A television, or FM broadcast station may devote more than 15 hours per week to dual-language broadcasting, nor may more than three (3) hours of such programming be presented on any given day.

* * * * *

16. Section 73.1211 is amended by revising paragraph (a) to read as follows:

§ 73.1211 Broadcast of lottery information.

(a) No licensee of an AM, FM, television, or Class A television broadcast station, except as in paragraph (c) of this section, shall broadcast any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise or scheme, whether said list contains any part or all of such prizes. (18 U.S.C. 1304, 62 Stat. 763).

* * * * *

17. Section 73.1250 is amended by revising paragraph (h) to read as follows:

§ 73.1250 Broadcasting emergency information.

* * * * *

(h) Any emergency information transmitted by a TV or Class A TV station in accordance with this section shall be transmitted both aurally and visually or only visually. TV and Class A TV stations may use any method of visual presentation which results in a legible message conveying the essential emergency information. Methods which may be used include, but are not necessarily limited to, slides, electronic captioning, manual methods (e.g., hand printing) or mechanical printing processes. However, when an emergency operation is being conducted under a national, State or Local Area Emergency Alert System (EAS) plan, emergency information shall be transmitted both aurally and visually unless only the EAS codes are transmitted as specified in § 11.51(b) of this chapter.

18. Section 73.1400 is amended by revising the introductory text to read as follows:

§ 73.1400 Transmission system monitoring and control.

The licensee of an AM, FM, TV or Class A TV station is responsible for assuring that at all times the station operates within tolerances specified by

applicable technical rules contained in this part and in accordance with the terms of the station authorization. Any method of complying with applicable tolerances is permissible. The following are typical methods of transmission system operation:

* * * * *

19. Section 73.1540 is amended by revising paragraph (a) to read as follows:

§ 73.1540 Carrier frequency measurements.

(a) The carrier frequency of each AM and FM station and the visual carrier frequency and the difference between the visual carrier and the aural carrier or center frequency of each TV and Class A TV station shall be measured or determined as often as necessary to ensure that they are maintained within the prescribed tolerances.

* * * * *

20. Section 73.1545 is amended by adding paragraph (e) to read as follows:

§ 73.1545 Carrier frequency departure tolerances.

* * * * *

(e) *Class A TV stations.* The departure of the carrier frequency of Class A TV stations may not exceed the values specified in § 74.761 of this chapter. Provided, however, Class A TV stations licensed to operate with a maximum effective radiated power greater than the value specified in their initial Class A TV station authorization must comply with paragraph (c) of this section.

21. Section 73.1560 is amended by revising paragraph (c)(1) to read as follows:

§ 73.1560 Operating power and mode tolerances.

* * * * *

(c) *TV stations.* (1) Except as provided in paragraph (d) of this section, the visual output power of a TV or Class A TV transmitter, as determined by the procedures specified in Sec. 73.664, must be maintained as near as is practicable to the authorized transmitter output power and may not be less than 80% nor more than 110% of the authorized power.

* * * * *

22. Section 73.1570 is amended by revising the heading and paragraph (b)(3) to read as follows:

§ 73.1570 Modulation levels: AM, FM, TV and Class A TV aural.

* * * * *

(b) * * *

(3) *TV and Class A TV stations.* In no case shall the total modulation of the aural carrier exceed 100% on peaks of frequent recurrence, unless some other peak modulation level is specified in an instrument of authorization. For monophonic transmissions, 100% modulation is defined as +/− 25 kHz.

* * * * *

23. Section 73.1580 is revised to read as follows:

§ 73.1580 Transmission system inspections.

Each AM, FM, TV and Class A TV station licensee or permittee must conduct periodic complete inspections of the transmitting system and all required monitors to ensure proper station operation.

24. Section 73.1590 is amended by revising paragraph (a) to read as follows:

§ 73.1590 Equipment performance measurements.

(a) The licensee of each AM, FM, TV and Class A TV station, except licensees of Class D non-commercial educational FM stations authorized to operate with 10 watts or less output power, must make equipment performance measurements for each main transmitter as follows:

* * * * *

25. Section 73.1615 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 73.1615 Operation during modification of facilities.

When the licensee of an existing AM, FM, TV or Class A TV station is in the process of modifying existing facilities as authorized by a construction permit and determines it is necessary to either discontinue operation or to operate with temporary facilities to continue program service, the following procedures apply:

(a) Licensees holding a construction permit for modification of directional or nondirectional FM, TV or Class A TV or nondirectional AM station facilities may, without specific FCC authority, for a period not exceeding 30 days:

* * * * *

26. Section 73.1620 is amended by revising paragraphs (a) and (a)(1) to read as follows:

§ 73.1620 Program tests.

(a) Upon completion of construction of an AM, FM, TV or Class A TV station in accordance with the terms of the construction permit, the technical provisions of the application, the rules and regulations and the applicable engineering standards, program tests may be conducted in accordance with the following:

(1) The permittee of a nondirectional AM or FM station, or a nondirectional or directional TV or Class A TV station, may begin program tests upon notification to the FCC in Washington, DC provided that within 10 days thereafter, an application for a license is filed with the FCC in Washington, DC.

* * * * *

27. Section 73.1635 is amended by revising paragraph (a)(5) to read as follows:

§ 73.1635 Special temporary authorizations (STA).

(a) * * *

(5) Certain rules specify special considerations and procedures in situations requiring an STA or permit temporary operation at variance without prior authorization from the FCC when notification is filed as prescribed in the particular rules. See § 73.62, Directional antenna system tolerances; § 73.157, Antenna testing during daytime; § 73.158, Directional antenna monitoring points; § 73.691, Visual modulation monitoring; § 73.1250, Broadcasting emergency information; § 73.1350, Transmission system operation; § 73.1560, Operating power and mode tolerances; § 73.1570, Modulation levels: AM, FM, TV and Class A TV aural; § 73.1615, Operation during modification of facilities; § 73.1680, Emergency antennas; and § 73.1740, Minimum operating schedule.

* * * * *

28. Section 73.1660 is amended by revising paragraph (a) to read as follows:

§ 73.1660 Acceptability of broadcast transmitters.

(a) An AM, FM, LPFM, TV or Class A TV transmitter shall be verified for compliance with the requirements of this part following the procedures described in part 2 of the FCC rules.

* * * * *

29. Section 73.1665 is amended by revising paragraphs (a) and (b) to read as follows:

§ 73.1665 Main transmitters.

(a) Each AM, FM, TV and Class A TV broadcast station must have at least one main transmitter which complies with the provisions of the transmitter technical requirements for the type and class of station. A main transmitter is one which is used for regular program service having power ratings appropriate for the authorized operating power(s).

(b) There is no maximum power rating limit for FM, TV or Class A TV station transmitters, however, the maximum rated transmitter power of a main transmitter stalled at an AM station shall be as follows:

Authorized power	Maximum rated transmitter power (kW)
0.25, 0.5, or 1 kW	1
2.5 kW	5
5 or 10 kW	10
25 or 50 kW	50

* * * * *

30. Section 73.1675 is amended by revising paragraphs (a)(1) and (c)(1) to read as follows:

§ 73.1675 Auxiliary antennas.

(a)(1) An auxiliary antenna is one that is permanently installed and available for use when the main antenna is out of service for repairs or replacement. An auxiliary antenna may be located at the same transmitter site as the station's main antenna or at a separate site. The service contour of the auxiliary antenna may not extend beyond the following corresponding contour for the main facility:

(i) AM stations: The 0.5 mV/m field strength contours.

(ii) FM stations: The 1.0 mV/m field strength contours.

(iii) TV stations: The Grade B coverage contours.

(iv) Class A TV stations: The protected contours defined in § 73.6010.

* * * * *

(c)(1) Where an FM, TV or Class A TV licensee proposes to use a formerly licensed main facility as an auxiliary facility, or proposes to modify a presently authorized auxiliary facility, and no changes in the height of the antenna radiation center are required in excess of the limits in § 73.1690(c)(1), the FM, TV or Class A TV licensee may apply for the proposed auxiliary facility by filing a modification of license application. The modified auxiliary facility must operate on the same channel as the licensed main facility. An exhibit must be provided with this license application to demonstrate compliance with § 73.1675(a). All FM, TV and Class A TV licensees may request a decrease from the authorized facility's ERP in the license application. An FM, TV or Class A TV licensee may also increase the ERP of the auxiliary facility in a license modification application, provided the application contains an analysis demonstrating compliance with the Commission's radiofrequency radiation guidelines, and an analysis showing that the auxiliary facility will comply with § 73.1675(a). Auxiliary facilities mounted on an AM antenna tower must also demonstrate compliance with § 73.1692 in the license application.

* * * * *

31. Section 73.1680 is amended by revising paragraph (b)(2) to read as follows:

§ 73.1680 Emergency antennas.

* * * * *

(b) * * *

(2) *FM, TV and Class A TV stations.* FM, TV and Class A TV stations may erect any suitable radiator, or use operable sections of the authorized antenna(s) as an emergency antenna.

* * * * *

32. Section 73.1690 is amended by revising paragraphs (a)(2), (b)(2), (b)(3), (b)(5), (b)(7), (b)(8), (c) introductory text, (c)(3), and (c)(4) to read as follows:

§ 73.1690 Modification of transmission systems.

* * * * *

(a) * * *

(2) Those that would cause the transmission system to exceed the equipment performance measurements prescribed for the class of service (AM, § 73.44; FM, §§ 73.317, 73.319, and 73.322; TV and Class A TV, §§ 73.682 and 73.687).

(b) * * *

(2) Any change in station geographic coordinates, including coordinate corrections. FM, TV and Class A TV directional stations must also file a construction permit application for any move of the antenna to another tower structure located at the same coordinates. Any change which would require an increase along any azimuth in the composite directional antenna pattern of an FM station from the composite directional antenna pattern authorized (see § 73.316), or any increase from the authorized directional antenna pattern for a TV broadcast (see § 73.685) or Class A TV station (see § 73.6025).

(3) Any change which would require an increase along any azimuth in the composite directional antenna pattern of an FM station from the composite directional antenna pattern authorized (see § 73.316), or any increase from the authorized directional antenna pattern for a TV broadcast (see § 73.685) or Class A TV station (see § 73.6025).

* * * * *

(5) Any decrease in the authorized power of an AM station or the ERP of a TV or Class A TV station, or any decrease or increase in the ERP of an FM commercial station, which is intended for compliance with the multiple ownership rules in § 73.3555.

* * * * *

(7) Any increase in the authorized ERP of a television station, Class A television station, FM commercial station, or noncommercial educational FM station, except as provided for in §§ 73.1690(c)(4), (c)(5), or (c)(7), or in § 73.1675(c)(1) in the case of auxiliary facilities.

(8) A commercial TV or noncommercial educational TV station operating on Channels 14 or Channel 69 or a Class A TV station on Channel 14 may increase its horizontally or vertically polarized ERP only after the grant of a construction permit. A television or Class A television station on Channels 15 through 21 within 341 km of a cochannel land mobile operation, or 225 km of a first-adjacent channel land mobile operation, must also obtain a construction permit before increasing the horizontally or vertically polarized ERP (see part 74, § 74.709(a) and (b) for tables of urban areas and corresponding reference coordinates of potentially affected land mobile operations).

(c) The following FM, TV and Class A TV station modifications may be made without prior authorization from the Commission. A modification of license application must be submitted to the Commission within 10 days of commencing program test operations pursuant to § 73.1620. With the exception of applications filed solely pursuant to paragraphs (c)(6), (c)(9), or (c)(10) of this section, the modification of license application must contain an exhibit demonstrating compliance with the Commission's radio frequency radiation guidelines. In addition, except for applications solely filed pursuant to paragraphs (c)(6) or (c)(9) of this section, where the installation is located within 3.2 km of an AM tower or is located on an AM tower, an exhibit demonstrating compliance with § 73.1692 is also required.

* * * * *

(4) Commercial and noncommercial educational FM stations operating on Channels 221 through 300 (except Class D), NTSC TV stations operating on Channels 2 through 13 and 22 through 68, Class A TV stations operating on Channels 2 through 13 and 22 through 51, and TV and Class A TV stations operating on Channels 15 through 21 that are in excess of 341 km (212 miles) from a cochannel land mobile operation or in excess of 225 km (140 miles) from a first-adjacent channel land mobile operation (see part 74, § 74.709(a) and (b) for tables of urban areas and reference coordinates of potentially affected land mobile operations), which operate omnidirectionally, may increase the vertically polarized effective radiated power up to the authorized horizontally polarized effective radiated power in a license modification

application. Noncommercial educational FM licensees and permittees on Channels 201 through 220, that do not use separate antennas mounted at different heights for the horizontally polarized ERP and the vertically polarized ERP, and are located in excess of the separations from a Channel 6 television station listed in Table A of § 73.525(a)(1), may also increase the vertical ERP, up to (but not exceeding) the authorized horizontally polarized ERP via a license modification application. Program test operations may commence at full power pursuant to § 73.1620(a)(1).

* * * * *

33. Section 73.1740 is amended by adding paragraph (a)(5) to read as follows:

§ 73.1740 Minimum operating schedule.

(a) * * *

(5) *Class A TV stations.* Not less than 18 hours in each day of the week.

* * * * *

34. Section 73.1870 is amended by revising paragraph (a) to read as follows:

§ 73.1870 Chief operators.

(a) The licensee of each AM, FM, TV or Class A TV broadcast station must designate a person to serve as the station's chief operator. At times when the chief operator is unavailable or unable to act (*e.g.*, vacations, sickness), the licensee shall designate another person as the acting chief operator on a temporary basis.

* * * * *

34. Section 73.2080 is amended by revising paragraph (a) to read as follows:

§ 73.2080 Equal employment opportunities.

(a) *General EEO Policy.* Equal opportunity in employment shall be afforded by all licensees or permittees of commercially or noncommercially operated AM, FM, TV, Class A TV, or international broadcast station (as defined in this part) to all qualified persons, and no person shall be discriminated against in employment by such stations because of race, color, religion, national origin, or sex.

* * * * *

35. The table in § 73.3500 (a) is amended by adding the entry "302–CA, Application for Class A Television Broadcasting Station Construction Permit or License," in numerical order to read as follows:

§ 73.3500 Application and report forms.

* * * * *

302–CA Application for Class A Television Broadcasting Station Construction Permit or License

* * * * *

36. Section 73.3516 is amended by revising paragraph (a) to read as follows:

§ 73.3516 Specification of facilities.

(a) An application for facilities in the AM, FM, TV or Class A TV broadcast services, or low power TV service shall be limited to one frequency, or channel, and no application will be accepted for filing if it requests an alternate frequency or channel. Applications specifying split frequency AM operations using one frequency during daytime hours complemented by a different frequency during nighttime hours will not be accepted for filing.

* * * * *

37. Section 73.3526 is amended by revising paragraphs (a)(2), (e)(11)(i) through (e)(11)(iii), and (e)(15), and by adding a paragraph (e)(17) to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

(a) * * *

(2) Every permittee or licensee of an AM, FM, TV or Class A TV station in the commercial broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(1) through (e)(10) and paragraph (e)(13) of this section. In addition, every permittee or licensee of a commercial TV or Class A TV station shall maintain for public inspection a file containing material, relating to that station, described in paragraphs (e)(11) and (e)(15) of this section, and every permittee or licensee of a commercial AM or FM station shall maintain for public inspection a file containing the material, relating to that station, described in paragraphs (e)(12) and (e)(14) of this section. A separate file shall be maintained for each station for which an authorization is outstanding, and the file shall be maintained so long as an authorization to operate the station is outstanding.

* * * * *

(e) * * *

(11)(i) *TV issues/programs lists.* For commercial TV and Class A TV broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (*e.g.*, January 10 for the quarter October–December, April 10 for the quarter January–March, etc.) The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

(ii) *Records concerning commercial limits.* For commercial TV and Class A TV broadcast stations, records sufficient to permit substantiation of the station's certification, in its license renewal application, of compliance with the commercial limits on children's programming established in 47 U.S.C. 303a and 47 CFR 73.670. The records for each calendar quarter must be filed by the tenth day of the succeeding calendar quarter (*e.g.*, January 10 for the quarter October–December, April 10 for the quarter January–March, etc.). These records shall be retained until final action has been taken on the station's next license renewal application.

(iii) *Children's television programming reports.* For commercial TV and Class A TV broadcast stations, on a quarterly basis, a completed Children's Television Programming Report ("Report"), on FCC Form 398, reflecting efforts made by the licensee during the preceding quarter, and efforts planned for the next quarter, to serve the educational and informational needs of children. The Report for each quarter is to be filed by the tenth day of the succeeding calendar quarter. The Report shall identify the licensee's educational and informational programming efforts, including programs aired by the station that are specifically designed to serve the educational and informational needs of children, and it shall explain how programs identified as Core Programming meet the definition set forth in § 73.671(c). The Report shall include the name of the individual at the station responsible for collecting comments on the station's compliance with the Children's Television Act, and it shall be separated from other materials in the public inspection file. These Reports shall be retained in the public inspection file until final action has been taken on the station's next license renewal application. Licensees shall publicized in an appropriate manner the existence and location of these Reports. For an experimental period of three years, licensees shall file these Reports with the Commission on an annual basis, *i.e.*, four quarterly reports filed jointly each year, in electronic form as of January 10, 1999.

These reports shall be filed with the Commission on January 10, 1998, January 10, 1999, and January 10, 2000.

* * * * *

(15) *Must-carry or retransmission consent election.* Statements of a commercial television or Class A television station's election with respect to either must-carry or re-transmission consent, as defined in § 76.64 of this chapter. These records shall be retained for the duration of the three year election period to which the statement applies.

* * * * *

(17) *Class A TV continuing eligibility.* Documentation sufficient to demonstrate that the Class A television station is continuing to meet the eligibility requirements set forth at § 73.6001.

38. Section 73. 3536 is amended by adding a paragraph (c) to read as follows:

§ 73.3536 Application for license to cover construction permit.

* * * * *

(c) Eligible low power television stations which have been granted a certificate of eligibility may file FCC Form 302-CA, "Application for Class A Television Broadcast Station Construction Permit Or License."

39. Section 73.3550 is amended by revising paragraph (f) and (m) to read as follows:

§ 73.3550 Requests for new or modified call sign assignments.

* * * * *

(f) Only four-letter call signs (plus an LP, FM, TV or CA suffix, if used) will be assigned. The four letter call sign for LPFM stations will be followed by the suffix "-LP." However, subject to the other provisions of this section, a call sign of a station may be conformed to a commonly owned station holding a three-letter call assignment (plus FM, TV, CA or LP suffixes, if used).

* * * * *

(m) Where a requested call sign, without the "-FM," "-TV," "-CA" or "LP" suffix, would conform to the call sign of any other non-commonly owned station(s) operating in a different service, an applicant utilizing the on-line reservation and authorization system will be required to certify that consent to use the secondary call sign has been obtained from the holder of the primary call sign.

* * * * *

40. Section 73.3572 is amended by revising the section heading and paragraphs (a)(1) through (c) and paragraphs (e)(1) through (g) to read as follows:

§ 73.3572 Processing of TV Broadcast, Class A TV Broadcast, low power TV, TV translator and TV booster station applications.

(a) * * *

(1) In the first group are applications for new stations or major changes in the facilities of authorized stations. A major change for TV broadcast stations authorized under this part is any change in frequency or community of license which is in accord with a present allotment contained in the Table of Allotments (§ 73.606). Other requests for change in frequency or community of license for TV broadcast stations must first be submitted in the form of a petition for rulemaking to amend the Table of Allotments.

(2) In the case of Class A TV stations authorized under subpart J of this part and low power TV, TV translator, and TV booster stations authorized under part 74 of this chapter, a major change is any change in:

(i) Frequency (output channel), except a change in offset carrier frequency; or

(ii) Transmitting antenna location where the protected contour resulting from the change is not predicted to overlap any portion of the protected contour based on the station's authorized facilities.

(3) Other changes will be considered minor; provided, until October 1, 2000, proposed changes to the facilities of Class A TV, low power TV, TV translator and TV booster stations, other than a change in frequency, will be considered minor only if the change(s) will not increase the signal range of the Class A TV, low power TV or TV booster in any horizontal direction.

(4) The following provisions apply to displaced Class A TV, low power TV, TV translator and TV booster stations:

(i) In the case of an authorized low power TV, TV translator or TV booster which is predicted to cause or receive interference to or from an authorized TV broadcast station pursuant to § 74.705 of this chapter or interference with broadcast or other services under § 74.703 or § 74.709 of this chapter, an application for a change in output channel, together with technical modifications which are necessary to avoid interference (including a change in antenna location of less than 16.1km), will not be considered as an application for a major change in those facilities.

(ii) Provided further, that a low power TV, TV translator or TV booster station authorized on a channel from channel 52 to 69, or which is causing or receiving interference or is predicted to cause or receive interference to or from an authorized DTV station pursuant to § 74.706 of this chapter, or which is located within the distances specified in paragraph (4)(iv) of this section to the coordinates of co-channel DTV authorizations (or allotment table coordinates if there are no authorized facilities at different coordinates), may at any time file a displacement relief application for a change in output channel, together with any technical modifications which are necessary to avoid interference or continue serving the station's protected service area. Such an application will not be considered as an application for a major change in those facilities. Where such an application is mutually exclusive with applications for new low power TV, TV translator or TV booster stations, or with other nondisplacement relief applications for facilities modifications of Class A TV, low power TV, TV translator or TV booster stations, priority will be afforded to the displacement application(s) to the exclusion of the other applications.

(iii) A Class A TV station which is causing or receiving interference or is predicted to cause or receive interference to or from an authorized TV broadcast station pursuant to §§ 73.6011 or 73.613; a DTV station or allotment pursuant to §§ 73.6013 or 73.623, or which is located within the distances specified below in paragraph (iv) of this section to the coordinates of co-channel DTV authorizations (or allotment table coordinates if there are no authorized facilities at different coordinates); or other service that protects and/or is protected by Class A TV stations, may at any time file a displacement relief application for a change in channel, together with technical modifications that are necessary to avoid interference or continue serving the station's protected service area, provided the station's protected contour resulting from a relocation of the transmitting antenna is predicted to overlap some portion of the protected contour based on its authorized facilities. A Class A TV station displacement relief applications will be considered major change applications, and will be placed on public notice for a period of not less than 30 days to permit the filing of petitions to deny. However, these applications will not be subject to the filing of competing applications. Where a Class A displacement relief application becomes mutually exclusive with applications for new low power TV, TV translator or TV booster stations, or with other non-displacement relief applications for facilities modifications of Class A TV, low power TV, TV translator or TV booster stations, priority will be afforded to the Class A

TV displacement relief application(s) to the exclusion of other applications. Mutually exclusive displacement relief applications of Class A TV, low power TV, TV translators or TV booster stations filed on the same day will be subject to competitive bidding procedures if the mutual exclusivity is not resolved by an engineering solution.

(iv)(A) The geographic separations to co-channel DTV facilities or allotment reference coordinates, as applicable, within which to qualify for displacement relief are the following:

(1) Stations on UHF channels: 265 km (162 miles)

(2) Stations on VHF channels 2–6: 280 km (171 miles)

(3) Stations on VHF channels 7–13: 260 km (159 miles)

(B) Engineering showings of predicted interference may also be submitted to justify the need for displacement relief.

(v) Provided further, that the FCC may, within 15 days after acceptance of any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore subject to the provisions of §§ 73.3522, 73.3580, and 1.1111 of this chapter pertaining to major changes. Such major modification applications filed for Class A TV, low power TV, TV translator, TV booster stations, and for a non-reserved television allotment, are subject to competitive bidding procedures and will be dismissed if filed outside a specified filing period. *See* 47 CFR 73.5002(a).

(b) A new file number will be assigned to an application for a new station or for major changes in the facilities of an authorized station, when it is amended so as to effect a major change, as defined in paragraphs (a)(1) or (a)(2) of this section, or result in a situation where the original party or parties to the application do not retain more than 50% ownership interest in the application as originally filed and § 73.3580 will apply to such amended application. An application for change in the facilities of any existing station will continue to carry the same file number even though (pursuant to FCC approval) an assignment of license or transfer of control of such licensee or permittee has taken place if, upon consummation, the application is amended to reflect the new ownership.

(c) Amendments to Class A TV, low power TV, TV translator, TV booster stations, or non-reserved television applications, which would require a new file number pursuant to paragraph (b) of this section, are subject to competitive bidding procedures and will be dismissed if filed outside a specified filing period. See 47 CFR 73.5002(a). When an amendment to an application for a reserved television allotment would require a new file number pursuant to paragraph (b) of this section, the applicant will have the opportunity to withdraw the amendment at any time prior to designation for a hearing if applicable; and may be afforded, subject to the discretion of the Administrative Law Judge, an opportunity to withdraw the amendment after designation for a hearing.

* * * * *

(e)(1) The FCC will specify by Public Notice, pursuant to § 73.5002, a period for filing applications for a new non-reserved television, low power TV and TV translator stations or for major modifications in the facilities of such authorized stations and major modifications in the facilities of Class A TV stations.

(2) Such applicants shall be subject to the provisions of §§ 1.2105 of this chapter and competitive bidding procedures. See 47 CFR 73.5000 et seq.

(f) Applications for minor modification of Class A TV, low power TV, TV translator and TV booster stations may be filed at any time, unless restricted by the FCC, and will be processed on a "first-come/first-served" basis, with the first acceptable application cutting off the filing rights of subsequent, competing applicants. Provided, however, that applications for minor modifications of Class A TV and those of TV broadcast stations may become mutually exclusive until grant of a pending Class A TV or TV broadcast minor modification application and will be subject to competitive bidding procedures.

(g) TV booster station applications may be filed at any time. Subsequent to filing, the FCC will release a Public Notice accepting for filing and proposing for grant those applications which are not mutually exclusive with any other TV translator, low power TV, TV booster, or Class A TV application, and providing for the filing of Petitions To Deny pursuant to § 73.3584.

41. Section 73.3580 is amended by revising the first and second sentence of paragraph (c) and adding paragraph (d)(5) to read as follows:

§ 73. 3580 Local public notice of filing of broadcast applications.

* * * * *

(c) An applicant who files an application or amendment thereto which is subject to the provisions of this section, must give notice of this filing in a newspaper. Exceptions to this requirement are applications for renewal of AM, FM, TV, Class A TV and international broadcasting stations; low power TV stations; TV and FM translator stations; TV boosters stations; FM boosters stations; and applications subject to paragraph (e) of this section.

* * * * *

(d) * * *

(5) An applicant who files for a Class A television license must give notice of this filing by broadcasting announcements on applicant's station. (Sample and schedule of announcements follow.) Newspaper publication is not required.

(i) The broadcast notice requirement for those filing for Class A television license applications and amendment thereto are as follows:

(A) *Pre-filing announcements.* Two weeks prior to the filing of the license application, the following announcement shall be broadcast on the 5th and 10th days of the two week period. The required announcements shall be made between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain Time) Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

(B) *On (date), the Federal Communications Commission granted (Station's call letters) a certification of eligibility to apply for Class A television status.* To become eligible for a Class A certificate of eligibility, a low power television licensee was required to certify that during the 90-day period ending November 28, 1999, the station:

(1) Broadcast a minimum of 18 hours per day;

(2) Broadcast an average of at least three hours per week of programming produced within the market area served by the station or by a group of commonly-owned low power television stations; and

(3) Had been in compliance with the Commission's regulations applicable to the low power television service. The Commission may also issue a certificate of eligibility to a licensee unable to satisfy the foregoing criteria, if it determines that the public interest, convenience and necessity would be served thereby.

(4) (Station's call letters) intends to file an application (FCC Form 302–CA) for a Class A television license in the near future. When filed, a copy of this application will be available at (address of location of the station's public inspection file) for public inspection during our regular business hours. Individuals who wish to advise the FCC of facts relating to the station's

eligibility for Class A status should file comments and petitions with the FCC prior to Commission action on this application.

(C) *Post-filing announcements.* The following announcement shall be broadcast on the 1st and 10th days following the filing of an application for a Class A television license. The required announcements shall be made between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain Time). Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

(D) On (date of filing license application) (Station's call letters) filed an application, FCC Form 302–CA, for a Class A television license. Such stations are required to broadcast a minimum of 18 hours per day, and to average at least 3 hours of locally produced programming each week, and to comply with certain full-service television station operating requirements. A copy of this application is available for public inspection during our regular business hours at (address of location of the station's public inspection file). Individuals who wish to advise the FCC of facts relating to the station's eligibility for Class A status should file comments and petitions with the FCC prior to Commission action on this application.

* * * * *

42. Section 73.3612 is revised to read as follows:

§ 73.3612 Annual employment report.

Each licensee of permittee of a commercially or noncommercially operated AM, FM, TV, Class A TV or International Broadcast station with five or more employees shall file an annual employment report with the FCC on or before September 30 of each year on FCC Form 395.

43. Subpart J is added to read as follows.

Subpart J—Class A Television Broadcast Stations

Sec.

§ 73.6000 Definitions.

Locally produced programming. For the purpose of this subpart, locally produced programming is programming:

(1) Produced within the predicted Grade B contour of the station or within the predicted Grade B contours of any of the stations in a commonly owned group; or

(2) Programming produced at the station's main studio. See *Report and Order,* In the Matter of Establishment of a Class A Television Service, MM Docket No. 00–10, released April 4, 2000.

§ 73.6001 Eligibility and service requirements.

(a) Qualified low power television licensees which, during the 90-day period ending November 28, 1999, operated their stations in a manner consistent with the programming and operational standards set forth in the Community Broadcasters Protection Act of 1999, may be accorded primary status as Class A television licensees.

(b) Class A television broadcast stations are required to:

(1) Broadcast a minimum of 18 hours per day; and

(2) Broadcast an average of at least three hours per week of locally produced programming each quarter.

(c) Licensed Class A television broadcast stations shall be accorded primary status as a television broadcaster as long as the station continues to meet the minimum operating requirements for Class A status.

(d) Licensees unable to continue to meet the minimum operating requirements for Class A television stations, or which elect to revert to low power television status, shall promptly notify the Commission, in writing, and request a change in status.

§ 73.6002 Licensing requirements.

(a) A Class A television broadcast license will only be issued to a qualified low power television licensee that:

(1) Filed a Statement of Eligibility for Class A Low Power Television Station Status on or before January 28, 2000, which was granted by the Commission; and

(2) Files an acceptable application for a Class A Television license (FCC Form 302–CA).

§§ 73.6003–73.6005 [Reserved]

§ 73.6006 Channel assignments.

Class A TV stations will not be authorized on UHF TV channels 52 through 69, or on channels unavailable for TV broadcast station use pursuant to § 73.603 of this part.

§ 73.6007 Power limitations.

An application to change the facilities of an existing Class A TV station will not be accepted if it requests an effective radiated power that exceeds the power limitation specified in § 74.735 of this chapter.

§ 73.6008 Distance computations.

The distance between two reference points must be calculated in accordance with § 73.208(c) of this part.

§ 73.6010 Class A TV station protected contour.

(a) A Class A TV station will be protected from interference within the following predicted signal contours:

(1) 62 dBu for stations on Channels 2 through 6;

(2) 68 dBu for stations on Channels 7 through 13; and

(3) 74 dBu for stations on Channels 14 through 51.

(b) The Class A TV station protected contour is calculated from the effective radiated power and antenna height above average terrain, using the F(50,50) charts of Figure 9, 10 or 10b of § 73.699 of this part.

(c) A digital Class A TV station will be protected from interference within the following predicted signal contours:

(1) 43 dBu for stations on Channels 2 through 6;

(2) 48 dBu for stations on Channels 7 through 13; and

(3) 51 dBu for stations on Channels 14 through 51.

(d) The digital Class A TV station protected contour is calculated from the effective radiated power and antenna height above average terrain, using the F(50,90) signal propagation method specified in § 73.625(b)(1) of this part.

§ 73.6011 Protection of TV broadcast stations.

Class A TV stations must protect authorized TV broadcast stations, applications for minor changes in authorized TV broadcast stations filed

on or before November 29, 1999, and applications for new TV broadcast stations that had been cut-off without competing applications or that were the winning bidder in a TV broadcast station auction as of that date, or that were the proposed remaining applicant in a group of mutually-exclusive applications for which a settlement agreement was on file as of that date. Protection of these stations and applications must be based on the requirements specified in § 74.705 of this chapter. An application to change the facilities of an existing Class A TV station will not be accepted if it fails to protect these TV broadcast stations and applications pursuant to the requirements specified in § 74.705 of this chapter.

§ 73.6012 Protection of Class A TV, low power TV and TV translator stations.

An application to change the facilities of an existing Class A TV station will not be accepted if it fails to protect other authorized Class A TV, low power TV and TV translator stations and applications for changes in such stations filed prior to the date the Class A application is filed, pursuant to the requirements specified in § 74.707 of this chapter.

§ 73.6013 Protection of DTV stations.

Class A TV stations must protect the DTV service that would be provided by the facilities specified in the DTV Table of Allotments in § 73.622 of this part, by authorized DTV stations and by applications that propose to expand DTV stations' allotted or authorized coverage contour in any direction, if such applications either were filed before December 31, 1999 or were filed between December 31, 1999 and May 1, 2000 by a DTV station licensee or permittee that had notified the Commission of its intent to "maximize" by December 31, 1999. Protection of these allotments, stations and applications must be based on not causing predicted interference within the service area described in § 73.622(e) of this part. The interference analysis is based on the methods described in §§ 73.623(c)(2) through (c)(4) of this part, except that a Class A TV station must not cause a loss of service to 0.5 percent or more of the population predicted to receive service from the DTV allotment, station or application. An application to change the facilities of an existing Class A TV station will not be accepted if it fails to protect these DTV allotments, stations and applications in accordance with this section.

§ 73.6014 Protection of digital Class A TV stations.

An application to change the facilities of an existing Class A TV station will not be accepted if it fails to protect authorized digital Class A TV stations and applications for changes in such stations filed prior to the date the Class A application is filed, pursuant to the requirements specified in § 74.706 of this chapter.

§ 73.6016 Digital Class A TV station protection of TV broadcast stations.

Digital Class A TV stations must protect authorized TV broadcast stations, applications for minor changes in authorized TV broadcast stations filed on or before November 29, 1999, and applications for new TV broadcast stations that had been cut-off without competing applications or that were the winning bidder in a TV broadcast station auction as of that date, or that were the proposed remaining applicant in a group of mutually-exclusive applications for which a settlement agreement was on file as of that date. This protection must be based on meeting the D/U ratios for "DTV-into-analog TV" specified in § 73.623(c)(2) of this part at the Grade B contour of the TV broadcast station or application. An application for DTV operation of an existing Class A TV station or to change the facilities of a digital Class A TV station will not be accepted if it fails to protect these TV broadcast stations and applications pursuant to these requirements.

§ 73.6017 Digital Class A TV station protection of Class A TV, low power TV, and TV translator stations.

An application for digital operation of an existing Class A TV station or to change the facilities of a digital Class A TV station will not be accepted if it fails to meet the D/U ratios for "DTV-into-analog TV" specified in § 73.623(c)(2) of this part at the protected contours as defined in § 73.6010 of this part for other authorized Class A TV stations and § 74.707 of this chapter for low power TV and TV translator stations. This protection also must be afforded to applications for changes in other authorized Class A TV, low power TV and TV translator stations filed prior to the date the digital Class A application is filed.

§ 73.6018 Digital Class A TV station protection of DTV stations.

Digital Class A TV stations must protect the DTV service that would be provided by the facilities specified in the DTV Table of Allotments in § 73.622 of this part, by authorized DTV stations and by applications that propose to expand DTV stations' allotted or authorized coverage contour in any direction, if such applications either were filed before December 31, 1999 or were filed between December 31, 1999 and May 1, 2000 by a DTV station licensee or permittee that had notified the Commission of its intent to "maximize" by December 31, 1999. Protection of these allotments, stations and applications must be based on not causing predicted interference within the service area described in § 73.622(e) of this part. The interference analysis is based on the methods described in §§ 73.623(c)(2) through (c)(4) of this part, except that a digital Class A TV station must not cause a loss of service to 0.5 percent or more of the population predicted to receive service from the DTV allotment, station or application. An application for digital operation of an existing Class A TV station or to change the facilities of a digital Class A TV station will not be accepted if it fails to protect these DTV allotments, stations and applications in accordance with this section.

§ 73.6019 Digital Class A TV station protection of digital Class A TV stations.

An application for digital operation of an existing Class A TV station or to change the facilities of a digital Class A TV station will not be accepted if it fails to meet the D/U ratios for "DTV-into-DTV" specified in § 73.623(c)(2) through (c)(4) of this part at the protected contours as defined in § 73.6010 of this part for other authorized Class A TV stations and applications for changes filed prior to the date the digital Class A application is filed.

§ 73.6020 Protection of stations in the land mobile radio service.

An application to change the facilities of an existing Class A TV station will not be accepted if it fails to protect stations in the land mobile radio service pursuant to the requirements specified in § 74.709 of this chapter. In addition to the protection requirements specified in § 74.709(a) of this chapter, Class A TV stations must not cause interference to land mobile stations operating on channel 16 in New York, NY.

§ 73.6022 Negotiated interference and relocation agreements.

(a) Notwithstanding the technical criteria in this subpart, Subpart E of this part, and Subpart G of part 74 of this chapter regarding interference protection to and from Class A TV stations, Class A TV stations may negotiate agreements with parties of authorized and proposed analog TV, DTV, LPTV, TV translator, Class A TV stations or other affected parties to

resolve interference concerns; *provided*, however, other relevant requirements are met with respect to the parties to the agreement. A written and signed agreement must be submitted with each application or other request for action by the Commission. Negotiated agreements under this paragraph can include the exchange of money or other considerations from one entity to another. Applications submitted pursuant to the provisions of this paragraph will be granted only if the Commission finds that such action is consistent with the public interest.

(b) A Class A TV station displaced in channel by a channel allotment change for a DTV station may seek to exchange channels with the DTV station, provided both parties consent in writing to the change and that the Class A station meets all applicable interference protection requirements on the new channel. Such requests will be treated on a case-by-case basis and, if approved, will not subject the Class A station to the filing of competing applications for the exchanged channel.

§ 73.6024 Transmission standards and system requirements.

(a) A Class A TV station must meet the requirements of §§ 73.682 and 73.687, except as provided in paragraph (b) of this section.

(b) A Class A TV station may continue to operate with the transmitter operated under its previous LPTV license, provided such operation does not cause any condition of uncorrectable interference due to radiation of radio frequency energy outside of the assigned channel. Such operation must continue to meet the requirements of §§ 74.736 and 74.750 of this chapter.

(c) A Class A TV station is not required to operate on an offset carrier frequency and must meet the frequency tolerance requirements of § 73.1545 of this part.

§ 73.6025 Antenna system and station location.

(a) Applications for modified Class A TV facilities proposing the use of directional antenna systems must be accompanied by the following:

(1) Complete description of the proposed antenna system, including the manufacturer and model number of the proposed directional antenna. In the case of a composite antenna composed of two or more individual antennas, the antenna should be described as a "composite" antenna. A full description of the design of the antenna should also be submitted.

(2) Relative field horizontal plane pattern (horizontal polarization only) of the proposed directional antenna. A value of 1.0 should be used for the maximum radiation. The plot of the pattern should be oriented so that 0 degrees (True North) corresponds to the maximum radiation of the directional antenna or, alternatively in the case of a symmetrical pattern, the line of symmetry. Where mechanical beam tilt is intended, the amount of tilt in degrees of the antenna vertical axis and the orientation of the downward tilt with respect to true North must be specified, and the horizontal plane pattern must reflect the use of mechanical beam tilt.

(3) A tabulation of the relative field pattern required in paragraph (a)(2), of this section. The tabulation should use the same zero degree reference as the plotted pattern, and be tabulated at least every 10 degrees. In addition, tabulated values of all maxima and minima, with their corresponding azimuths, should be submitted.

(4) Horizontal and vertical plane radiation patterns showing the effective radiated power, in dBk, for each direction. Sufficient vertical plane patterns must be included to indicate clearly the radiation characteristics of the antenna above and below the horizontal plane. In cases where the angles at which the maximum vertical radiation varies with azimuth, a separate vertical radiation pattern must be provided for each pertinent radial direction.

(5) The horizontal and vertical plane patterns that are required are the patterns for the complete directional antenna system. In the case of a composite antenna composed of two or more individual antennas, this means that the patterns for the composite antenna, not the patterns for each of the individual antennas, must be submitted.

(b) Applications for modified Class A TV facilities proposing to locate antennas within 61.0 meters (200 feet) of other Class A TV or TV broadcast antennas operating on a channel within 20 percent in frequency of the proposed channel, or proposing the use of antennas on Channels 5 or 6 within 61.0 meters (200 feet) of FM broadcast antennas, must include a showing as to the expected effect, if any, of such proximate operation.

(c) Where a Class A TV licensee or permittee proposes to mount an antenna on an AM antenna tower, or locate within 3.2 km of an AM directional station, the TV licensee or permittee must comply with Sec. 73.1692.

(d) Class A TV stations are subject to the provisions in § 73.685(d) regarding blanketing interference.

§ 73.6026 Broadcast regulations applicable to Class A television stations.

The following sections are applicable to Class A television stations:

§ 73.603 Numerical designation of television channels.
§ 73.635 Use of common antenna site.
§ 73.642 Subscription TV service.
§ 73.643 Subscription TV operating requirements.
§ 73.644 Subscription TV transmission systems.
§ 73.646 Telecommunications Service on the Vertical Blanking Interval and in the Visual Signal.
§ 73.653 Operation of TV aural and visual transmitters.
§ 73.658 Affiliation agreements and network program practice; territorial exclusivity in non-network program arrangements.
§ 73.664 Determining operating power.
§ 73.665 Use of TV aural baseband subcarriers.
§ 73.667 TV subsidiary communications services.
§ 73.669 TV stereophonic aural and multiplex subcarrier operation.
§ 73.670 Commercial limits in children's programs.
§ 73.671 Educational and informational programming for children.
§ 73.673 Public information initiatives regarding educational and informational programming for children.
§ 73.688 Indicating instruments.
§ 73.691 Visual modulation monitoring.

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES.

44. The authority citation for part 74 is revised to read as follows:

Authority: 47 U.S.C. 154, 303, 307, 336(f) and 554.

45. Section 74.432 is amended by revising paragraph (a) to read as follows:

§ 74.432 Licensing requirements and procedures.

(a) A license for a remote pickup station will be issued to: the licensee of an AM, FM, noncommercial FM, low power FM, TV, Class A TV, international broadcast or low power TV station; broadcast network-entity; or cable network-entity.

* * * * *

46. Section 74.600 is revised to read as follows:

§ 74.600 Eligibility for license.

A license for a station in this subpart will be issued only to a television broadcast station, a Class A TV station,

a television broadcast network-entity, a low power TV station, or a TV translator station.

47. Section 74.601 is revised to read as follows:

§ 74.601 Classes of TV broadcast auxiliary stations.

(a) *TV pickup stations.* A land mobile station used for the transmission of TV program material and related communications from scenes of events occurring at points removed from TV station studios to a TV broadcast, Class A TV or low power TV station or other purposes as authorized in § 74.631.

(b) *TV STL station (studio-transmitter link).* A fixed station used for the transmission of TV program material and related communications from the studio to the transmitter of a TV broadcast, Class A TV or low power TV station or other purposes as authorized in § 74.631.

(c) *TV relay station.* A fixed station used for transmission of TV program material and related communications for use by TV broadcast, Class A TV and low power TV stations or other purposes as authorized in § 74.631.

(d) *TV translator relay station.* A fixed station used for relaying programs and signals of TV broadcast or Class A TV stations to Class A TV, LPTV, TV translator, and to other communications facilities that the Commission may authorize or for other purposes as permitted by § 74.631.

(e) *TV broadcast licensee.* Licensees and permittees of TV broadcast, Class A TV and low power TV stations, unless specifically otherwise indicated.

(f) *TV microwave booster station.* A fixed station in the TV broadcast auxiliary service that receives and amplifies signals of a TV pickup, TV STL, TV relay. or TV translator relay station and retransmits them on the same frequency.

48. Section 74.602 is amended by revising paragraphs (f) and (h) to read as follows:

§ 74.602 Frequency assignment.

* * * * *

(f) TV auxiliary stations licensed to low power TV stations and translator relay stations will be assigned on a secondary basis, *i.e.*, subject to the condition that no harmful interference is caused to other TV auxiliary stations assigned to TV broadcast and Class A TV stations, or to community antenna relay stations (CARS) operating between 12,700 and 13,200 MHz. Auxiliary stations licensed to low power TV stations and translator relay stations must accept any interference caused by stations having primary use of TV auxiliary frequencies.

* * * * *

(h) TV STL and TV relay stations may be authorized, on a secondary basis and subject to the provisions of Subpart G of this chapter, to operate fixed point-to-point service on the UHF–TV channels 14–69. These stations must not interfere with and must accept interference from current and future full-power UHF–TV stations, Class A TV stations, LPTV stations, and TV translator stations. They will also be secondary to current land mobile stations (in areas where land mobile sharing is currently permitted and contingent on the decision reached in the pending Dockets No. 85–172 and No. 84–902).

* * * * *

49. Section 74.703 is amended by revising paragraph (a) to read as follows:

§ 74.703 Interference.

(a) An application for a new low power TV, TV translator, or TV booster station or for a change in the facilities of such an authorized station will not be granted when it is apparent that interference will be caused. Except where there is a written agreement between the affected parties to accept interference, or where it can be shown that interference will not occur due to terrain shielding and/or Longley-Rice terrain dependent propagation methods, the licensee of a new low power TV, TV translator, or TV booster shall protect existing low power TV and TV translator stations from interference within the protected contour defined in § 74.707 and shall protect existing Class A TV and digital Class A TV stations within the protected contours defined in § 73.6010 of this chapter. Such written agreement shall accompany the application. Guidance on using the Longley-Rice methodology is provided in OET Bulletin No. 69. Copies of OET Bulletin No. 69 may be inspected during normal business hours at the: Federal Communications Commission, 445 12th Street, S.W., Reference Information Center (Room CY–A257), Washington, DC 20554. This document is also available through the Internet on the FCC Home Page at http://www.fcc.gov/oet/info/documents/bulletins/#69.

* * * * *

50. Subpart G is amended by adding a new § 74.708 to read as follows:

§ 74.708 Class A TV and digital Class A TV station protection.

(a) The Class A TV and digital Class A TV station protected contours are specified in § 73.6010 of this chapter.

(b) An application to construct a new low power TV, TV translator, or TV booster station or change the facilities of an existing station will not be accepted if it fails to protect an authorized Class A TV or digital Class A TV station or an application for such a station filed prior to the date the low power TV, TV translator, or TV booster application is filed.

(c) Applications for low power TV, TV translator and TV booster stations shall protect Class A TV stations pursuant to the requirements specified in paragraphs (b) through (e) of § 74.707.

(d) Applications for low power TV, TV translator and TV booster stations shall protect digital Class A TV stations pursuant to the following requirements:

(i) An application must not specify an antenna site within the protected contour of a co-channel digital Class A TV station.

(ii) The ratio in dB of the field strength of the low power TV, TV translator or TV booster station to that of the digital Class A TV station must meet the requirements specified in paragraph (d) of § 74.706, calculated using the propagation methods specified in paragraph (c) of that section.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1815, 1819, and 1852

Elimination of Elements as a Category in Evaluations

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final Rule.

SUMMARY: This final rule amends the NASA FAR Supplement (NFS) by eliminating the term "elements" as a category in evaluations. NASA does not numerically weight and score "elements" and therefore they have ceased to have significance in the evaluation and award of NASA's contracts.

EFFECTIVE DATE: May 10, 2000.

FOR FURTHER INFORMATION CONTACT: Paul Brundage, (202) 358–0481, email: pbrundage@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the **Federal Register** on December 16, 1999 (64 FR 70208–70209). No comments were received. This final rule adopts the proposed rule without change.

B. Regulatory Flexibility Act

NASA certifies that this rule 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 the change modifies administrative procedures and does not impose any new requirements on offerors or contractors.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose record keeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

Lists of Subjects in 48 CFR Parts 1815, 1819, and 1852

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR parts 1815, 1819, and 1852 are amended as follows:

1. The authority citation for 48 CFR Parts 1815, 1819, and 1852 continues to read as follows:

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

PART 1815—CONTRACTING BY NEGOTIATION

1815.303 [Amended]

2. In section 1815.303, paragraph (b)(i)(A) is amended by removing the words "and elements,".

3. In section 1815.304–70, paragraphs (a) and (b) are revised to read as follows:

1815.304–70 NASA evaluation factors.

(a) Typically, NASA establishes three evaluation factors: Mission Suitability, Cost/Price, and Past Performance. Evaluation factors may be further defined by subfactors. Evaluation subfactors should be structured to identify significant discriminators, or "key swingers"—the essential information required to support a source selection decision. Too many subfactors undermine effective proposal evaluation. All evaluation subfactors should be clearly defined to avoid overlap and redundancy.

(b) Mission Suitability factor. (1) This factor indicates the merit or excellence of the work to be performed or product to be delivered. It includes, as appropriate, both technical and management subfactors. Mission Suitability shall be numerically weighted and scored on a 1000-point scale.

(2) The Mission Suitability factor may identify evaluation subfactors to further define the content of the factor. Each Mission Suitability subfactor shall be weighted and scored. The adjectival rating percentages in 1815.305(a)(3)(A) shall be applied to the subfactor weight to determine the point score. The number of Mission Suitability subfactors is limited to five. The Mission Suitability evaluation subfactors and their weights shall be identified in the RFP.

(3) For cost reimbursement acquisitions, the Mission Suitability evaluation shall also include the results of any cost realism analysis. The RFP shall notify offerors that the realism of proposed costs may significantly affect their Mission Suitability scores.

* * * * *

4. In section 1815.370, paragraphs (b), (d)(4), and (h)(2) are revised; paragraph (h)(3)(ii) is amended by removing "elements,"; paragraph (i)(3) is amended by removing "and elements,"; and paragraphs (i)(6)(ii) and (i)(7) are revised to read as follows:

1815.370 NASA source evaluation boards.

* * * * *

(b) The SEB assists the SSA by providing expert analyses of the offerors' proposals in relation to the evaluation factors and subfactors contained in the solicitation. The SEB will prepare and present its findings to the SSA, avoiding trade-off judgments among either the individual offerors or among the evaluation factors. The SEB will not make recommendations for selection to the SSA.

* * * * *

(d) * * *

(4) An SEB committee functions as a factfinding arm of the SEB, usually in a broad grouping of related disciplines (e.g., technical or management). The committee evaluates in detail each proposal, or portion thereof, assigned by the SEB in accordance with the approved evaluation factors and subfactors and summarizes its evaluation in a written report to the SEB. The committee will also respond to requirements assigned by the SEB, including further justification or reconsideration of its findings. Committee chairpersons shall manage the administrative and procedural matters of their committees.

* * * * *

(h) * * *

(2) The presentation shall focus on the significant strengths, deficiencies, and significant weaknesses found in the proposals, the probable cost of each proposal, and any significant issues and problems identified by the SEB. This presentation must explain any applicable special standards of responsibility; evaluation factors and subfactors; the significant strengths and significant weaknesses of the offerors; the Government cost estimate, if applicable; the offerors' proposed cost/price; the probable cost; the proposed fee arrangements; and the final adjectival ratings and scores to the subfactor level.

* * * * *

(i) * * *

(6) * * *

(ii) Directly relate the significant strengths, deficiencies, and significant weaknesses to the evaluation factors and subfactors.

* * * * *

(7) *Final Mission Suitability Ratings and Scores.* Summarizes the evaluation subfactors, the maximum points achievable, and the scores of the offerors in the competitive range.

* * * * *

PART 1819—SMALL BUSINESS PROGRAMS

1819.7206 [Amended]

5. In section 1819.7206, paragraph (a) is amended by removing the words "or element".

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.217–71 [Amended]

6. In section 1852.217–71, "(OCTOBER 1998)" is revised to read "(MAY 2000)", and paragraph (g) is amended by removing the words "and elements".

1852.217–72 [Amended]

7. In section 1852.217–72, "(OCTOBER 1998)" is revised to read "(MAY 2000)", and paragraph (g) is amended by removing the words "and elements".

[FR Doc. 00–11729 Filed 5–9–00; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 000218046-0117; I.D. 121599F]

RIN 0648–AN42

Antarctic Marine Living Resources; Harvesting and Dealer Permits, and Catch Documentation

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to revise permit requirements for U.S. vessels harvesting, or transshipping catch of, *Dissostichus eleginoides* (Patagonian toothfish) and *Dissostichus mawsoni* (Antarctic toothfish) harvested in all waters, including those under the jurisdiction of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). These regulations govern U.S. harvesters, receivers, importers and exporters of toothfish wherever caught, as well as other Antarctic marine living resources. NMFS will no longer use "import" permits as part of its regulatory requirements, instead it will use "dealer" permits. Persons receiving, importing, or re-exporting toothfish are required to validate and submit *Dissostichus* Catch Documents (DCD) to NMFS. This rule implements U.S. obligations as a Contracting Party of CCAMLR to conserve Antarctic and Patagonian toothfish by preventing or otherwise discouraging unlawful harvest and trade in these species.

DATES: This final rule is effective May 5, 2000.

ADDRESSES: Copies of the Environmental Assessment and Regulatory Impact Review/Regulatory Flexibility Analysis (EA and RIR/RFA) supporting this action may be obtained from Dean Swanson, International Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments involving the reporting burden estimates or any other aspects of the collection of information requirements contained in this final rule should be sent to both Dean Swanson, at the above address, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (ATTN: NOAA Desk Officer). Comments sent by e-mail or the Internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: Dean Swanson or Angela Somma at 301–713–2276 or FAX 301–713–2313.

SUPPLEMENTARY INFORMATION: The Antarctic fisheries are managed under the authority of the Antarctic Marine Living Resources Convention Act of 1984 (Act) codified at 16 U.S.C. 2431 *et seq.* NMFS implements CCAMLR conservation measures by regulations at 50 CFR part 300, subpart G. Background information about the need for revisions to the Antarctic fisheries regulations was provided in the preamble to the proposed rule (65 FR 13284, March 13, 2000) and is not repeated here.

Comments and Responses

NMFS received written comments during the 30-day comment period on the proposed rule. When drafting the final EA and RIR/RFA and the final regulations, NMFS considered all comments received. Comments were received on the proposed rule from an industry trade association, several importers of toothfish, several environmental organizations, the U.S. Customs Service, and the Department of State. All supported the action taken by CCAMLR.

Comment 1: Several commenters objected to a continuation of the import permit requirements as applied to incoming toothfish at the same time as the DCD requirements are being implemented.

Response: NMFS intends to withdraw such import permit requirements by formal rulemaking once the DCD requirements have their intended effect within the United States and other CCAMLR member states.

Comment 2: Several commenters suggested that NMFS should review and approve the completeness and accuracy of a DCD before a shipment of toothfish arrives at U.S. Customs.

Response: As this alternative was not suggested or considered in the proposed rule and the EA, and the United States is legally obligated to implement the DCD requirements on May 7, 2000, it was not feasible to incorporate this suggestion into the rulemaking given the deadline. NMFS intends to discuss this suggestion with an interagency group with experience with pre-approval procedures for restricted imports to determine whether a pre-approval system can improve compliance with the CCAMLR catch documentation scheme. NMFS will consider the advice of this group and the results of compliance with the DCD scheme in determining whether to propose an amendment to this rule. NMFS is committed to implementing U.S. obligations arising from CCAMLR in a comprehensive manner that aims at full compliance by U.S. nationals and other individuals subject to U.S. jurisdiction.

Comment 3: One commenter expressed concern about the commercially sensitive nature of information required on the DCD.

Response: The DCD is a CCAMLR-prescribed form, and NMFS is not able to change it. NMFS does not believe any Privacy Act provisions are violated by the form.

Comment 4: One commenter said that, as written, the proposed rule is unclear whether the rule requires each landing of toothfish at U.S. ports by non-U.S. flag vessels to be accompanied by a DCD.

Response: Non-U.S. vessels are already prohibited by law from landing toothfish at U.S. ports (Nicholson Act, 46 U.S.C. 251–252). Therefore, NMFS does not believe that this issue needs to be addressed in this rulemaking. In addition, under the provisions at § 300.107(c)(2), all offloadings of toothfish by U.S. harvesting vessels must be accompanied by a DCD, and the provisions at § 300.107(c)(3) require a DCD for transshipment of toothfish as well. § 300.107 (c)(5) requires a DCD for the importation of toothfish regardless of the nationality of the vessel that brought it to port.

Comment 5: One commenter said that the rule will not prevent all shipments of toothfish accompanied by incomplete DCDs from entering into the customs territory of the United States because it requires merely that each shipment of toothfish coming into the United States be accompanied by a DCD.

Response: NMFS disagrees that this rule requires each shipment of toothfish coming into the United States only to be accompanied by a DCD. Each shipment of toothfish must be accompanied by a complete and validated DCD as required under the CCAMLR catch documentation scheme. The provision at § 300.107 (c)(1)(ii) says "No shipment of *Dissostichus* species shall be released for entry into the United States unless accompanied by a complete and validated CCAMLR DCD, except as provided in paragraph (c)(7) of this subsection."

Comment 6: One commenter said that CCAMLR/NMFS should consider mandatory use of a vessel monitoring system (VMS) as a precautionary measure in conjunction with the DCD by vessels offloading toothfish into the United States.

Response: CCAMLR requires VMS on harvesting vessels of its Contracting

Parties participating in some fisheries, but it does not have the legal authority to require the use of VMS on harvesting vessels of non-contracting parties. CCAMLR did not include VMS requirements within its new toothfish catch documentation scheme. NMFS, therefore, did not consider the alternative of including a VMS requirement in the present rulemaking.

Changes From the Proposed Rule

The two finfish species that are being added to the definition of "Antarctic finfishes," *Lepidonotothen kempi* and *Electrona carlsbergi*, were misspelled in the proposed rule. The spelling has been corrected.

The definition of "*Dissostichus* catch document (DCD)" has been corrected to delete the reference to vessels authorized to transship *Dissostichus* species because DCDs are not issued to transshipment vessels.

The definition of "transship" has been clarified to mean the transfer of fish or fish products from one vessel to another.

In § 300.107, paragraph (c) on catch documentation has been reformatted to improve readability.

In § 300.112, paragraph (k) has been clarified to apply to any U.S. flagged vessel that receives or attempts to receive *Dissostichus* species from a harvesting vessel at sea rather than any vessel subject to the jurisdiction of the United States that engages or attempts to engage in this activity.

In § 300.115, paragraph (b) is revised and paragraphs (q) and (r) have been added to enhance enforceability and clarify usage.

Throughout, reference to "the customs territory of the United States" has been changed to "the United States" to comport with the definition of "import" under the Act.

NMFS is not implementing the provisions contained in § 300.116 of the proposed rule at this time due to unresolved enforcement issues. NMFS will rely on existing statutory and regulatory authorities on a case-by-case basis when addressing any resources denied entry.

Classification

The Assistant Administrator for Fisheries (AA), NMFS, determined that this final rule is necessary for the conservation and management of Antarctic marine living resources and is consistent with the Antarctic Marine Living Resources Convention Act of 1984, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification or the EA/RIR/RFA and the basis for this certification has not changed. Impacts were considered in the EA/RIR/RFA (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB control number.

This rule contains a collection-of-information requirement subject to the PRA. OMB has approved this collection-of-information requirement under OMB control number 0648–0194. The estimated burden for dealer permits to import is 30 minutes per occurrence. The estimated burden for applying for a dealer permit to re-export *Dissostichus* species is 30 minutes per occurrence, and the application for a harvest permit authorizing transshipment is estimated to take 12 minutes per occurrence. Completion and submission of an import ticket is estimated to take no more than 15 minutes per occurrence. The estimated burden for completion and submission of DCDs is 3 minutes for each submission by importers, 10 minutes for each submission by re-exporters, and 15 minutes for each submission by harvesting vessels and transshipers. The logbook requirement in § 300.107(a) is not subject to the PRA because it is a requirement imposed by an international organization rather than by NMFS.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS and to OMB (see **ADDRESSES**).

Because the implementation of CCAMLR DCD program becomes an obligation of the United States and other CCAMLR members on May 7, 2000, there is good cause to waive the 30-day delay in effectiveness for this rule under 5 U.S.C. 553 (d)(3). To fulfill its international obligations under CCAMLR, the United States must implement the DCD scheme by May 7, 2000. Successful implementation is dependent upon CCAMLR members implementing the scheme at the same time because the DCD can only be issued by the flag State of the harvesting vessel. Although U.S. vessels do not currently harvest toothfish, the United States is a significant importer. Because of this, the success of the global DCD scheme depends substantially on the United States implementing the harvest tracking system as close to May 7, 2000, as possible, to avoid confusion, to discourage trade in unlawfully harvested toothfish, and to facilitate international trade in lawful shipments of toothfish. The final rule provides a 60-day exception for toothfish harvested prior to the effective date of the final rule. The rule must be in effect by May 7, 2000, or as soon as practicable thereafter, and any delay would be contrary to the public interest and unnecessary.

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Fishing vessels, Foreign relations, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: May 5, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300, subpart G, is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart G—Antarctic Marine Living Resources

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

Authority: 16 U.S.C. 2431 *et seq.*

2. In § 300.101, the definition of "Antarctic finfishes" is amended by adding an entry in the table for "Striped-eyed rockcod" immediately following the existing entry for "Grey Rockcod" and two others for "Antarctic toothfish" and "Lanternfish" immediately following the existing entry for "Patagonian toothfish." The definition of "Antarctic marine living resources or AMLR(s)" is revised, and the definitions for "Dealer", *Dissostichus* catch document (DCD)", "*Dissostichus* species" and "Transship" are added in alphabetical order to read as follows:

§ 300.101 Definitions.

* * * * *

Antarctic finfishes include the following:

Scientific name	Common name
* * * * * * *	
Lepidonotothen kempi	Striped-eyed rockcod.
* * * * * * *	
Dissostichus mawsoni ..	Antarctic toothfish.
Electrona carlsbergi	Lanternfish.
* * * * * * *	

Antarctic marine living resources or AMLR(s) means:

(1) The populations of finfish, mollusks, crustaceans, and all other species of living organisms, including birds, found south of the Antarctic Convergence;

(2) All species of *Dissostichus*, wherever found; and

(3) All parts or products of those populations and species set forth in paragraphs (1) and (2) of this definition.

* * * * *

Dealer means the person who first receives AMLRs from a harvesting vessel or transshipment vessel or who imports AMLRs into, or re-exports AMLRs from, the United States.

* * * * *

Dissostichus catch document (DCD) means the uniquely numbered catch documentation form approved by the Commission and issued by a flag state to its vessels authorized to harvest *Dissostichus* species.

Dissostichus species means Patagonian toothfish and/or Antarctic toothfish and their parts or products.

* * * * *

Transship means the transfer of fish or fish products from one vessel to another.

3. Section 300.107 is revised to read as follows:

§ 300.107 Reporting and recordkeeping requirements.

(a) *Vessels.* The operator of any vessel required to have a permit under this subpart must:

(1) Accurately maintain on board the vessel a fishing logbook and all other reports and records required by its permit;

(2) Make such reports and records available for inspection upon the request of an authorized officer or CCAMLR inspector; and

(3) Within the time specified in the permit, submit a copy of such reports and records to NMFS at an address designated by NMFS.

(b) *Dealers.* Dealers of AMLRs required to have a permit under this subpart must:

(1) Accurately maintain all reports and records required by their permits;

(2) Make such reports and records available for inspection upon the request of an authorized officer or CCAMLR inspector; and

(3) Within the time specified in the permit, submit a copy of such reports and records to NMFS at an address designated by NMFS.

(c) *Catch documentation*—(1) *General.* (i) The CCAMLR DCD must accompany all shipments of *Dissostichus* species as required in this subsection.

(ii) No shipment of *Dissostichus* species shall be released for entry into the United States unless accompanied by a complete and validated CCAMLR DCD, except as provided in paragraph (c)(7) of this section.

(2) *Harvesting vessels.* (i) In addition to any harvesting permit or authorization previously issued, a U.S. vessel harvesting or attenpting to harvest *Dissostichus* species must possess a DCD issued by NMFS which is non-transferrable. The master of the harvesting vessel must ensure that the catch information specified on the DCD is accurately recorded.

(ii) Prior to offloading of *Dissostichus* species, the master of the harvesting vessel must:

(A) electronically convey by the most rapid means possible catch information to NMFS and record on the DCD a confirmation number received from NMFS;

(B) Obtain on the DCD (or copies thereof) the signature(s) of the following persons: if catch is offloaded for transshipment, the master of the vessel(s) to which the catch is transferred; or if catch is offloaded for landing, the signature of both the responsible official(s) designated by NMFS in the harvesting permit, and the dealer(s) that receives the catch at the port(s) of landing; and

(C) Sign the DCD (or copies thereof), electronically convey by the most rapid means possible each copy to NMFS, and provide a copy to each recipient of the catch.

(iii) The master of the harvesting vessel must submit the original DCD (or all copies thereof with original signatures) to NMFS no later than 30 days after the end of the fishing season as authorized for that vessel on its harvesting permit.

(3) *Transshipment vessels.* (i) The master of a U.S. vessel issued a permit to transship *Dissostichus* species must, upon receipt of *Dissostichus* species, sign each DCD provided by the master of the harvesting vessel.

(ii) Prior to landing *Dissostichus* species, the master of the transshipping vessel must:

(A) Obtain on each DCD (or copies thereof) the signature(s) of both the responsible official(s) designated by NMFS in the permit, and the dealer(s) that receives the catch at the port(s) of landing and

(B) Sign each DCD (or copies thereof), and electronically convey by the most rapid means possible each copy to NMFS and to the flag state(s) of the harvesting vessel(s) and provide a copy to each dealer receiving *Dissostichus* species.

(iii) The master of the transshipping vessel must submit all DCDs with original signatures to NMFS no later than 30 days after offloading and retain copies for a period of 2 years.

(4) *Receivers upon landing.* Any dealer who receives *Dissostichus* species from a harvesting vessel or from a transshipment vessel must sign the DCD(s) provided by the master of the vessel.

(5) *Import.* (i) Any dealer who imports *Dissostichus* species must:

(A) Obtain the DCD(s) that accompany the import shipment;

(B) Mail or fax the DCD(s) to NMFS within 24 hours of the release from customs custody, and

(C) Retain a copy for his/her records and provide copies to exporters as needed.

(ii) Dealers must retain at their place of business a copy of the DCD for a period of 2 years from the date on the DCD.

(6) *Re-export.* (i) Any dealer who re-exports *Dissostichus* species must complete a *Dissostichus* re-export document by indicating:

(A) The amount from the original DCD(s) that is exported in the particular export shipment;

(B) The number of the original DCD(s);

(C) The name of the importer and point of import; and

(D) The exporter's name, address and permit number.

(ii) The dealer must then sign the re-export document and obtain validation by a responsible official(s) designated by NMFS.

(iii) The original validated *Dissostichus* re-export document and copies of the original DCD(s) must accompany the export shipment.

(iv) The dealer must retain a copy of the re-export document and copies of the DCD(s)at his/her place of business for a period of 2 years from the date on the DCD.

(7) *Exception. Dissostichus* species harvested prior to the effective date of this rule may be imported during the first 60 days following the effective date of this rule, provided that the date of the harvest(s) are corroborated on the dealer permit.

4. In § 300.112, paragraph (k) is added to read as follows:

§ 300.112 Harvesting permits.

* * * * *

(k) *Transshipment vessels.* Any U.S. flagged vessel that receives or attempts to receive *Dissostichus* species from a harvesting vessel at sea, regardless of whether such transshipment occurs in waters under the jurisdiction of CCAMLR, must obtain from NMFS a harvesting permit authorizing transshipment. Transshipment vessels must comply with the permitting provisions of this section with respect to harvesting vessels.

5. Section 300.113 is revised to read as follows:

§ 300.113 Dealer permits.

(a) *General.* (1) A dealer must obtain an AMLRs dealer permit from NMFS. Only those specific activities stipulated by the permit are authorized for the permit holder.

(2) An AMLR may be imported into the United States if its harvest has been authorized by a U.S.-issued individual permit or a harvesting permit issued under § 300.112 (a)(1) or its importation has been authorized by a NMFS-issued dealer permit issued under paragraph (a) of this section. AMLR's may not be released for entry into the United States unless accompanied by the harvesting permit, the individual permit, a NMFS-issued dealer permit, or a copy thereof.

(3) In addition to any applicable catch documentation required under § 300.107 (c)(1), the dealer is required to complete and return to NMFS, no later than 24 hours after the date of the importation, an import ticket reporting the importation. In no event may a marine mammal be imported into the United States unless authorized and accompanied by an import permit issued under the Marine Mammal Protection Act and/or the Endangered Species Act.

(4) A dealer permit issued under this section does not authorize the harvest or transshipment of any AMLR by or to a vessel of the United States.

(b) *Application.* Application forms for AMLR dealer permits are available from NMFS. A complete and accurate application must be submitted for each permit at least 30 days before the anticipated date of the first receipt, importation, or re-export.

(c) *Issuance.* NMFS may issue a dealer permit if it determines that the activity proposed by the dealer meets the requirements of the Act and that the resources were not or will not be harvested in violation of any conservation measure in force with respect to the United States or in violation of any regulation in this subpart.

(d) *Duration.* A permit issued under this section is valid from its date of issuance to its date of expiration unless it is revoked or suspended.

(e) *Transfer.* A permit issued under this section is not transferable or assignable.

(f) *Changes in information*–(1) *Pending applications.* Applicants for permits under this section must report in writing to NMFS any change in the information submitted in their permit applications. The processing period for the application will be extended as necessary to review and consider the change.

(2) *Issued permits.* Any entity issued a permit under this section must report in writing to NMFS any changes in previously submitted information. Any changes that would not result in a change in the receipt or importation authorized by the permit must be reported on the import ticket required to be submitted to NMFS no later than 24 hours after the date of receipt or importation. Any changes that would result in a change in the receipt or importation authorized by the permit, i.e., harvesting vessel or country of origin, type and quantity of the resource to be received or imported, and Convention statistical subarea from which the resource was harvested must be proposed in writing to NMFS and may not be undertaken unless authorized by NMFS through issuance of a revised or new permit.

(g) *Revision, suspension, or revocation.* A permit issued under this section may be revised, suspended, or revoked, based upon a violation of the permit, the Act, or this subpart. Failure to report a change in the information contained in a permit application voids the application or permit, as applicable. Title 15 CFR part 904 governs permit sanctions under this subpart.

6. In § 300.115, paragraph (b) is revised and paragraphs (q) and (r) are added to read as follows:

§ 300.115 Prohibitions.

* * * * *

(b) Import into or export from the United States any AMLRs taken by vessels without a permit to harvest those resources as required by § 300.112 (a)(1), or without applicable catch documentation as required by § 300.107 (c)(1), or without a dealer permit as required by § 300.113 (a)(1), or in violation of the terms and conditions for such import or export as specified on the permit.

* * * * *

(q) Provide incomplete or inaccurate information about the harvest, transshipment, landing, import or re-export of applicable species on any document required under this subpart.

(r) Receive AMLRs from a vessel without a dealer or harvesting permit issued under this subpart.

7. In § 300.116, paragraph (d) is added and reserved to read as follows:

§ 300.116 Facilitation of enforcement and inspection.

* * * * *

(d) *Disposition of resources denied entry.* [Reserved]

[FR Doc. 00–11666 Filed 5–5–00; 2:01 pm]
BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 91
Wednesday, May 10, 2000

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 76

[Docket No. PRM–76–1]

United Plant Guard Workers of America; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by John M. Driskill on behalf of Local 111 of the United Plant Guard Workers of America. The petition has been docketed by the Commission and has been assigned Docket No. PRM–76–1. The petitioner requests that the NRC amend its regulations concerning security at gaseous diffusion plants to address sites that have both special nuclear material security concerns and protection of classified matter concerns; to require that these facilities be able to detect, respond to, and mitigate threats of a sabotage event; and to require that the security force be armed and empowered to make arrests in limited situations. The petitioner believes that these amendments are necessary to address the protection of classified information, equipment and materials, and special nuclear material at the gaseous diffusion plants.

DATES: Submit comments by July 24, 2000. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rulemakings and Adjudications staff.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

For a copy of the petition, write to David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

You may also provide comments via the NRC's interactive rulemaking website at http://ruleforum.llnl.gov. This site provides the capability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905 (e-mail: CAG@nrc.gov).

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7162 or Toll-free: 1–800–368–5642 or E-mail: DLM1@NRC.GOV.

SUPPLEMENTARY INFORMATION:

Background

On March 30, 2000, the Nuclear Regulatory Commission (NRC) docketed a March 13, 2000, letter from John M. Driskill, President of Local 111 of the United Plant Guard Workers of America, to William Travers, the NRC's Executive Director for Operations, as a petition for rulemaking under 10 CFR 2.802. In this letter, Mr. Driskill requested that the NRC's regulations applicable to safeguards and security at gaseous diffusion plants be amended under 10 CFR 2.206. The § 2.206 process is applicable to actions that would suspend, modify, or revoke a license. Requests to add, amend, or remove a regulation are processed under 10 CFR 2.802. Therefore, Mr. Driskill's request was docketed under the procedures applicable to petitions for rulemaking contained in § 2.802.

The Regulations

The gaseous diffusion plants located in Piketon, Ohio and Paducah, Kentucky have obtained a certificate of compliance issued under the provisions of 10 CFR part 76. This ensures that these plants operate in compliance with those requirements considered necessary to protect the public health and safety from radiological hazards and to provide for the common defense and security. The regulations in Subpart E of Part 76 address safeguards and security requirements for the gaseous diffusion plants.

The gaseous diffusion plants process Category III levels of special nuclear material as described in 10 CFR 73.2. The petitioner notes that these types of quantities require a minimum level of security, as specified in 10 CFR 73.67, to minimize the possibility for the unauthorized removal of special nuclear material. The specified level of security is intended to be consistent with the potential consequences of such an action. The petitioner also notes that the regulations in 10 CFR part 95 establish security requirements for the protection of classified matter at the levels of confidential restricted data and secret restricted data. The petitioner further notes that these two security protocols are not similar.

The Requested Actions

The petitioner requests that the NRC amend its regulations applicable to safeguards and security at the Portsmouth and Paducah gaseous diffusion plants. The requested amendments would—

1. Require more stringent security programs to protect both the special nuclear material and classified matter;
2. Require that these facilities be able to detect, respond to, and mitigate threats of a sabotage event; and
3. Require the security force to be armed and empowered to make arrests in limited situations, such as for violations of the Atomic Energy Act.

Material Security and Classified Matter

The petitioner asserts that the regulations do not adequately address sites that have both nuclear material security concerns and classified matter concerns. The petitioner believes that the applicable regulations were not appropriately merged in the regulations governing gaseous diffusion plants to address a site that covers the protection of classified information, equipment and materials, and special nuclear material.

The petitioner provides an example of this situation in the Controlled Area Fence Line. The petitioner explains that the fence line serves as a minimum level of protection against the unauthorized removal of special nuclear material contained in 10 and 20 ton cylinders.

The petitioner explains that the portals and gates are in place to ensure that personnel who gain access to the controlled access area have the proper clearance or are under escort and ensuring that prohibited articles are not allowed into the controlled area. The petitioner believes that the missing element of security is whether the fence line, which the petitioner believes does minimize the unauthorized removal of special nuclear material of 10 and 20 ton cylinders, adequately protects against the unauthorized removal of restricted information, equipment, and other materials or the unauthorized access to these types of materials.

The petitioner asserts that other facilities that possess Category III quantities of special nuclear material regulated by the NRC do not share the level of concern for classified matter, equipment, and technology that exists at the gaseous diffusion plants. The petitioner suggests that the regulations concerning security programs at the gaseous diffusion plants, such as escort requirements and physical security measures, should be amended to be made more stringent to protect this technology.

Sabotage Events

According to the petitioner, the NRC typically relies on local law enforcement agencies to respond to incidents of workplace violence or sabotage at material licensee facilities. The petitioner states that the scope and complexity of a gaseous diffusion plant makes it far different from other types of NRC licensed materials facilities. Furthermore, the petitioner believes that these differences result in unique problems in relying on local law enforcement agencies to protect such a facility from violent incidents. The petitioner indicates that local law enforcement agencies in the vicinity of the Paducah plant have stated, for the record, that they should not be viewed as a replacement for on-site security because of their lack of knowledge of the plant site, the types of hazards contained in the plant, and their limited resources. The petitioner presents two letters, attached to the petition, from law enforcement agencies in the vicinity of the Paducah plant that support this contention.

Because of the unique nature of gaseous diffusion plants and the importance of their operation, the petitioner believes that a violent incident or an act of sabotage would affect national security. The petitioner also asserts that, because of the many radiological and toxicological hazards associated with these plants, an act of sabotage could adversely affect the safety of plant workers and the public.

The petitioner believes that these dangers were not addressed as part of the certification process. According to the petitioner, current NRC standards do not require a security force that is capable of preventing a sabotage event. The petitioner requests that the regulations be amended to require that security forces at the gaseous diffusion plants be able to detect, respond to, and mitigate violent incidents or acts of sabotage.

The petitioner also notes that current regulations do not require that the security force be armed or empowered to enforce the Atomic Energy Act. The petitioner requests that security officers at the gaseous diffusion plants be armed and empowered to make arrests in limited situations, such as for violations of the Atomic Energy Act.

Dated at Rockville, Maryland, this 4th day of May, 2000.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 00–11662 Filed 5–9–00; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–103–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–200, –300, –400, and –500 series airplanes. This proposal would require replacement of existing door handle mounting hub assemblies with new, improved hub assemblies. This proposal is prompted by reports of cracked or broken mounting hub assemblies for the interior door handles on the cabin doors. The actions specified by the proposed AD are intended to prevent cracking or breaking of the door handle mounting hub, which could result in the interior door handle breaking off while the door is being opened. In an emergency situation, this could impede evacuation of the airplane.

DATES: Comments must be received by June 26, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–103–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Keith Ladderud, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2780; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this 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 2000–NM–103–AD."

The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–103–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that cracked or broken mounting hub assemblies for the interior door handles on the cabin doors have been found on certain Boeing Model 737–200, –300, –400, and –500 series airplanes. The primary use of the interior door handle is to be turned to latch the door after the door is shut using the assist handles. If the interior door handle is also used to close the door, the moment arm of the door handle puts too much force on the existing aluminum door handle mounting hub, which causes the mounting hub to crack or break. This condition, if not corrected, could result in the interior door handle breaking off while the door is being opened. In an emergency situation, this could impede evacuation of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 737–25–1322, Revision 2, dated February 19, 1998. That service bulletin describes procedures for replacement of existing door handle mounting hub assemblies in the forward and aft entry doors, forward galley door, and aft service door, with new, improved hub assemblies. The new mounting hub assemblies are made of stainless steel and are stronger than the existing aluminum mounting hub assemblies. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. .

Explanation of Requirements of Proposed Rule

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

Differences Between the Proposed Rule and the Service Information

Operators should note that the proposed AD would require replacement of existing door handle mounting hub assemblies with new, improved hub assemblies within 18 months after the effective date of this AD. The service bulletin recommends that the mounting hub in the forward entry door be replaced at the next "A" check, and the mounting hub assemblies in the aft entry door, forward galley door, and aft service door be replaced at the next "C" check. In developing an appropriate compliance time for this proposed AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to replace the mounting hub assemblies (approximately 3 work hours per door). In light of all of these factors, the FAA finds an 18-month compliance time for initiating the proposed actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 1,575 airplanes of the affected design in the worldwide fleet. The FAA estimates that 632 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per airplane (3 work hours per door) to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would cost approximately $2,150 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,813,840, or $2,870 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 2000–NM–103–AD.

Applicability: Model 737–200, –300, –400, and –500 series airplanes; as listed in Boeing Service Bulletin 737–25–1322, Revision 2, dated February 19, 1998; 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 cracking or breaking of the door handle mounting hub, which could result in the interior door handle breaking off while the door is being opened, and, in an emergency situation, could impede evacuation of the airplane, accomplish the following:

Replacement

(a) Within 18 months after the effective date of this AD, replace existing door handle mounting hub assemblies in the forward and aft entry doors, forward galley door, and aft service door, with new, improved hub assemblies, in accordance with Boeing Service Bulletin 737–25–1322, Revision 2, dated February 19, 1998.

Note 2: Replacements accomplished prior to the effective date of this AD in accordance with Boeing Service Bulletin 737–25–1322, dated January 19, 1995, or Revision 1, dated December 19, 1996, are considered acceptable for compliance with paragraph (a) of this AD.

Alternative Methods of Compliance

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

Special Flight Permits

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

Issued in Renton, Washington, on May 4, 2000.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–11725 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–50–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –15, –30, –30F (KC–10A military), and –40 series airplanes. This proposal would require performing repetitive ultrasonic inspections of the attaching bolts on the inboard and outboard support on the inboard and outboard flap assembly to detect failed bolts, or verifying the torque of the attaching bolts on the inboard support on the outboard flap; and follow-on actions. This proposal also would require replacing all bolts with bolts made from Inconel, which would constitute terminating action for the repetitive inspection requirements. This proposal is prompted by a report of an in-flight loss of the inboard flap assembly on an airplane during approach for landing. The actions specified by the proposed AD are intended to prevent in-flight loss of inboard and outboard flap assemblies due to failure of H–11 attaching bolts, which could result in reduced controllability of the airplane.

DATES: Comments must be received by June 26, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–50–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5224; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this 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 2000–NM–50–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–50–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report of an in-flight loss of the left inboard flap assembly on a McDonnell Douglas Model DC–10 series airplane during approach for landing. Investigation revealed that bolts made from H–11 steel, which attach the outboard hinge to the lower surface of the flap, had failed. Analysis of the bolts determined the cause of failure to be stress corrosion. The FAA has received no damage or failure reports about the outboard flaps. However, the inboard and outboard hinges are attached to the lower surface of the flap using similar type design and the same material as the installation of the inboard flap outboard hinge. Failure of H–11 attaching bolts could result in an in-flight loss of inboard and outboard flap assemblies. and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC10–57A143, dated December

20, 1999. The service bulletin describes procedures for performing an ultrasonic inspection of the attaching bolts on the inboard and outboard support on the inboard and outboard flap assembly to detect failed bolts, or verifying the torque of the attaching bolts on the inboard support on the outboard flap, and follow-on actions. The follow-on actions include replacing any failed bolt and associated parts, if necessary; performing repetitive ultrasonic inspection of the subject area, if necessary; temporarily installing a new Inconel bolt without a new PLI washer; and replacing the PLI washer with a new washer; if necessary. The service bulletin also describes procedures for replacing all bolts with bolts made from Inconel, which would eliminate the need for the repetitive inspections.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 412 airplanes of the affected design in the worldwide fleet. The FAA estimates that 244 airplanes of U.S. registry would be affected by this proposed AD.

It would take between 2 and 8 work hours per airplane to accomplish the proposed inspection/torque verification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection/torque verification proposed by this AD on U.S. operators is estimated to be between $29,280 and $117,120, or between $120 and $480 per airplane, per inspection cycle.

It would take approximately 288 work hours per airplane to accomplish the proposed bolt replacement, at an average labor rate of $60 per work hour. Required parts would cost approximately $2,987 per airplane. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $4,945,148, or $20,267 per airplane.

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

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 adding the following new airworthiness directive:

McDonnell Douglas: Docket 2000–NM–50–AD.

Applicability: Model DC–10–10, –15, –30, –30F (KC–10A military), and –40 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin DC10–57A143, dated December 20, 1999; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent in-flight loss of inboard and outboard flap assemblies due to failure of H–11 attaching bolts, which could result in reduced controllability of the airplane, accomplish the following:

Inspection and Corrective Actions

(a) Within 2 months after the effective date of this AD, perform an ultrasonic inspection of the attaching bolts on the inboard and outboard support on the inboard and outboard flap assembly to detect failed bolts, or verify the torque of the attaching bolts on the inboard support on the outboard flap, in accordance with McDonnell Douglas Alert Service Bulletin DC10–57A143, dated December 20, 1999.

(1) If no failed bolt is found, repeat the ultrasonic inspection thereafter at intervals not to exceed 6 months.

(2) If any failed bolt is found, prior to further flight, replace the bolt and associated parts with a new Inconel bolt and new associated parts in accordance with the service bulletin, except as provided by paragraphs (a)(2)(i) and (a)(2)(ii) of this AD. Accomplishment of the replacement constitutes terminating action for the repetitive inspection requirements of paragraph (a)(1) of this AD for that bolt.

(i) If an Inconel bolt is not available for accomplishment of the replacement, replacement with a new H–11 steel bolt is acceptable provided that operators repeat the ultrasonic inspection thereafter at intervals not to exceed 6 months until the requirements of paragraph (b) of this AD are accomplished.

(ii) If a PLI washer is not available for accomplishment of the Inconel replacement, a new Inconel bolt can be temporarily installed without a new PLI washer provided that the bolt is torqued to the applicable value specified in the service bulletin. Within 6,000 flight hours after an Inconel bolt is torqued, replace the PLI washer with a new washer in accordance with the service bulletin.

Bolt Replacement

(b) Within 2 years after accomplishing the initial inspection required by paragraph (a) of this AD, accomplish the action specified in paragraph (a)(2) of this AD for all H–11 bolts. Accomplishment of the replacement of all H–11 bolts with Inconcel bolts constitutes terminating action for the requirements of this AD.

Spares

(c) As of 2 years after the effective date of this AD, no person shall install, on any

airplane, an H–11 steel bolt, part number 71658–8–44, 71658–7–44, 71658–7–54, 71658–7–56, 71658–7–29, 71658–9–31, 71658–9–34, 71658–9–38, 71658–9–41, 71658–10–41, 71658–7–26, 71658–7–27, or 71658–8–29, on the inboard or outboard flap assembly.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on May 4, 2000.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–11724 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–368–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes. This proposal would require repetitive detailed visual and dye penetrant inspections of the backup struts in the left and right nacelles to detect discrepancies; and corrective actions, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the backup struts in the left and right nacelles due to fatigue cracking, which could result in loss of fail-safe redundancy in the design of the nacelle in terms of load capability.

DATES: Comments must be received by June 9, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–368–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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:

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 99–NM–368–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–368–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain Saab Model SAAB 2000 series airplanes. The LFV advises that field experience has revealed fatigue cracking in the internal backup struts in the forward part of the nacelle structure. Such cracking was found in the area of the welded splices for the upper and lower attachment fittings. In the lower end of the attachment fittings, cracks were found near the local cut-out in the tube or areas adjacent to the welding, and in the upper area in the radius of the attachment fittings. On one occasion, fatigue cracks resulted in complete failure of the backup strut. Such fatigue cracking, if not corrected, could result in failure of the backup struts in the left and right nacelles, which could result in loss of fail-safe redundancy in the design of the nacelle in terms of load capability.

Explanation of Relevant Service Information

The manufacturer has issued Saab Service Bulletin 2000–54–023, Revision 01, dated January 28, 2000, which describes procedures for repetitive detailed visual and dye penetrant inspections of the backup struts in the left and right nacelles to detect discrepancies; and corrective actions, if necessary. Descriptions of the two types of inspections are as follows:

- The initial detailed visual inspection includes the upper areas of the backup strut around the welding in the pipe and in the attachment fittings.
- The initial dye penetrant inspection, using a Penetrant Type 1 (fluorescent dye) sensitivity level 2, includes the lower areas of the backup strut around the welding in the pipe and in the attachment fittings, and specifies taking special care to check the inside edge of the cutouts.

If any inspection reveals a failed backup strut, procedures include the following additional inspections of the engine mount surrounding structure:

- Detailed visual inspections of each engine mount strut and mounting

fittings, forward semi-circular collar/frame and aft beam, nacelle backup strut opposite side to the failed backup strut and attachment fittings at station 176/199, inboard and outboard upper and lower longerons of the nacelle, and upper and lower longerons at the attachment to the inboard and outboard upper and lower fittings of the nacelle.

• General visual inspections of the inner and outer side walls and side of the skin panels.

Discrepancies include fatigue cracking, a failed backup strut, and damage to the surrounding structure of the engine mount. Corrective actions include replacing any failed backup strut located in the hydraulic bay or electrical bay areas with a new backup strut, and performing additional inspections of the surrounding structure of the engine mount.

The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive No. 1–150R1, dated January 31, 2000, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Differences Between Proposed AD and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for repair instructions for certain damage conditions, this proposed AD would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the LFV (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that a repair approved by either the FAA or the LFV would be acceptable for compliance with this proposed AD.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 3 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,440, or $480 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

SAAB Aircraft AB: Docket 99–NM–368–AD.

Applicability: Model SAAB 2000 series airplanes, serial numbers –004 through –063 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 (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the backup struts in the left and right nacelles due to fatigue cracking, which could result in loss of fail-safe redundancy in the design of the nacelle in terms of load capability, accomplish the following:

Repetitive Inspections

(a) For airplanes on which the dye penetrant inspection of the backup struts in the left and right nacelles specified in Saab Alert Service Bulletin 2000–A54–022, dated October 27, 1999, has not been accomplished prior to the effective date of this AD:

Within 200 flight hours after the effective date of this AD, accomplish paragraphs (b)(1) and (b)(2) of this AD in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–54–023, Revision 01, dated January 28, 2000.

(b) For airplanes on which the dye penetrant inspection of the backup struts in the left and right nacelle specified in Saab Alert Service Bulletin 2000–A54–022, dated October 27, 1999, has been accomplished prior to the effective date of this AD: Within 450 flight hours after the effective date of this AD, accomplish paragraphs (b)(1) and (b)(2) of this AD in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–54–023, Revision 01, dated January 28, 2000.

(1) Perform a detailed visual inspection of the upper areas of the backup strut around the welding in the pipe and in the attachment fittings to detect any discrepancy (including fatigue cracking or a failed backup strut) by accomplishing all actions specified in paragraph B.(1) of the Accomplishment Instructions of the service bulletin, in accordance with that service bulletin. Repeat the detailed visual inspection thereafter at intervals not to exceed 450 flight hours.

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

(2) Perform a dye penetrant inspection, using Penetrant Type 1 (fluorescent dye) sensitivity level 2, of the lower areas of the backup strut around the welding in the pipe and in the attachment fittings to detect any discrepancy (including fatigue cracking or a failed backup strut) by accomplishing all actions specified in paragraphs B.(2) and B.(3) of the service bulletin, as applicable, in accordance with that service bulletin.

(i) For airplanes on which all backup struts have accumulated less than 4,500 total flight hours as of the effective date of this AD, repeat the dye penetrant inspection thereafter at intervals not to exceed 1,650 flight hours, until any backup strut on the airplane has accumulated 4,500 total flight hours; then perform the repetitive inspection thereafter at the interval specified by paragraph (b)(2)(ii) of this AD.

(ii) For airplanes on which any backup strut has accumulated 4,500 or more total flight hours as of the effective date of this AD, repeat the dye penetrant inspection thereafter at intervals not to exceed 900 flight hours.

Corrective Actions

(c) If any discrepancy (including fatigue cracking, a failed backup strut, or damage to the surrounding structure of the engine mount) is detected during any inspection required by this AD: Prior to further flight, accomplish the applicable corrective actions (including performing additional inspections of the engine mount surrounding structure, and replacing any discrepant backup strut in the hydraulic or electrical bay areas with a new backup strut) specified by paragraph C. of the Accomplishment Instructions of Saab Service Bulletin 2000–54–023, Revision 01, dated January 28, 2000, in accordance with that service bulletin. For any repair condition for which the service bulletin specifies to contact the manufacturer for appropriate ACTION: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Luftfartsverket (LFV) (or its delegated agent). For a repair method to be approved by the Manager, International Branch, ANM–116, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 4: The subject of this AD is addressed in Swedish airworthiness directive No. 1–150R1, dated January 31, 2000.

Issued in Renton, Washington, on May 4, 2000.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–11723 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–255–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 series airplanes and C–9 (military) airplanes, that currently requires repetitive ultrasonic or magnetic particle inspections to detect cracking of the engine pylon aft upper spar straps (caps); and if necessary, replacement of the strap with a new strap, or modification of the engine pylon rear spar straps, which constitutes terminating action for the repetitive inspections. This action would require new, improved repetitive ultrasonic inspections, and corrective actions, if necessary. This action also would require, among other items, a terminating action for the repetitive inspection requirements. This proposal is prompted by additional reports of fatigue cracking in the subject area on these airplanes. The actions specified by the proposed AD are intended to detect and correct such fatigue cracking, which could result in major damage to the adjacent structure of the pylon aft spar upper cap, and consequent reduced structural integrity of the airplane.

DATES: Comments must be received by June 26, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–255–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 Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1-L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5324; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained

in this 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 99–NM–255–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–255–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In 1978, the FAA issued AD 78–01–16, amendment 39–3117, applicable to certain McDonnell Douglas Model DC–9 series airplanes and C–9 (military) airplanes. That AD requires repetitive ultrasonic or magnetic particle inspections to detect cracking of the engine pylon aft upper spar straps (caps); and if necessary, replacement of the strap with a new strap, or modification of the engine pylon rear spar straps (caps), which constitutes terminating action for the repetitive inspections. That action was prompted by reports of fatigue cracking of the pylon aft upper spar straps (caps). The requirements of that AD are intended to detect cracks and prevent failure of the engine pylon aft upper spar straps (caps).

Actions Since Issuance of Previous Rule

Since the issuance of AD 78–01–16, the FAA has received additional reports of fatigue cracking in the subject area on these airplanes. The airplanes on which the cracking occurred had accumulated between 19,000 and 36,000 landings. Investigation revealed that the repetitive ultrasonic inspections, as required by AD 78–01–16, do not adequately detect fatigue cracking in the subject area. Such fatigue cracking, if not detected and corrected, could result in major damage to the adjacent structure of the pylon aft spar upper cap, and consequent reduced structural integrity of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9–54A031, Revision 08, dated January 31, 2000, which describes procedures for new repetitive ultrasonic or magnetic particle inspections of the engine pylon aft upper spar straps (caps) to detect cracking; and corrective actions, if necessary. The corrective actions include reapplication of a sealant; modification of the rear spar upper strap (cap); and replacement of the bearing on the spar strap (cap) with a new annular groove bearing; as applicable. The service bulletin references McDonnell Douglas DC–9 Service Bulletin 54–31, Revision 4, dated March 28, 1991, as an additional source of service information for accomplishment of the modification.

The FAA also has reviewed and approved McDonnell Douglas DC–9 Service Bulletin 54–31, Revision 4, dated March 28, 1991. The service bulletin describes procedures for modification of the rear spar upper strap (cap), which would eliminate the need for the repetitive inspections specified in McDonnell Douglas Alert Service Bulletin DC9–54A031, Revision 08, dated January 31, 2000. The modification includes installation of access doors on the pylon rear spars, if applicable; replacement of the strap on the pylon upper rear spar cap with a new strap using new close tolerance attaching parts; and modification of the pylon-to-vibration isolator link.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 78–01–16 to continue to require repetitive ultrasonic or magnetic particle inspections to detect cracking of the engine pylon aft upper spar straps (caps); and if necessary, replacement of the strap with a new strap, or modification of the engine pylon rear spar straps (caps), which constitutes terminating action for the repetitive inspections. The proposed AD also would require accomplishment of the actions specified in the service bulletins described previously.

Cost Impact

There are approximately 809 Model DC–9–10, –20, –30, –40 and –50 series airplanes and C–9 (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 572 airplanes of U.S. registry would be affected by this proposed AD.

The ultrasonic inspection that is currently required by AD 78–01–16, and retained in this proposed AD, takes approximately 3 work hours, per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $180 per airplane, per inspection cycle.

The new ultrasonic inspection that is proposed in this AD action would take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new ultrasonic inspection proposed by this AD on U.S. operators is estimated to be $240 per airplane, per inspection cycle.

The new modification of the rear spar upper strap (cap) that is proposed in this AD action would take between approximately 349 and 412 work hours depending on the configuration of the affected airplane to accomplish, at an average labor rate of $60 per work hour. The cost of required parts would be between approximately $1,865 and $7,947 per airplane. Based on these figures, the cost impact of the new modification proposed by this AD on U.S. operators is estimated to be between $22,805 and $32,667 per airplane.

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

Should an operator elect to accomplish the optional magnetic particle inspection that would be provided by this AD action, it would take approximately 7 work hours to accomplish it, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this action would be $420 per airplane, per inspection cycle.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the

various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–3117, and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 99–NM–255–AD. Supersedes AD 78–01–16, Amendment 39–3117.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) airplanes, fuselage numbers 1 through 851, 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 (p) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the pylon aft upper spar straps (caps), which could result in major damage to the adjacent structure of the pylon aft spar upper cap, and consequent reduced structural integrity of the airplane, accomplish the following:

Restatement of Requirements of AD 78–01–16, Amendment 39–3117

Compliance Times

(a) For airplanes that have accumulated 35,000 or more total landings as of February 13, 1978 (the effective date of AD 78–01–16, amendment 39–3117): Within 600 landings after February 13, 1978, unless already accomplished within the last 1,800 landings, and thereafter at intervals not to exceed 2,400 landings, accomplish the actions specified in paragraph (f) of this AD.

(b) For airplanes that have accumulated between 30,000 and 34,999 total landings inclusive, as of February 13, 1978: Within 900 landings after February 13, 1978, unless already accomplished within the last 1,500 landings, and thereafter at intervals not to exceed 2,400 landings, accomplish the actions specified in paragraph (f) of this AD.

(c) For airplanes that have accumulated between 25,000 and 29,999 total landings inclusive, as of February 13, 1978: Within 1,200 landings after February 13, 1978, unless already accomplished within the last 1,200 landings, and thereafter at intervals not to exceed 2,400 landings, accomplish the actions specified in paragraph (f) of this AD.

(d) For airplanes that have accumulated between 15,000 and 24,999 total landings inclusive, as of February 13, 1978: Within 2,000 landings after February 13, 1978, unless already accomplished within the last 400 landings, and thereafter at intervals not to exceed 2,400 landings, accomplish the actions specified in paragraph (f) of this AD.

(e) For airplanes that have accumulated less than 15,000 total landings as of February 13, 1978: Within 2,000 landings after the accumulation of 15,000 total landings, and thereafter at intervals not to exceed 2,400 landings, accomplish the actions specified in paragraph (f) of this AD.

Repetitive Inspections and Corrective Actions

(f) At the times specified in paragraphs (a) through (e), except as provided by paragraph (g) of this AD, perform an ultrasonic inspection of the engine pylon aft upper spar straps (caps), part number (P/N) 9958154–5/–6, or P/N 9958154–37/–38, to detect cracking, in accordance with paragraph 2.B of McDonnell Douglas DC–9 Service Bulletin A54–31, dated December 22, 1976, or in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 2: Alternative methods of compliance approved previously prior to the effective date of this AD in accordance with the Chief, Aircraft Engineering Division, Western Region, are considered acceptable for compliance with paragraph (f) of this AD.

(1) If there is evidence of cracking, the magnetic particle inspection specified in paragraph 2.C of the service bulletin may be used to confirm the evidence of cracking.

(2) If any cracking is detected, prior to further flight, accomplish either paragraph (f)(2)(i) or (f)(2)(ii) of this AD in accordance with the service bulletin.

(i) Replace the strap with a new strap, P/N 9958154–5/–6, or P/N 9958154–37/–38, and repeat the inspection thereafter at intervals not to exceed 15,000 landings. Or

(ii) Modify the engine pylon rear spar straps (caps) in accordance with the service bulletin. Accomplishment of the modification constitutes terminating action for the repetitive inspection requirements of this AD.

Note 3: Modification of the engine pylon rear spar straps (caps) accomplished prior to the effective date of this AD in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A54–31, Revision 2, dated December 22, 1977; Revision 3, dated June 20, 1986; Revision 4, dated March 26, 1987; Revision 5, dated March 25, 1991; or Revision 6, dated November 23, 1992; is considered acceptable for compliance with the requirements of paragraph (f)(2)(ii) of this AD.

Optional Magnetic Particle Inspection

(g) In lieu of accomplishing the ultrasonic inspection, at the times specified in paragraphs (a) through (e) of this AD, perform a magnetic particle inspection of the engine pylon aft upper spar straps (caps), P/N 9958154–5/–6, or P/N 9958154–37/–38, to detect cracking, in accordance with paragraph 2.C of McDonnell Douglas DC–9 Service Bulletin A54–31, dated December 22, 1976. If any cracking is detected, prior to further flight, accomplish the action specified in paragraph (f) of this AD. After two bearing replacements, accomplish the action specified in either paragraph (f)(2)(i) or (f)(2)(ii) of this AD.

Note 4: Ultrasonic or magnetic particle inspection of the engine pylon aft upper spar straps (caps) accomplished prior to the effective date of this AD in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A54–31, Revision 2, dated December 22, 1977; Revision 3, dated June 20, 1986; Revision 4, dated March 26, 1987; Revision 5, dated March 25, 1991; or Revision 6, dated November 23, 1992; is considered acceptable for compliance with the inspection requirements of paragraph (f) or (g) of this AD, as applicable.

New Requirements of This AD

Repetitive Ultrasonic Inspections

(h) For airplanes on which the modification/replacement specified in paragraph (f)(2)(ii) or (n) of this AD has not been accomplished, and on which the replacement specified in paragraph (f)(2)(i) of this AD has not been accomplished: Except as provided by paragraph (m) of this AD, perform an ultrasonic inspection of the engine pylon aft upper spar straps (caps) to detect cracking, in accordance with McDonnell Douglas Alert Service Bulletin DC9–54A031, Revision 08, dated January 31, 2000; at the time specified in paragraph

(h)(1), (h)(2), (h)(3), or (h)(4) of this AD, as applicable. Repeat this inspection thereafter at intervals not to exceed 2,400 landings.

Accomplishment of the ultrasonic inspection constitutes terminating action for the repetitive inspection requirements of paragraphs (a) through (f), (f)(2)(i), and (g) of this AD.

(1) For airplanes that have accumulated between 15,000 and 24,999 total landings as of the effective date of this AD: Within 2,000 landings or 6 months after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated between 25,000 and 29,999 total landings as of the effective date of this AD: Within 1,200 landings or 6 months after the effective date of this AD, whichever occurs later.

(3) For airplanes that have accumulated between 30,000 and 34,999 total landings as of the effective date of this AD: Within 900 landings or 6 months after the effective date of this AD, whichever occurs later.

(4) For airplanes that have accumulated 35,000 or more total landings as of the effective date of this AD: Within 600 landings or 6 months after the effective date of this AD, whichever occurs later.

(i) For airplanes on which the modification/replacement specified in paragraph (f)(2)(ii) or (n) of this AD has not been accomplished, and on which the replacement specified in paragraph (f)(2)(i) of this AD has been accomplished: Except as provided by paragraph (m) of this AD, perform an ultrasonic inspection of the engine pylon aft upper spar straps (caps) to detect cracking, in accordance with McDonnell Douglas Alert Service Bulletin DC9–54A031, Revision 08, dated January 31, 2000; at the time specified in paragraph (i)(1), (i)(2), (i)(3), or (i)(4) of this AD, as applicable. Repeat this inspection thereafter at intervals not to exceed 2,400 landings.

(1) For airplanes that have accumulated between 15,000 and 24,999 landings since installation of the new spar strap (cap): Within 2,000 landings or 6 months after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated between 25,000 and 29,999 landings since installation of the new spar strap (cap): Within 1,200 landings or 6 months after the effective date of this AD, whichever occurs later.

(3) For airplanes that have accumulated between 30,000 and 34,999 landings since installation of the new spar strap (cap): Within 900 landings or 6 months after the effective date of this AD, whichever occurs later.

(4) For airplanes that have accumulated 35,000 or more landings since installation of the new spar strap (cap): Within 600 landings or 6 months after the effective date of this AD, whichever occurs later.

(j) If no cracking is detected during any inspection required by paragraph (h), (i), or (m) of this AD, prior to further flight, reapply sealant in accordance with McDonnell Douglas Alert Service Bulletin DC9–54A031, Revision 08, dated January 31, 2000.

(k) If any cracking is detected during any inspection required by paragraph (h) or (i) of this AD, prior to further flight, accomplish the actions specified in paragraph (m) of this AD.

(l) If any cracking is detected during any inspection required by paragraph (h), (i), or (m) of this AD, prior to further flight, modify the rear spar upper strap (cap) in accordance with McDonnell Douglas DC–9 Service Bulletin 54–31, Revision 4, dated March 28, 1991. Accomplishment of the modification constitutes terminating action for the repetitive inspection requirements of paragraphs (h) and (i) of this AD.

(m) In lieu of accomplishing the ultrasonic inspection required by paragraphs (h) and (i) of this AD, at the applicable times specified in paragraphs (h), (h)(1), (h)(2), (h)(3), (h)(4), (i), (i)(1), (i)(2), (i)(3), or (i)(4) of this AD, perform a magnetic particle inspection of the engine pylon aft upper spar strap (cap) for cracks, in accordance with McDonnell Douglas Alert Service Bulletin DC9–54A031, Revision 08, dated January 31, 2000. If no cracking is detected, prior to further flight, replace the bearing on the spar strap (cap) with a new annular groove bearing, in accordance with the service bulletin.

Terminating Modification

(n) Prior to the accumulation of 100,000 total landings, or within 6 months after the effective date of this AD, whichever occurs later, modify the rear spar upper strap (cap) in accordance with McDonnell Douglas DC–9 Service Bulletin 54–31, Revision 4, dated March 28, 1991. Accomplishment of the modification constitutes terminating action for the repetitive inspection requirements of paragraphs (h) and (i) of this AD.

(o) Accomplishment of the modification required by paragraph (l) or (n) of this AD constitutes compliance with the following:

(1) The actions specified in McDonnell Douglas Service Bulletin 54–27, Revision 4, dated April 2, 1990, that are required by AD 96–10–11, amendment 39–9618 (61 FR 24675, May 16, 1996) [which references "DC–9/MD80 Aging Aircraft Service Action Requirements Document" (SARD), McDonnell Douglas Report MDC K1572, Revision B, dated January 15, 1993, as the appropriate source of service information for accomplishment of the modification]; and

(2) The requirements of AD 72–09–01, amendment 39–2844 (which references McDonnell Douglas Service Bulletin 54–31, dated August 24, 1976, and McDonnell Douglas Service Bulletin 54–27, Revision 4, dated April 2, 1990, as appropriate sources of service information for accomplishment of the modification).

Alternative Methods of Compliance

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

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

Note 6: Alternative methods of compliance, approved previously in accordance with AD 78–01–16, amendment 39–3117, are approved as alternative methods of compliance with this AD.

Special Flight Permits

(q) 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 May 3, 2000.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–11722 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–60–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–8 series –10 through –50, –61, –61F, –71, –71F airplanes, that currently requires a visual or eddy current inspection(s) of the left and right wing front spar lower caps to detect cracks migrating from attachment holes; and repair, if necessary. That AD also provided for an optional terminating modification of the front spar lower cap. This proposal is prompted by a report that additional cracking was found in the front spar lower cap of a wing. This action would require accomplishment of the previously optional terminating action. The proposed AD also would expand the applicability of the existing AD to include additional airplanes and to increase the interval for the repetitive eddy current inspections. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the left or right wing due to metal fatigue failure of the front spar lower cap.

DATES: Comments must be received by June 26, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–60–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 Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Greg DiLibero, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5231; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this 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 99–NM–60–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–60–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On September 26, 1986, the FAA issued AD 86–20–06, amendment 39–5434 (51 FR 35502, October 6, 1986), applicable to certain McDonnell Douglas Model DC–8–10 through –50 inclusive, –61, –61F, –71, –71F series airplanes, to require repetitive visual or eddy current inspections to detect cracks of the left and right wing front spar lower caps between stations Xfs=515.00 and Xfs=526.760; and repair, if necessary. That AD also provides for an optional terminating modification for the repetitive inspection requirements. That action was prompted by reports of fatigue cracking on the spar caps of two airplanes. The requirements of that AD are intended to prevent reduced structural integrity of the left or right wing due to metal fatigue failure of the front spar lower cap.

Actions Since Issuance of Previous Rule

Since the issuance of AD 86–20–06, the FAA has received a report of two instances in which cracking was found in the front spar lower cap of a wing on affected airplanes that have accumulated between 46,093 and 48,942 flight hours. The cracking originated at an attachment hole in the forward leg and progressed to a point partially through the vertical and aft leg of the spar cap. The cause of such cracking has been attributed to material fatigue. The FAA has determined that accomplishment of the visual inspection(s) required by AD 86–20–06 does not adequately ensure timely detection of fatigue cracks in the subject area.

Explanation of Relevant Service Information

Subsequent to the finding of this new cracking, the manufacturer issued, and the FAA reviewed and approved McDonnell Douglas Service Bulletin DC8–57–090, Revision 05, dated June 16, 1997. The eddy current inspection and modification procedures are identical to those described in McDonnell Douglas DC–8 Service Bulletin 57–90, dated October 3, 1983 (which was referenced as the appropriate source of service information in AD 86–20–06). The only changes effected by Revision 05 of the service bulletin are to remove the inadequate visual inspection procedures; to add additional airplanes to the effectivity listing; and to add an inspection following accomplishment of the preventative modification. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 86–20–06 to continue to require an eddy current inspection(s) to detect cracks of the lower front spar caps of the wings at the attachment holes of the leading edge assembly between stations Xfs=515.000 and Xfs=526.760, and corrective actions, if necessary. The proposed AD would require accomplishment of the previously optional terminating action and a follow-on inspection. The proposed AD also would expand the applicability of the existing AD to include additional airplanes that are subject to the identified unsafe condition of this AD and to increase the interval for the repetitive eddy current inspections.

Differences Between the Proposed Rule and the Service Bulletin

Operators should note that, although the service bulletin recommends that the repetitive eddy current inspections be accomplished at intervals not to exceed 3,600 flight hours or 1 year, whichever occurs first, the proposed AD would require those inspection at intervals not to exceed 3,600 flight hours or 3 years, whichever occurs first. The FAA consulted with the manufacturer and has determined through a damage tolerance assessment that the subject fatigue cracking is dependant only on flight hours. However, because some affected airplanes have very low utilization rates, the FAA has determined that extending the calendar year repetitive inspection interval from 1 year to 3 years will ensure that the inspection is accomplished within an acceptable time frame. Therefore, the proposed rule would require that the eddy current inspection interval be 3,600 flight hours or 3 years, whichever occurs first.

Although the service bulletin recommends accomplishing the eddy

current inspection within 3,200 flight hours after the issue date of the service bulletin on airplanes that have accumulated 30,000 total flight hours, the proposed AD requires, for certain airplanes, that the inspection be accomplished within 3,200 flight hours or 2 years after the effective date of this AD, whichever occurs first. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection (two hours). In addition, the FAA has determined that all affected airplanes have accumulated 30,000 or more total flight cycles. In light of all of these factors, the FAA finds a compliance time of within 3,200 flight hours or 2 years after the effective date of this AD, whichever occurs first, for initiating the proposed actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 294 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 251 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 2 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $30,120, or $120 per airplane, per inspection cycle.

It would take approximately between 12 and 14 work hours per airplane to accomplish the proposed modification, and that the average labor rate is $60 per work hour. Required parts would cost approximately between $303 and $1,202 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between $256,773, or $512,542, or between $1,023, or $2,042 per airplane.

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

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 39–5434 (51 FR 35502, October 6, 1986), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 99–NM–60–AD. Supersedes AD 86–20–06, Amendment 39–5434.

Applicability: Model DC–8 series airplanes, as listed in McDonnell Douglas Service Bulletin DC8–57–090, Revision 05, dated June 16, 1997; 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 (h)(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 reduced structural integrity of the left or right wing due to metal fatigue failure of the front spar lower cap, accomplish the following:

Note 2: This AD will affect the inspections, corrective actions, and reports required by AD 93–01–15, amendment 39–8469 (58 FR 5576, January 22, 1993), for Principal Structural Elements (PSE) 57.08.021 and 57.08.022 of the DC–8 Supplemental Inspection Document (SID).

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

Eddy Current Inspection

(a) For Model DC–8–10 through DC–8–50, inclusive, DC–8–61, –61F, –71, and –71F series airplanes, equipped with left or right wing front spar lower cap, part number (P/N) 5597838–1 or –2; not modified in accordance with McDonnell Douglas DC–8 Service Bulletin 57–90, dated October 3, 1983: Perform an eddy current inspection to detect cracks of the lower front spar caps of the wings at the attachment holes of the leading edge assembly between stations Xfs=515.000 and Xfs=526.760, in accordance with McDonnell Douglas Service Bulletin DC8–57–090, Revision 05, dated June 16, 1997; at the time specified in either paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

Note 4: Eddy current inspections accomplished prior to the effective date of this AD in accordance McDonnell Douglas DC–8 Service Bulletin 57–90, Revision 1, dated June 16, 1988; Revision 2, dated March 1, 1991; Revision 3, dated March 25, 1992; or Revision 4, dated March 3, 1995; are considered acceptable for compliance with the requirements of paragraph (a) of this AD.

(1) For airplanes on which the immediately preceding inspection was conducted using eddy current techniques in accordance with AD 86–20–06 prior to the effective date of this AD: Inspect within 3,600 flight hours or 3 years after accomplishment of the last eddy current inspection, whichever occurs first.

(2) For airplanes on which the immediately preceding inspection was conducted visually in accordance with AD 86–20–06 prior to the effective date of this AD: Inspect within 3,200 flight hours or 2 years after accomplishment of the last visual inspection, whichever occurs first.

(3) For airplanes on which a visual or eddy current inspection or the modification required by AD 86–20–06 has not been accomplished: Inspect prior to the accumulation of 30,000 total flight hours, or within 200 flight hours after the effective date of this AD.

(b) For airplanes other than those identified in paragraph (a) of this AD: Within 3,200 flight hours or 2 years after the effective date of this AD, whichever occurs first, perform the eddy current inspection specified in paragraph (a) of this AD.

Repetitive Inspections

(c) If no crack is detected during any inspection required by this AD, repeat the eddy current inspection thereafter at intervals not to exceed 3,600 flight hours or 3 years, whichever occurs first.

Repair

(d) If any crack is detected during any inspection required this AD, prior to further flight, accomplish the action specified in either paragraph (d)(1) or (d)(2) of this AD, as applicable.

(1) For cracks within the limits specified in Conditions 2 through 6, inclusive, Table 1 of paragraph 3.B.4 of the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC8–57–090, Revision 05, dated June 16, 1997: Modify the lower front spar cap in accordance with McDonnell Douglas Service Bulletin DC8–57–090, Revision 05, dated June 16, 1997. Accomplishment of the modification constitutes compliance with the requirements paragraphs (c) and (e) of this AD.

(2) For cracks that exceed the limits specified in Conditions 2 through 6, inclusive, Table 1 of paragraph 3.B.4 of the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC8–57–090, Revision 05, dated June 16, 1997: Repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Preventative Modification

(e) Within 100,000 flight hours after the effective date of this AD, modify the lower front spar cap in accordance with paragraph 3.B.2.B of the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC8–57–090, Revision 05, dated June 16, 1997. Accomplishment of the modification constitutes compliance with the requirements paragraphs (a), (b), and (c) of this AD.

Note 5: Modification of the lower front spar cap accomplished prior to the effective date of this AD in accordance with McDonnell Douglas DC–8 Service Bulletin 57–90, Revision 1, dated June 16, 1988; Revision 2, dated March 1, 1991; Revision 3, dated March 25, 1992; or Revision 4, dated March 3, 1995; is considered acceptable for compliance with the requirements of paragraph (d) of this AD.

(f) Accomplishment of the modification required by paragraph B. of AD 90–16–05, amendment 39–6614 (55 FR 31818, August 6, 1990) [which references "DC–8 Aging Aircraft Service Action Requirements Document" (SARD), McDonnell Douglas Report MDC K1579, Revision A, dated March 1, 1990, as the appropriate source of service information for accomplishing the modification] constitutes compliance with paragraphs (a), (b), (c), and (e) of this AD.

Follow-On Inspection

(g) Prior to the accumulation of 32,900 total flight hours following accomplishment of the modification required by either paragraph (d)(1) or (e) of this AD, or 2 years after the effective date of this AD, whichever occurs later, perform an inspection to detect cracks in the area specified in paragraph (a) of this AD, and corrective actions, if necessary, in accordance with a method approved by the Manager, Los Angeles ACO.

Alternative Methods of Compliance

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

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

(2) Alternative methods of compliance, approved previously in accordance with AD 86–20–06, amendment 39–5434, are approved as alternative methods of compliance with this AD.

Special Flight Permits

(i) 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 May 3, 2000.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–11721 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–368–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon (Beech) Model MU–300, MU–300–10, 400, and 400A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Raytheon (Beech) Model MU–300, MU–300–10, 400, and 400A series airplanes. This proposal would require repetitive inspections of the bleed air supply tube assemblies for discrepancies; and replacement of the bleed air tube assembly with a new bleed air tube assembly, if necessary. In lieu of accomplishing the repetitive inspections, this proposal also would provide for a revision of the Airworthiness Limitations to incorporate, among other things, certain inspections and compliance times to detect discrepancies of the subject area; and corrective action, if necessary. This proposal is prompted by reports of broken wire braiding in the bellows assembly of the bleed air supply tube assembly due to premature failure from loading. The actions specified by the proposed AD are intended to prevent the bleed air supply tube assembly from disconnecting and contacting other pneumatic or electrical systems of the airplane or expelling high temperature air on surrounding systems and structure. Such a condition could reduce the functional capabilities of the airplane or the ability of the flight crew to cope with adverse operating conditions.

DATES: Comments must be received by June 26, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–368–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Raytheon Aircraft Company, Manager Service Engineering, Beechjet Premier Technical Support, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Paul C. DeVore, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas, 67209, telephone, (316) 946–4142; fax, (316) 946–4407.

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–368–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–368–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of broken wire braiding in the bellows assembly of the bleed air supply tube assembly on Raytheon (Beech) Model MU–300, MU–300–10, 400, and 400A series airplanes. Investigation revealed that the stainless steel wire mesh braiding that restrains the bellows is subject to loading, which causes the braiding to fail prematurely. Failure of the wire braiding, if not corrected, could cause the bleed air supply tube assembly to disconnect and contact other pneumatic or electrical systems of the airplane or expel high temperature air on surrounding systems and structure. Such a condition could reduce the functional capabilities of the airplane or the ability of the flight crew to cope with adverse operating conditions.

New Revisions to Airworthiness Limitations Section

The FAA has reviewed and approved Chapter 4, "Airworthiness Limitations" of Raytheon Aircraft Beechjet 400/400A Maintenance Manual (for Model MU–300–10, 400, and 400A series airplanes), Revision B23, dated December 18, 1998, and Section MR–11–00, "Airworthiness Limitations" of Raytheon Aircraft Diamond 1/1A MU–300 Maintenance Requirement Manual (for Model MU–300 series airplanes), Revision 8, dated December 18, 1998. These revisions describe, among other things, specific inspection and compliance times to detect broken wire braids, leakage, or rupture of the bellows assembly in the bleed air supply tube assembly; and corrective action, if necessary. The corrective action involves replacement of the bleed air tube assembly with a new bleed air tube assembly. Accomplishment of the procedures specified in the Airworthiness Limitations Section (ALS) or the repetitive inspections described below is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive general visual inspections of the bleed air supply tube assemblies for broken wire braiding on the bellows assemblies or for ruptured or leaking bellow assemblies; and replacement of the bleed air tube assembly with a new bleed air tube assembly, if necessary. In lieu of accomplishing the repetitive inspections, the proposed AD also would provide for a revision of the ALS of Raytheon Aircraft Beechjet 400/400A Maintenance Manual (for Model MU–300–10, 400, and 400A series airplanes), and Raytheon Aircraft Diamond 1/1A MU–300 Maintenance Manual (for Model MU–300 series airplanes) to incorporate Revision B23, dated December 18, 1998 (for Model MU–300–10, 400, and 400A series airplanes), and Revision 8, dated December 18, 1998 (for Model MU–300 series airplanes); as applicable.

Cost Impact

There are approximately 530 airplanes of the affected design in the worldwide fleet. The FAA estimates that 452 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $27,120, or $60 per airplane, per inspection cycle.

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

Should an operator elect to accomplish the optional terminating action that would be provided by this AD action, it would take approximately 1 work hour to accomplish it, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the optional terminating action would be $60 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 adding the following new airworthiness directive:

Raytheon Aircraft Company (Formerly Beech): Docket 98–NM–368–AD.

Applicability: All Model MU–300, MU–300–10, 400, and 400A 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 (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the bleed air supply tube assembly from disconnecting and contacting other pneumatic or electrical systems of the airplane or expelling high temperature air on surrounding systems and structure, which could result in reduced functional capabilities of the airplane or the ability of the flight crew to cope with adverse operating conditions; accomplish the following:

Inspection

(a) Within 200 hours time-in-service after the effective date of this AD, except as provided by paragraph (b) of this AD, perform a general visual inspection of the bleed air supply tube assemblies for broken wire braiding on the bellows assemblies or for ruptured or leaking bellow assemblies. The bleed air supply tube assemblies are located within the aft fuselage and connect to mating ducting in the pylon area on the right and left side of the airplane. Repeat the inspection thereafter at intervals not to exceed 400 hours time-in-service. If any broken wire is detected or if any bellow assembly is ruptured or leaking, prior to further flight, replace the bleed air tube assembly with a new bleed air tube assembly.

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

Optional Implementation of Airworthiness Limitations Section

(b) Instead of accomplishing the requirements of paragraph (a) of this AD, revise the Airworthiness Limitations Sections of the Instructions for Continued Airworthiness by incorporating the procedures specified in Chapter 4, "Airworthiness Limitations" of Raytheon Aircraft Beechjet 400/400A Maintenance Manual, Revision B23, dated December 18, 1998 (for Model MU–300–10, 400, and 400A series airplanes); or Section MR–11–00, "Airworthiness Limitations" of Raytheon Aircraft Diamond 1/1A MU–300 Maintenance Requirement Manual, Revision 8, dated December 18, 1998 (for Model MU–300 series airplanes); as applicable.

(c) Except as provided in paragraph (d) of this AD: After the action specified in paragraph (b) of this AD has been accomplished, no alternative inspections or inspection intervals may be approved for the part specified in paragraph (b) of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small 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, Wichita ACO.

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

Special Flight Permits

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

Issued in Renton, Washington, on May 3, 2000.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–11720 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–207–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300 and A300–600 series airplanes. This proposal would require a high frequency eddy current (HFEC) inspection to detect cracking of the rear fittings of fuselage frame FR40 at stringer 27, and repetitive inspections or repair, as applicable. In lieu of accomplishing the repetitive inspections, this proposal requires a modification that would allow the inspection to be deferred for a certain period of time. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct fatigue cracking of the rear fittings of fuselage frame FR40 at stringer 27, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by June 9, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–207–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: 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:

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–207–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–207–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A300 and A300–600 series airplanes. The DGAC advises that fatigue cracks have been found in the rear fittings of fuselage frame FR40 at stringer 27 on in-service airplanes. These cracks are believed to be caused by a significant change in the geometry of the fitting combined with cabin pressure and wing loading. This condition, if not corrected, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletins A300–53–0332 and A300–57–6075, both dated November 24, 1997, which describe procedures for repetitive high frequency eddy current (HFEC) inspections to detect cracks of the rear fittings of fuselage frame FR40 at stringer 27; and repair. if necessary. In lieu of accomplishing the repetitive inspections for cases where no cracking is detected, the service bulletins allow the deferral of the repetitive inspections provided that the modification described below is accomplished.

Airbus also has issued Service Bulletins A300–53–0333 and A300–57–6076, both dated November 24, 1997, which describe procedures for modification of the rear fittings of the fuselage frame FR40 at stringer 27. The modification includes defining a new stiffener geometry and chamfering the radius of the rear fittings of fuselage frame FR40.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified Service Bulletins A300–53–0332 and A300–57–6075 as mandatory and issued French airworthiness directive 98–028–242(B), dated January 28, 1998, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Differences Between Proposed Rule and French Airworthiness Directive

Operators should note that, although the service bulletins specify that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA, or the DGAC (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the DGAC would be acceptable for compliance with this proposed AD.

Operators should note that, unlike particular provisions in Service Bulletins A300–53–0332 and A300–57–6075 regarding adjustment of the compliance times using an "adjustment-for-range" formula, this proposed AD would not permit formulaic adjustments of the inspection compliance times. The FAA has determined that such adjustments may present difficulties in determining if the applicable inspections and modifications have been complied with in the appropriate time frame. Further, while such adjustable compliance times are utilized as part of the Maintenance Review Board program, they do not fit practically into the AD tracking process for operators or for Principal Maintenance Inspectors attempting to ascertain compliance with AD's. Therefore, the FAA has determined that fixed compliance times should be specified for accomplishment of the actions required by this AD.

Additionally, after discussions with the DGAC and the manufacturer, the FAA has determined that flight hour maximums should be included as part of the compliance threshold and repetitive intervals for the inspections required by this proposed AD. Inclusion of a compliance threshold in terms of total flight hours as well as total flight cycles, and requiring inspection at the earlier of those times, will ensure that airplanes with longer than average flight times are inspected at a threshold and intervals necessary to maintain safety. Accordingly, the FAA has specified that the initial inspection must be accomplished at the earliest time an airplane reaches certain accumulated total flight cycles or total flight hours, and that repetitive inspections are to be accomplished at intervals not to exceed certain flight cycles or flight hours, whichever occurs first.

Cost Impact

There are approximately 344 Model A300 and A300–600 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 85 airplanes of U.S. registry would be affected by this AD. It would take approximately 1 work hour per airplane to accomplish the proposed HFEC inspection, at an average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $5,100, or $60 per airplane, per inspection cycle.

Should an operator be required to accomplish the modification rather than the repetitive inspections, it would take approximately 3 work hours per airplane to accomplish. Based on these figures, the cost impact of the modification required by this proposed AD on U.S. operators is estimated to be $15,300 or $180 per airplane.

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

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 adding the following new airworthiness directive:

Airbus Industrie: Docket 98–NM–207–AD.

Applicability: Model A300 and A300–600 series airplanes, on which Airbus Modification 11525 has not been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the rear fittings of fuselage frame FR40 at stringer 27, which could result in reduced structural integrity of the airplane, accomplish the following:

Inspection

(a) Perform a high frequency eddy current (HFEC) inspection to detect cracks in the stiffeners at stringer 27 of the rear fitting of fuselage frame FR40, left and right, in accordance with Airbus Service Bulletin A300–53–0332, dated November 24, 1997 (for Model A300 B2 and B4 series airplanes), or Airbus Service Bulletin A300–57–6075, dated November 24, 1997 (for Model A300–600 series airplanes); as applicable; at the applicable time specified in paragraph (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8) of this AD.

(1) For Model A300 B2 series airplanes that have accumulated less than 26,000 total flight cycles as of the effective date of this AD: Inspect at the earlier of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Prior to the accumulation of 11,100 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later.

(ii) Prior to the accumulation of 14,300 total flight hours, or within 3,800 flight hours after the effective date of this AD, whichever occurs later.

(2) For Model A300 B2 series airplanes that have accumulated 26,000 or more total flight cycles as of the effective date of this AD: Inspect within 2,200 flight cycles or 2,800 flight hours after the effective date of this AD, whichever occurs first.

(3) For Model A300 B4–100 series airplanes that have accumulated less than 20,000 total flight cycles as of the effective date of this AD: Inspect at the earlier of the times specified in paragraphs (a)(3)(i) and (a)(3)(ii) of this AD.

(i) Prior to the accumulation of 8,100 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later.

(ii) Prior to the accumulation of 15,700 total flight hours, or within 5,800 flight hours after the effective date of this AD, whichever occurs later.

(4) For Model A300 B4–100 series airplanes that have accumulated 20,000 or more total flight cycles as of the effective date of this AD: Inspect within 1,800 flight cycles or 3,400 flight hours after the effective date of this AD, whichever occurs first.

(5) For Model A300 B4–200 series airplanes that have accumulated less than 14,000 total flight cycles as of the effective date of this AD: Inspect at the earlier of the times specified in paragraphs (a)(5)(i) and (a)(5)(ii) of this AD.

(i) Prior to the accumulation of 8,300 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later.

(ii) Prior to the accumulation of 17,200 total flight hours, or within 6,200 flight hours after the effective date of this AD, whichever occurs later.

(6) For Model A300 B4–200 series airplanes that have accumulated 14,000 or more total flight cycles as of the effective date of this AD: Inspect within 1,700 flight cycles or 3,500 flight hours after the effective date of this AD, whichever occurs first.

(7) For Model A300–600 series airplanes that have accumulated less than 18,000 total flight cycles as of the effective date of this AD: Inspect at the earlier of the times specified in paragraphs (a)(7)(i) and (a)(7)(ii) of this AD.

(i) Prior to the accumulation of 5,800 total flight cycles, or within 2,700 flight cycles after the effective date of this AD, whichever occurs later.

(ii) Prior to the accumulation of 15,100 total flight hours, or within 7,000 flight hours after the effective date of this AD, whichever occurs later.

(8) For Model A300–600 series airplanes that have accumulated 18,000 or more total flight cycles as of the effective date of this AD: Inspect within 1,400 flight cycles or 3,600 flight hours after the effective date of this AD, whichever occurs first.

Repetitive Inspections

(b) If no crack is detected during the initial inspection required by paragraph (a) of this AD, except as provided by paragraph (e) of this AD, repeat the inspection required by paragraph (a) of this AD at the time specified in paragraph (b)(1), (b)(2), (b)(3), or (b)(4) of this AD, as applicable.

(1) For Model A300 B2 series airplanes: Repeat at intervals not to exceed 2,100 flight cycles or 2,700 flight hours, whichever occurs first.

(2) For Model A300 B4–100 series airplanes: Repeat at intervals not to exceed 1,500 flight cycles or 3,000 flight hours, whichever occurs first.

(3) For Model A300 B4–200 series airplanes: Repeat at intervals not to exceed 1,700 flight cycles or 3,500 flight hours, whichever occurs first.

(4) For Model A300–600 series airplanes: Repeat at intervals not to exceed 1,300 flight

cycles or 3,400 flight hours, whichever occurs first.

Repair Cracking Found During Inspections

(c) If any crack is found during any inspection required by paragraph (a) or (b) of this AD and the crack is less than 0.787 inches long, prior to further flight, repair in accordance with Airbus Service Bulletin A300–53–0332, dated November 24, 1997 (for Model A300 B2 and B4 series airplanes), or Airbus Service Bulletin A300–57–6075, dated November 24, 1997 (for Model A300–600 series airplanes); as applicable. Perform the inspection required by paragraph (a) of this AD one more time at the time specified in paragraph (c)(1), (c)(2), (c)(3), or (c)(4) of this AD, as applicable, and accomplish the actions specified in paragraph (f) or (g) of this AD, as applicable.

(1) For Model A300 B2 series airplanes: Within 42,400 flight cycles or 54,600 flight hours after accomplishment of the repair, whichever occurs first.

(2) For Model A300 B4–100 series airplanes: Within 29,300 flight cycles or 56,700 flight hours after accomplishment of the repair, whichever occurs first.

(3) For Model A300 B4–200 series airplanes: Within 31,900 flight cycles or 66,100 flight hours after accomplishment of the repair, whichever occurs first.

(4) For Model A300–600 series airplanes: Within 22,000 flight cycles or 57,500 flight hours after accomplishment of the repair, whichever occurs first.

(d) If any crack is found during any inspection required by paragraph (a) or (b) of this AD and the crack is 0.787 inches long or more, prior to further flight, repair it in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent). For a repair method to be approved by the Manager, International Branch, ANM–116, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Deferral of Repetitive Inspections by Modification

(e) In lieu of accomplishing the requirements of paragraph (b) of this AD, prior to further flight after accomplishing the inspection required by paragraph (a) of this AD, modify the rear fitting at stringer 27 at FR40 of the center fuselage in accordance with Airbus Service Bulletin A300–53–0333, dated November 24, 1997 (Model A300 B2 and B4 series airplanes), or Airbus Service Bulletin A300–57–6076, dated November 24, 1997 (for Model A300–600 series airplanes); as applicable. Following accomplishment of the modification, perform the inspection required by paragraph (a) of this AD one more time at the time specified in paragraph (e)(1), (e)(2), (e)(3), or (e)(4) of this AD, as applicable, and accomplish the actions specified in paragraph (f) or (g) of this AD, as applicable.

(1) For Model A300 B2 series airplanes: Within 56,800 flight cycles or 73,100 flight hours after accomplishment of the modification, whichever occurs first.

(2) For Model A300 B4–100 series airplanes: Within 39,200 flight cycles or 75,900 flight hours after accomplishment of the modification, whichever occurs first.

(3) For Model A300 B4–200 series airplanes: Within 42,700 flight cycles or 88,400 flight hours after accomplishment of the modification, whichever occurs first.

(4) For Model A300–600 series airplanes: Within 29,400 flight cycles or 76,800 flight hours after accomplishment of the modification, whichever occurs first.

Follow-On Action if No Cracking Is Found During Certain Inspections

(f) If no crack is detected during the inspection required by paragraph (c) or (e) of this AD, prior to further flight, contact the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent) for the next inspection time(s), and repeat the inspection(s) thereafter at those times.

Repair for Cracking Found During a Certain Inspection

(g) If any crack is detected during the inspection required by paragraph (c) or (e) of this AD, prior to further flight, repair it in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent). For a repair method to be approved by the Manager, International Branch, ANM–116, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 3: The subject of this AD is addressed in French airworthiness directive 98–028–242 (B), dated January 28, 1998.

Issued in Renton, Washington, on May 3, 2000.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–11719 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–15]

Proposed Establishment of Class E Airspace; Scottsboro, AL.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Scottsboro, AL. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for Jackson County Hospital. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP.

DATES: Comments must be received on or before June 9, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–15, Manager, Airspace Branch, ASO–520; P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

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) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed postcard on which the following

statement is made: "Comments to Airspace Docket No. 00–ASO–15." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace at Scottsboro, AL. A GPS SIAP, helicopter point in space approach, has been developed for Jackson County Hospital. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1 The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

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

ASO AL E5 Scottsboro, AL [New]

Jackson County Hospital
Point in Space Coordinates
(Lat. 34°39′47″ N, long. 86°01′54″ W)

That airspace extending upward from 700 feet or more above the surface within a 6-mile radius of the point in space (Lat. 34°39′47″ N, long. 86°01′54″ W) serving Jackson County Hospital.

* * * * *

Issued in College Park, Georgia, on April 24, 2000.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–11708 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–13–M

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 403

RIN 0960–AE95

Testimony by Employees and the Production of Records in Legal Proceedings

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Social Security Administration (SSA) is proposing to establish procedures governing testimony by SSA employees and the production of official records and information in legal proceedings to which SSA is not a party. This proposed rule provides procedures, requirements, and information on how SSA will handle these matters and expressly prohibits any production or testimony except as approved by the Commissioner of Social Security or as Federal law otherwise provides. This proposed rule will conserve and ensure more efficient use of SSA's resources in meeting the Agency's mission, promote consistency in decisionmaking, minimize the possibility of involving SSA in issues not related to its mission, maintain SSA's impartiality, protect sensitive and confidential information and the deliberative processes of SSA, and enhance SSA's ability to respond efficiently to requests for records, information, or testimony in a legal proceeding.

DATES: Your comments will be considered if we receive them no later than July 10, 2000.

ADDRESSES: Submit comments in writing to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235–7703; send by telefax to (410) 966–2830; send by E-mail to regulations@ssa.gov; or deliver to the Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

Electronic Version: The electronic file of this document is available on the date of publication in the Federal Register on the Internet site for the Government Printing Office at: *http://www.access.gpo.gov/sudocs/aces/aces140.html*. It is also available on the Internet site for SSA at: *http://www.ssa.gov*.

FOR FURTHER INFORMATION CONTACT: Brad Howard, General Attorney, Office of the General Counsel, Room 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–1817, for information about this rule. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778.

SUPPLEMENTARY INFORMATION:

Clarity of This Regulation

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. In addition to your substantive comments on this proposed rule, we invite your comments on how to make this proposed rule easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

Background

Until March 31, 1995, SSA was part of the Department of Health and Human Services (DHHS). SSA followed the DHHS regulations at 45 CFR part 2 regarding requests for records, information, or testimony in legal proceedings where the United States was not a party. The Social Security Independence and Program Improvements Act of 1994 (SSIPIA), Pub. L. 103–296, established SSA as an independent agency in the executive branch of the Federal government effective March 31, 1995, and vested general regulatory authority in the Commissioner of Social Security (the Commissioner). Under § 106(b) of the SSIPIA, DHHS regulations in effect immediately before March 31, 1995, that relate to functions vested in the Commissioner by reason of SSA's independence, continue to apply to SSA until the Commissioner modifies, suspends, terminates, or repeals them. In this notice, we propose to establish a new part 403 of our regulations, which would set forth the SSA rules for responding to requests for information, records, or testimony in legal proceedings. Once these rules take effect, the DHHS regulations at 45 CFR part 2 will no longer apply to SSA.

These rules, issued under the authority of 5 U.S.C. 301, are similar to rules issued by numerous government agencies and departments. Section 301 of Title 5, the "housekeeping statute," authorizes the head of an executive agency to issue "regulations for the government of his department, the conduct of its employees, the distribution and performance of its business and the custody, use, and preservation of its records, papers, and property." In *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951), the Supreme Court upheld the authority of Federal agencies to establish procedures similar to those proposed here pursuant to § 301. Federal courts have consistently held that a person seeking testimony or records from an agency must comply with the agency's "*Touhy* regulation" before seeking judicial enforcement of a subpoena. In addition, under section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), the Commissioner has authority to promulgate regulations necessary to the efficient administration of SSA functions.

Explanation of Proposed Regulations

SSA administers a wide variety of programs that affect almost 50 million beneficiaries and the general public. SSA maintains records on virtually every individual in the United States. The documents that SSA obtains or generates and our employees' expertise frequently are sought for use in legal proceedings in which SSA is neither involved nor has an interest. Each year, SSA receives thousands of requests for records and testimony. This proposed rule establishes SSA policies and procedures applicable to requests for official Agency information, records, or testimony in legal proceedings.

Scope

With some limited exceptions, this proposed rule would apply to all requests arising out of a legal proceeding for:

(1) SSA information or records; or

(2) Testimony from SSA employees concerning information acquired while performing official duties or because of the employees' official capacity.

A request for both testimony and records or other information is treated as two separate requests—one for testimony and one for records or other information—because some procedures apply only to requests for testimony.

This proposed rule applies to a broad range of legal proceedings. It adopts the definition of "record" found in SSA disclosure regulations; clarifies that "testimony" encompasses all types of sworn statements; and expands the definition of SSA "employee" to include past employees, persons acting on the Agency's behalf, and persons subject to the Agency's disclosure regulations.

Note: These definitions do not expand the Federal Government's obligation to provide legal representation.

The proposed rule explains that SSA employees may disclose records or other information only as permitted under the Agency's disclosure regulations and explains that SSA employees may provide testimony (even testimony related to records that the Agency may disclose) only with the Commissioner's explicit approval. The Commissioner may delegate this authority.

This proposed rule would not apply to requests for testimony:

- In an SSA administrative proceeding;
- Related to a case to which SSA is a party;
- From the United States Department of Justice;
- In a criminal proceeding to which the United States is a party;
- In a legal proceeding initiated by state or local authorities arising from an investigation or audit initiated by, or conducted in cooperation with, SSA's Office of the Inspector General;
- From either house of Congress;
- In a law enforcement proceeding related to threats or acts against SSA, its employees, or its operations; or
- Where Federal law or regulations expressly require a Federal employee to provide testimony.

These exceptions refine those listed in the DHHS regulations to focus more on specific SSA goals. For example, instead of the broad exceptions related to criminal or civil proceedings where the United States or any Federal agency is a party (45 CFR 2.1(d)(1)), we would provide more specific exceptions related to cases where SSA is a party, requests from the Department of Justice, and criminal proceedings to which the United States is a party. These changes address SSA's goals of full participation in cases when it is a party, and full cooperation and comity with the Agency's legal representatives (the Department of Justice). At the same time, the more narrowly tailored exceptions advance SSA goals of: (1) Not providing any unfair advantage to private litigants related to SSA testimony, and (2) making a full and fair evaluation of each applicant's need for testimony. Similarly, we have not included the exceptions found in the

DHHS regulations that concern DHHS agencies and employees, and we have clarified the relationship between this proposed rule and SSA's disclosure regulations (20 CFR parts 401 and 402) and added exceptions to enhance our ability to assist those protecting and furthering the interests of SSA.

Certification

Because we can certify copies of records in SSA's possession, the Commissioner generally would not authorize testimony intended only to authenticate those records. We propose to adopt certification rules different from those in the DHHS regulations to explain that SSA would not certify copies of records that have been released previously or have been otherwise outside SSA's control.

Fees

We charge a fee for production of records or information and certification. The fee schedules for these services are established in 20 CFR 401.95, and 20 CFR 402.155–185, as appropriate. We propose to charge for testimony. These fees will be calculated to reimburse the Federal government for the full cost of providing testimony, such as, but not limited to, salary or wages of the witness for time needed to prepare for testimony, any necessary travel time, and the cost of travel and attendance at the legal proceeding.

Relation to SSA Disclosure Regulations (20 CFR Parts 401 and 402)

The DHHS regulations at 45 CFR part 2 do not apply to matters covered in the SSA disclosure regulations at 20 CFR part 401. *See* 45 CFR 2.1(d)(6). The proposed part 403 would apply to such matters to the extent necessary to ensure that requests for testimony related to records receive the same treatment as other requests for testimony and to provide notice to requesters or courts when current law prohibits the disclosure of a requested record.

Nothing in this proposed rule affects the application of the rules in SSA's disclosure regulations. As provided in proposed § 403.105, if you request records or information in any legal proceeding covered by this proposed rule, SSA employees will not disclose the requested records or information unless authorized by SSA disclosure regulations. If the disclosure is not authorized, the decision to deny the request would be made by the appropriate SSA official under the SSA disclosure regulations. However, if disclosure is not authorized and your request states that a response is due on a particular date, we would make every reasonable effort to provide you with the written notification described in proposed § 403.145 on or before the specified date. We will also send you any notices required by part 401 or 402. If disclosure of records or information is authorized by the disclosure regulations but you request testimony concerning those matters, your request would be subject to the process for applying for testimony described in proposed § § 403.120 through 403.140. By focusing a requestor on the disclosure regulations (which usually require the consent of the individual to whom the requested record pertains) and the procedures for obtaining the Commissioner's permission for testimony, these regulations emphasize the most efficient means for obtaining information, records, or testimony.

Subpoenas Duces Tecum

Under the DHHS regulations, subpoenas duces tecum were deemed to be requests for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552, and were to be processed under the DHHS FOIA regulations. *See* 45 CFR 2.5. SSA has concluded that a more useful approach given the nature of SSA's records and operations would be to treat subpoenas duces tecum as requests for records within the scope of this proposed rule. Accordingly, SSA would apply the procedures in this proposed rule in responding to such subpoenas duces tecum.

Procedures for Requesting Testimony

In proposed § 403.120, we explain the process for requesting testimony. We would change the procedures used under the DHHS regulations for requesting testimony from an SSA employee to standardize the procedures and to make them more administratively efficient.

To obtain the testimony of an SSA employee in a legal proceeding, you must file a written application. As in the DHHS regulations, this proposed rule requires that the application set out the nature of the testimony sought, explain why the information is not available by other means, and explain why it is in SSA's interest to provide the testimony. In addition, this proposed rule requires you to explain in the application the relevance of the testimony to the issues involved in the legal proceeding and state the date and time when you need the testimony and the location where the testimony would be presented. Another change from the DHHS regulations would require you to submit the application for testimony to us at least 30 days in advance of the date when you need the testimony, or explain in your application why your application is not timely and why it is in SSA's interest to review the untimely application. Failure to submit a complete and timely application could result in the denial of the application or could cause delay in the decision on the application.

Unlike the DHHS regulations, this proposed rule would establish a central address for all applications for testimony by SSA employees for use in legal proceedings. This proposed rule would require that all applications (except applications involving the Office of the Inspector General) be sent to our Office of the General Counsel in Baltimore, Maryland. By using a central location, we can issue quicker responses and handle applications more efficiently and consistently.

Deciding Whether To Approve an Application for Testimony—Factors We Consider

Once we receive a complete application for testimony under this proposed rule, the Commissioner would consider whether to approve it. The Office of the General Counsel or another component of SSA may review your application. In consultation with these offices, the Commissioner would make a final decision on your application and notify you of that decision. *See* proposed § 403.135. To decide whether to approve the application, and therefore to authorize an SSA employee to provide testimony, the Commissioner would consider a number of factors such as:

- Whether providing the testimony would violate a statute, Executive Order, or regulation;
- Whether providing the testimony would unduly expend for private purposes the resources of the United States (including the time of SSA employees otherwise needed for official duties);
- Whether providing the testimony is in SSA's interest;
- Whether providing the testimony is consistent with SSA's policy of impartiality among private litigants;
- Whether providing the testimony will put confidential, sensitive, or privileged information at risk;
- Whether the testimony is available in a less burdensome form or from another source;
- Whether the testimony sought is limited to the purpose of the request;
- Whether providing the testimony sought is necessary to prevent a miscarriage of justice or to preserve the rights of an accused individual to due process in a criminal proceeding;

- Whether you previously have requested the same testimony in the same or a related proceeding;
- Whether another government agency is involved in the proceeding; and
- Whether you need the testimony to prevent fraud or similar misconduct.

See proposed § 403.130.

Under this proposed rule, if the Commissioner approves your application, the Commissioner decides the form by which SSA will provide the testimony. For example, if the Commissioner decides that SSA can meet your needs satisfactorily with a sworn written statement, he will not authorize oral testimony.

Procedures When the Commissioner Denies Your Application or Does Not Act by the Return Date Specified in the Application or When Disclosure Is Not Authorized

Under the DHHS regulations, if the Agency head denied approval for an employee to comply with a subpoena for testimony, or did not act by the return date in the subpoena, the employee was to appear at the stated time and place unless advised by the Office of the General Counsel that responding to the subpoena would be inappropriate. The only actions the employee was authorized to take at this appearance were to provide a copy of the regulations and to respectfully decline to testify or produce any documents. *See* 45 CFR § 2.4(b). Our experience suggests that under the prior procedures, SSA incurred the substantial cost of sending individuals to hearings, and that these appearances did not provide any significant service or information to the tribunal or the parties involved.

Proposed § 403.145 would provide that, in cases where SSA cannot respond to a request by the date specified in the application, SSA will make every reasonable effort to provide a statement to the requesting party and/or the court or other tribunal conducting the proceeding by the specified date. The statement would explain the following: compliance with the request is not authorized without the Commissioner's approval and approval has not yet been given; the requirements for obtaining approval; and, if the request complies with proposed § 403.120, the estimated time necessary for reaching a decision. If 20 CFR part 401 or 402 does not authorize disclosure of the requested records or information, the statement would explain the requirements for disclosure. Generally, if a response to a request for information, records, or testimony is due before the conditions of this part or 20 CFR part 401 or 402 are met, no SSA employee would appear before the tribunal or the parties involved in the proceeding.

Waiving the Requirements of This Proposed Rule

Under certain circumstances, this proposed rule would permit the Commissioner to grant an exception from any requirement related to your application for testimony. For example, proposed § 403.120(b) provides that if you apply for testimony by an SSA employee, you must submit the application at least 30 days before the date the testimony is needed. If, however, the Commissioner believes that a waiver of this requirement would be in the interests of SSA or would be necessary to prevent a miscarriage of justice, an exception may be granted. In addition, SSA employees may resolve requests for information informally (as they currently do in the ordinary course of business) by writing letters to claimants or other members of the public explaining procedures or other matters encompassed by the Social Security Act. Such letters may include information about an individual, if that person has provided written consent to disclosure as required in 20 CFR part 401. Such informal activity is not a waiver of the procedures described in this proposed rule since it does not involve a sworn statement by an SSA employee, but is an alternative means of assisting a person without providing employee testimony.

Requests Involving the Office of the Inspector General

This proposed rule provides that if you seek records or information of the Office of the Inspector General or the testimony of an employee of the Office of the Inspector General, the regulations in part 403 apply with two exceptions. The Inspector General or his or her designee would make any determination that the Commissioner would make. A separate address is provided for requests for Office of the Inspector General records or information or applications for the testimony of an employee of the Office of the Inspector General.

Procedural Nature of the Regulations

This proposed rule would be procedural, not substantive. Nevertheless, failure to comply with the procedures may be a basis for denying a request. This proposed rule does not create a right to obtain information, records, or the testimony of an SSA employee nor does it create any additional right or privilege not already available to SSA to deny such a request. Furthermore, this proposed rule creates no independent right of action against SSA or any of its employees.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

There is a reporting requirement in section 403.120(a),(b), and (c), which establishes the requirements for applying for the testimony of an SSA employee. As required by 44 U.S.C. 3507(d), we have submitted a copy of this information collection requirement to the Office of Management and Budget (OMB) for its review. Organizations and individuals desiring to submit comments on these information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attention: Desk Officer for SSA.

The public burden for this collection of information is estimated to average 30 minutes per application. This includes the time it will take to understand what is needed, gather the necessary facts, and provide the information. We expect that there will be approximately 40 applicants for testimony each year. Therefore, the annual reporting burden is expected to be 20 hours. If you have any comments or suggestions on this estimate, write to the Social Security Administration, ATTN: Reports Clearance Officer, 1–A–21 Operations Building, Baltimore, MD 21235.

SSA is soliciting comments from the public in order to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology (e.g., permitting electronic submission of responses).

(Catalog of Federal Domestic Assistance Program Nos. 93.773 Medicare-Hospital Insurance; 93.774 Medicare-Supplementary Medical Insurance; 96.001 Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; 96.003 Special Benefits for Persons Aged 72 and Over; 96.004 Social Security-Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; and 96.006 Supplemental Security Income).

List of Subjects in 20 CFR Part 403

Courts, Government employees.

Dated: April 26, 2000.

Kenneth S. Apfel,

Commissioner of Social Security.

For reasons set out in the preamble, Chapter III of Title 20 of the Code of Federal Regulations is amended by adding a new part 403 to read as follows:

PART 403—TESTIMONY BY EMPLOYEES AND THE PRODUCTION OF RECORDS AND INFORMATION IN LEGAL PROCEEDINGS

Sec.

Authority: Secs. 702(a)(5) and 1106 of the Social Security Act, 42 U.S.C. 902(a)(5) and 1306; 5 U.S.C. 301; 31 U.S.C. 9701.

§ 403.100 When can an SSA employee testify or produce information or records in legal proceedings?

An SSA employee can testify concerning any function of SSA or any information or record created or acquired by SSA as a result of the discharge of its official duties in any legal proceeding covered by this part only with the prior authorization of the Commissioner. An SSA employee can provide records or other information in a legal proceeding covered by this part only to the extent that doing so is consistent with 20 CFR parts 401 and 402. A request for both testimony and records or other information is considered two separate requests—one for testimony and one for records or other information. SSA maintains a policy of strict impartiality with respect to private litigants and seeks to minimize the disruption of official duties.

§ 403.105 What is the relationship between this part and 20 CFR parts 401 and 402?

(a) *General.* Disclosure of SSA's records and information contained in those records is governed by the regulations at 20 CFR parts 401 and 402. SSA employees will not disclose records or information in any legal proceeding covered by this part except as permitted by 20 CFR parts 401 and 402.

(b) *Requests for information or records that do not include testimony.* (1) If you do not request testimony, §§ 403.120–403.140 do not apply.

(2) If 20 CFR part 401 or 402 permits disclosure to you of any requested record or information, we will make every reasonable effort to provide the disclosable information or record to you on or before the date specified in your request.

(3) If neither 20 CFR part 401 nor 402 permits disclosure of information or a record you request, we will notify you as provided in § 403.145. We will also send you any notices required by part 401 or 402.

§ 403.110 What special definitions apply to this part?

The following definitions apply:

(a) *Application* means a written request for testimony that conforms to the requirements of § 403.120.

(b)(1) *Employee* includes—

(i) Any person employed in any capacity by SSA, currently or in the past;

(ii) Any person appointed by, or subject to the supervision, jurisdiction, or control of SSA, the Commissioner of Social Security, or any other SSA official, currently or in the past; and

(iii) Any person who is not described elsewhere in this definition but whose disclosure of information is subject to the regulations at 20 CFR part 401 currently or in the past.

(2) For purposes of this paragraph (b), a person subject to SSA's jurisdiction or control includes any person hired as a contractor by SSA, any person performing services for SSA under an agreement (such as an officer or employee of a State agency involved in determining disability for SSA), and any consultant (including medical or vocational experts or medical services or consultative examination providers), contractor, or subcontractor of such person. Such a person would also include any person who has served or is serving in any advisory capacity, formal or informal.

(3) For purposes of this paragraph (b), a person employed by SSA in the past is considered an employee only when the matter about which the person would testify is one in which he or she was personally involved while at SSA; where the matter concerns official information that the employee acquired while working, such as sensitive or confidential agency information; where the person purports to speak for SSA; or where significant SSA resources would be required to prepare the person to testify. Such a person would not be considered an employee when the person will rely only on expertise or general knowledge he or she acquired while working at SSA.

(c) *Commissioner* means the Commissioner of Social Security or his or her designee(s).

(d) *Legal proceeding* includes any pretrial, trial, and post-trial stage of any existing or reasonably anticipated judicial or administrative action, hearing, investigation, or similar proceeding before a court, commission, board, agency, or other tribunal, authority or entity, foreign or domestic. *Legal proceeding* also includes any deposition or other pretrial proceeding, including a formal or informal request for testimony by an attorney or any other person.

(e) *Record* has the same meaning as "record" in 20 CFR 402.30.

(f) *Request* means any attempt to obtain the production, disclosure, or release of information, records, or the testimony of an SSA employee, including any order, subpoena, or other command issued in a legal proceeding as well as any informal or other attempt (by any method) by a party or a party's representative.

(g) *SSA* means the Social Security Administration.

(h) *Testimony* includes any sworn statement (oral or written), including (but not limited to)—

(1) Any statement provided through personal appearance; deposition; or recorded interview; or provided by telephone, television, or videotape;

(2) Any response during discovery or other similar proceedings that would involve more than the mere physical production of records; and

(3) Any declaration made under penalty of perjury or any affidavit.

(i) *We* or *our* means the Social Security Administration.

(j) *You* means an individual or entity that submits a request for records, information or testimony.

§ 403.115 When does this part apply?

(a) Except as specified in paragraph (b) of this section, this part applies to any request in connection with any legal proceeding for SSA records or other information or for testimony from SSA or its employees. This part applies to requests for testimony related to SSA's functions or to any information or record created or acquired by SSA as a result of the discharge of its official duties.

(b) This part does not apply to requests for testimony—

(1) In an SSA administrative proceeding;

(2) In a legal proceeding to which SSA is a party ("SSA" here includes the Commissioner and any employee acting in his or her official capacity);

(3) From the United States Department of Justice;

(4) In a criminal proceeding in which the United States is a party;

(5) In a legal proceeding initiated by state or local authorities arising from an investigation or audit initiated by, or conducted in cooperation with, SSA's Office of the Inspector General;

(6) From either house of Congress;

(7) In a law enforcement proceeding related to threats or acts against SSA, its employees, or its operations ("SSA" here includes the Commissioner and any employee acting in his or her official capacity); or

(8) Where Federal law or regulations expressly require a Federal employee to provide testimony.

§ 403.120 How must I request testimony?

(a) You must submit a written application for testimony of an SSA employee. Your application must—

(1) Describe in detail the nature and relevance of the testimony sought in the legal proceeding;

(2) Include a detailed explanation as to why you need the testimony, why you cannot obtain the information you need from an alternative source, and why providing it to you would be in SSA's interest; and

(3) Provide the date and time that you need the testimony and the place where SSA would present it.

(b) You must submit a complete application to SSA at least 30 days in advance of the date that you need the testimony. If your application is submitted fewer than 30 days before that date, you must provide, in addition to the requirements set out above, a detailed explanation as to why—

(1) You did not apply in a timely fashion; and

(2) It is in SSA's interest to review the untimely application.

(c) You must send your application for testimony to: Office of the General Counsel, Social Security Administration, Post Office Box 17706, Baltimore, MD 21235–7760. (If you are requesting testimony of an employee of the Office of the Inspector General, send your application to the address in § 403.125.)

(d) The Commissioner has the sole discretion to waive any requirement in this section.

(e) If your application does not include each of the items required by paragraph (a) of this section, we may return it to you for additional information. Unless the Commissioner waives one or more requirements, we will not process an incomplete or untimely application.

§ 403.125 How will requests for records, information, or testimony involving SSA's Office of the Inspector General be handled?

A request for records or information of the Office of the Inspector General or the testimony of an employee of the Office of the Inspector General will be handled in accordance with the provisions of this part, except that the Inspector General or the Inspector General's designee will make those determinations that the Commissioner would make. Send your request for records or information pertaining to the Office of the Inspector General or your application for testimony of an employee of the Office of the Inspector General to: Office of the Inspector General, Social Security Administration, 300 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235.

§ 403.130 What factors may the Commissioner consider in determining whether SSA will grant my application for testimony?

In deciding whether to authorize the testimony of an SSA employee, the Commissioner will consider applicable law and factors relating to your need and the burden to SSA. The considerations include, but are not limited to—

(a) Whether providing the testimony would violate a statute (such as 26 U.S.C. 6103 or section 1106 of the Social Security Act, 42 U.S.C. 1306), Executive Order, or regulation (such as 20 CFR part 401);

(b) Whether granting the application would unduly expend for private purposes the resources of the United States (including the time of SSA employees needed for official duties);

(c) Whether it is in SSA's interest to provide the testimony;

(d) Whether providing the testimony maintains SSA's policy of impartiality among private litigants;

(e) Whether providing the testimony will put confidential, sensitive, or privileged information at risk;

(f) Whether the testimony is available in a less burdensome form or from another source;

(g) Whether the testimony is limited to the purpose of the request;

(h) Whether providing the testimony is necessary to prevent a miscarriage of justice or to preserve the rights of an accused individual to due process in a criminal proceeding;

(i) Whether you have previously requested the same testimony in the same or a related proceeding;

(j) Whether another government agency is involved in the proceeding; or

(k) Whether you need the testimony to prevent fraud or similar misconduct.

§ 403.135 What happens to my application for testimony?

(a) If 20 CFR part 401 or 402 do not permit disclosure of information about which you seek testimony from an SSA employee, we will notify you under § 403.145.

(b) If 20 CFR part 401 or 402 permit disclosure of the information about which you seek testimony,

(1) The Commissioner makes the final decision on your application;

(2) All final decisions are in the sole discretion of the Commissioner; and

(3) We will notify you of the final decision on your application.

§ 403.140 If the Commissioner authorizes testimony, what will be the scope and form of that testimony?

The employee's testimony must be limited to matters that were specifically approved. We will provide testimony in the form that is least burdensome to SSA unless you provide sufficient information in your application for SSA to justify a different form. For example, we will provide an affidavit or declaration rather than a deposition and a deposition rather than trial testimony.

§ 403.145 What will SSA do if I have not satisfied the conditions in this part or in 20 CFR part 401 or 402?

(a) We will provide the following information, as appropriate, to you or the court or other tribunal conducting the legal proceeding if your request states that a response is due on a particular date and the conditions prescribed in this part, or the conditions for disclosure in 20 CFR part 401 or 402, are not satisfied or we anticipate that they will not be satisfied by that date:

(1) A statement that compliance with the request is not authorized under 20 CFR part 401 or 402, or is prohibited without the Commissioner's approval;

(2) The requirements for obtaining the approval of the Commissioner for testimony or for obtaining information, records, or testimony under 20 CFR part 401 or 402; and

(3) If the request complies with § 403.120, the estimated time necessary for a decision. We will make every reasonable effort to provide this information in writing on or before the date specified in your request.

(b) Generally, if a response to a request for information, records, or testimony is due before the conditions of this part or the conditions for disclosure in 20 CFR part 401 or 402 are met, no SSA employee will appear.

(c) SSA will seek the advice and assistance of the Department of Justice when appropriate.

§ 403.150 Must I pay a fee if my request is granted?

(a) *General.* Unless the Commissioner grants a waiver, you must pay fees for our services in providing information, records, or testimony. You must pay the fees as prescribed by the Commissioner. In addition, the Commissioner may require that you pay the fees in advance as a condition of providing the information, records, or testimony. Make fees payable to the Social Security Administration by check or money order.

(b) *Records or information.* Unless the Commissioner grants a waiver, you must pay the fees for production of records or information prescribed in 20 CFR 401.95 and 20 CFR 402.155 through 402.185, as appropriate.

(c) *Testimony.* Unless the Commissioner grants a waiver, you must pay fees calculated to reimburse the United States government for the full cost of providing the testimony. Those costs include, but are not limited to—

(1) The salary or wages of the witness and related costs for the time necessary to prepare for and provide the testimony and any travel time, and

(2) Other travel costs.

(d) *Waiver or reduction of fees.* The Commissioner may waive or reduce fees for providing information, records, or testimony under this part. The rules in 20 CFR 402.185 apply in determining whether to waive fees for the production of records. In deciding whether to waive or reduce fees for testimony or for production of information that does not constitute a record, the Commissioner may consider other factors, including but not limited to—

(1) The ability of the party responsible for the application to pay the full amount of the chargeable fees;

(2) The public interest, as described in 20 CFR 402.185, affected by complying with the application;

(3) The need for the testimony or information in order to prevent a miscarriage of justice;

(4) The extent to which providing the testimony or information serves SSA's interest; and

(5) The burden on SSA's resources required to provide the information or testimony.

§ 403.155 Does SSA certify records?

We can certify the authenticity of copies of records we disclose pursuant to 20 CFR parts 401 and 402, and this part. We will provide this service only in response to your written request. If we certify, we will do so at the time of the disclosure and will not certify copies of records that have left our custody. A request for certified copies of records previously released is considered a new request for records. Fees for this certification are set forth in 20 CFR 402.165(e).

[FR Doc. 00–11592 Filed 5–9–00; 8:45 am]
BILLING CODE 4191–02–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–00–005]

RIN 2115–AE47

Drawbridge Operation Regulation; Chef Menteur Pass, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a change to the regulation governing the operation of the U.S. Highway 90 bridge across Chef Menteur Pass, mile 2.8 at Lake Catherine, Orleans Parish, Louisiana. The proposal would change the current regulation which provides for a two-hour morning closure period between 5:30 a.m. and 7:30 a.m. Mondays through Fridays except Federal holidays and require the draw to open on the hour and half-hour between 5:30 a.m. to 7:30 a.m., Monday through Friday, except Federal holidays. This change would accommodate the navigation needs of commercial fishing vessels.

DATES: Comments and related material must reach the Coast Guard on or before July 31, 2000.

ADDRESSES: You may mail comments to Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396, or deliver them to room 1313 at the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The Commander, Eighth Coast Guard District, Bridge Administration Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Bridge Administration Branch, Eighth Coast Guard District between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08–00–005), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 81/2 by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Commander, Eighth Coast Guard District, Bridge Administration Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold

one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

To meet the needs of commuters who cross the U.S. Highway 90 bridge each day en route to work in the Almonaster Industrial District, the Coast Guard issued a final rule effective February 23, 1999 (64 FR 8720) allowing the bridge to remain closed to navigation from 5:30 a.m. to 7:30 a.m., Monday Through Friday, except Federal holidays. The draw opens at any time for a vessel in distress.

Since the rule has been in effect, the Coast Guard received numerous complaints from operators of commercial fishing vessels stating that the regulation does not meet the needs of navigation for local commercial fishermen because they are required to haul in their shrimp nets earlier than necessary to be able pass through the bridge before the closure time. Local commercial fishermen generally trawl for shrimp during evening hours. This is because brown shrimp feed at night above the bottom. Once daylight occurs they bury themselves in the mud and can no longer be caught with trawl nets. Since the fishermen need to maximize trawling time, they work from sundown until sunrise then enter port and unload their catches. In order for them to transit the U.S. Highway 90 bridge before the 5:30 closure, they must haul in their nets as much as two hours early and head into port. This cuts down trawling time and causes loss of revenue. Based on complaints from local commercial fishermen, the Coast Guard determined that the current operating schedule may not meet the reasonable needs of navigation.

Discussion of Proposed Rule

This proposed rule would revise 33 CFR 117.436. In order to accommodate motorists who live in the Lake Catherine area and commute to work via the U. S. Highway 90 bridge across Chef Menteur Pass, mile 2.8, while providing for the needs of commercial fishermen, the Coast Guard is proposing to change the regulation to permit the draw to open to navigation only on the hour and on the half-hour from 5:30 a.m. to 7:30 a.m., Monday through Friday, except Federal holidays. The proposed regulation would allow for the free flow of vehicular traffic for the majority of the year, while still serving the reasonable needs of navigational interests.

A comment period, extending through July 31, 2000 will be allowed for mariners, motorists and other interested parties to provide comments and data on the proposed change. During the comment period, to test this proposed rule, the Coast Guard has issued a temporary deviation from the drawbridge operating regulations. The temporary deviation is published elsewhere in this **Federal Register**. The temporary deviation is in effect from June 1, 2000 through June 30, 2000 and will require that the draw open for the passage of vessels on the hour and on the half-hour from 5:30 a.m. to 7:30 a.m., Monday through Friday, except Federal holidays. The bridge will open on signal at all other times or at any time for a vessel in distress. We request comments on how the test schedule works during this period.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This proposed rule will have a positive impact on the economic status of the local commercial fishermen as it provides them with adequate time to trawl. It will not create a significant adverse effect for the local motorists who cross the bridge on weekdays en route to work. The motorists will be able to adjust their commuting schedules to accommodate the hour and half-hour drawbridge openings.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. The small entities concerned with this proposed rule are the local commercial fishermen who transit the bridge. This proposed rule will positively affect the local commercial fishermen by affording them adequate time to trawl. They will not be required to haul in their nets early in order to transit through the bridge en route to port.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of

E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.lC, this proposed rule is categorically excluded from further environmental documentation. This proposal will change an existing special drawbridge operating regulation promulgated by a Coast Guard Bridge Administration Program action. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.436 is revised to read as follows:

§ 117.436 Chef Menteur Pass.

The draw of the U.S. Highway 90 bridge, mile 2.8, at Lake Catherine, shall open on signal; except that, from 5:30 a.m. to 7:30 a.m., Monday through Friday except Federal holidays, the draw need open only on the hour and on the half-hour for the passage of vessels. The draw shall open at any time for a vessel in distress.

Dated: May 1, 2000.

K.J. Eldridge,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard Dist., Acting.

[FR Doc. 00–11703 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR–77–7292–b; FRL–6583–1]

Approval and Promulgation of State Implementation Plans: Oregon RACT Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Oregon for the purpose of revising the RACT Rule. The SIP revision was submitted by the State to satisfy certain Federal Clean Air Act requirements for a SIP. In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received in writing by June 9, 2000.

ADDRESSES: Written comments should be addressed to Christine Lemmé, Environmental Protection Specialist (OAQ–107), Office of Air Quality, at the EPA Regional Office listed below. Copies of the state submittal are available at the following addresses for inspection during normal business hours. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day with Environmental Protection Agency, Region 10, Office of Air Quality, 1200 6th Avenue, Seattle, WA 98101 and/or The Oregon Department of Environmental Quality, Air Quality Division, 811 SW Sixth Avenue, Portland, OR 97204–1390. Telephone: (503) 229–5696.

FOR FURTHER INFORMATION CONTACT: Mahbubul Islam, Office of Air Quality (OAQ–107), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–6985.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules Section of this **Federal Register**.

Dated: March 1, 2000.

Chuck Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 00–11672 Filed 5–9–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[IN 119–1b; FRL–6601–6]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planing Purposes; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request submitted by the State of Indiana to redesignate Marion County, Indiana as attainment for lead (Pb). Indiana submitted this request on March 2, 2000. EPA is also proposing to approve the lead maintenance plan for Marion County. This plan is designed to ensure maintenance of the lead National Ambient Air Quality Standards (NAAQS) for at least 10 years.

DATES: EPA must receive written comments on this proposed rule by June 9, 2000.

ADDRESSES: Written comments may be mailed to J. Elmer Bortzer, Chief, Regulation Development Section, Air Program Branch (AR-18J), Region 5, at the address listed below.

Copies of the materials submitted by Indiana may be examined during normal business hours at the following location: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Phuong Nguyen, Environmental Scientist, at (312) 886–6701.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" are used we mean EPA.

Table of Contents

I. What Action Is EPA Taking Today?

EPA is proposing to approve a lead redesignation request for Marion County, Indiana, which the State submitted on March 2, 2000. EPA is also proposing to approve the lead maintenance plan for Marion County, Indiana.

II. Where Can I Find More Information About This Proposal And The Corresponding Direct Final?

For additional information, see the direct final rule published in the rules section of this **Federal Register**.

Dated: April 20, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

[FR Doc. 00–11424 Filed 5–9–00; 8: 45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6600–5]

West Virginia: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: West Virginia has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to West Virginia. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by June 9, 2000.

ADDRESSES: Send written comments to Sharon McCauley, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814–3376. You can examine copies of the materials submitted by West Virginia during normal business hours at the following locations: EPA Region III Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814–5254; or West Virginia Division of Environmental Protection, Office of Waste Management, 1356 Hansford Street, Charleston, WV 25301–1401, Phone number: (304) 558–4253.

FOR FURTHER INFORMATION CONTACT: Sharon McCauley at the above address and phone number.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–11427 Filed 5–9–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6604–4]

Hazardous Waste Management Program: Final Authorization of State Hazardous Waste Management Program Revisions for State of Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and request for comment.

SUMMARY: The EPA (also, "the Agency" in this preamble) proposes to grant final authorization to the hazardous waste program revisions submitted by the State of Oklahoma for its hazardous waste program revisions, specifically, revisions needed to meet Resource Conservation and Recovery Act (RCRA) Cluster VIII which contains Federal rules promulgated from July 1, 1997, to June 30, 1998. The RCRA Cluster VIII rules are listed in the rules section of this **Federal Register** (FR). In the "Rules and Regulations" section of this FR, EPA is authorizing the State's program revisions as an immediate final rule without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. The Agency has explained the reasons for this authorization in the preamble to the immediate final rule. If the EPA does not receive adverse written comments, the immediate final rule will become effective and the Agency will not take further action on this proposal. If the EPA receives adverse written comments, a second **Federal Register** document will be published before the time the immediate final rule takes effect. The second document will withdraw the immediate final rule or identify the issues raised, respond to the comments and affirm that the immediate final rule will take effect as scheduled. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before June 9, 2000.

ADDRESSES: Mail written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials submitted by the State of Oklahoma during normal business hours at the following locations: EPA Region 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444 ; or Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101–1677, (405) 702–7180.

FOR FURTHER INFORMATION CONTACT: Alima Patterson (214) 665–8533.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: March 30, 2000.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 00–11561 Filed 5–9–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–922, MM Docket No. 00–70, RM–9843]

Radio Broadcasting Services; Key West, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making

filed on behalf of Adolphus Warfield, Inc. requesting the allotment of Channel 244A at Key West, Florida, as the community's seventh commercial FM broadcast service. Channel 244A can be allotted to Key West without a site restriction at coordinates 24–33–06 and 81–47–48.

DATES: Comments must be filed on or before June 16, 2000, and reply comments on or before July 3, 2000.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Joseph A. Belisle, Leibowitz & Associates, P. A., One Southeast Third Avenue, Suite 1450, Miami, Florida 33131.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–70, adopted April 19, 2000, and released April 25, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–11655 Filed 5–9–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–943; MM Docket No. 00–72; RM–9853]

Radio Broadcasting Services; Covelo, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Round Valley Unified School District, requesting the allotment of Channel 245A to Covelo, California, as that community's first local aural transmission service. Coordinates used for this proposal are 39–47–42 NL and 123–14–54 WL.

DATES: Comments must be filed on or before June 19, 2000, and reply comments on or before July 5, 2000.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Round Valley Unified School District, Attn: Andrea Harris, Superintendent, Howard & High Streets, Covelo, CA 95428.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–72, adopted April 19, 2000, and released April 28, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–11656 Filed 5–9–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–943; MM Docket No. 00–71; RM–9852]

Radio Broadcasting Services; Olpe, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Michael D. Law, requesting the allotment of Channel 276A to Olpe, Kansas, as that community's first local aural transmission service. Coordinates used for this proposal are 38–12–39 NL and 96–10–50 WL.

DATES: Comments must be filed on or before June 19, 2000, and reply comments on or before July 5, 2000.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Michael D. Law, 12462 Hallet, Olathe, KS 66062.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–71, adopted April 19, 2000. and released April 28, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission

consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–11657 Filed 5–9–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To Add Botrychium lineare (Slender Moonwort) to the List of Threatened and Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding for a petition to amend the List of Endangered and Threatened Wildlife and Plants. We find that the petitioner has presented substantial information indicating that listing *Botrychium lineare* (slender moonwort) may be warranted. With the publication of this notice, we are initiating a status review and will prepare a 12-month finding.

DATES: The finding announced in this document was made on April 12, 2000. To be considered in the 12-month finding for this petition, comments and information should be submitted to us by July 10, 2000.

ADDRESSES: Data, comments, information, or questions concerning this petition should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Snake River Basin Office, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Ruesink, Supervisor (see **ADDRESSES** section) (telephone 208/378–5243; facsimile 208/378–5262).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and we are to publish the finding promptly in the **Federal Register**. If the finding is that substantial information was presented, we are also required to promptly commence a review of the status of the involved species and to disclose its findings within 12 months (12-month finding).

The processing of this petition conforms with our Listing Priority Guidance published in the **Federal Register** on October 22, 1999 (64 FR 57114). The guidance clarifies the order in which we will process rulemakings. Highest priority is processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is processing final determinations on proposed additions to the lists of endangered and threatened wildlife and plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. The processing of this 90-day petition finding is a Priority 4 action and is being completed in accordance with the current Listing Priority Guidance.

On July 28, 1999, we received a petition dated July 26, 1999, from the Biodiversity Legal Foundation. The petitioner requested that we list *Botrychium lineare* (slender moonwort) as endangered or threatened and designate critical habitat within a reasonable period of time following the listing. The petitioner submitted biological, distributional, historical, and other information and scientific references in support of the petition.

Botrychium lineare is a small perennial fern with a pale green leaf (trophophore) from 6 to 18 centimeters (2 to 7 inches) long. Leaf segments are typically linear and divided or forked at the ends. The sporophore (spore-bearing structure) is 1 to 2 times the length of the trophophore with a single main axis. Spores mature primarily in late June and July. This species was initially described in 1994 and is considered to be one of the more distinctive moonworts (Wagner and Wagner 1994). The habitat for *B. lineare* has been described as "deep grass and forbs of meadows, under trees in woods, and on shelves on limestone cliffs, mainly at higher elevations" (Wagner and Wagner 1994). However, a specific habitat description for the species is problematic because of its formerly widespread distribution ranging from sea level in Quebec to nearly 3,000 meters (m) (9,840 feet (ft)) in Boulder County, Colorado. The habitat at currently occupied sites in Oregon and Colorado consists of montane meadows with associated species including snowberry (*Symphoricarpos* spp.), huckleberry (*Vaccinium* spp.), reedgrass (*Calamagrostis* spp.) and other grasses, Engelmann spruce (*Picea engelmannii*), lodgepole pine (*Pinus contorta*), aspen (*Populus tremuloides*), and aspen dairy (*Erigeron* spp.) (Wagner and Wagner 1994; Peter Root, private contractor, pers. comm. 1999).

In the United States, *Botrychium lineare* has been documented from Idaho (Boundary County), Oregon (Wallowa County), Montana (Lake County), Colorado (Boulder and El Paso Counties), and California (Inyo County, although this report may be incorrect; the species may actually occur in Fresno County (Tim Thomas, Service, pers. comm. 1999)). In Canada, *B. lineare* was previously documented from two provinces, Quebec and New Brunswick (Wagner and Wagner 1994).

The petitioner stated that only three populations of *Botrychium lineare* are currently known to exist (two in Oregon and one in Colorado) and that the populations previously known from Idaho, Montana, California, Colorado (Boulder County), and Canada are thought to be extirpated. Plants at some of these sites have not been seen since the early 1900s (Wagner and Wagner 1994). Further investigation has identified two additional sites (one in Colorado (Root 1999) and one in Montana (Zika, pers. comm. 1999)) that support *B. lineare*. Of the two existing sites in northeastern Oregon, one occurs in the Hurricane Creek drainage in the Eagle Cap Wilderness (Wallowa-Whitman National Forest) and the other is found on a private inholding known as Lapover Ranch in the Lostine River drainage (Oregon Natural Heritage Program 1999; Zika *et al.* 1995). Elevation for the Oregon sites is approximately 1,600 meters (m) (5,300 feet (ft)). Two other sites are located along the Pikes Peak toll road at 2,700 m (9,000 ft) and 2,650 m (8,700 ft) in El Paso County, Colorado. The fifth site is located in Glacier National Park in

Montana at an elevation of about 1,500 m (4,800 ft).

The remaining populations of *Botrychium lineare* are extremely small, ranging in size from 2 to 53 individuals (Oregon Natural Heritage Program 1999; Carpenter 1996b). When last observed in 1993, the Lapover Ranch site had 14 individuals, and the Hurricane Creek site had 4 plants (Oregon Natural Heritage Program 1999). The higher elevation Pikes Peak site is the largest with 53 plants (Carpenter 1996b); the lower elevation Pikes Peak site (the newly discovered site) has only 2 plants (Root 1999). The recently discovered Glacier National Park site consists of about 10 plants, but more plants may be found in nearby meadows (Peter Zika, pers. comm. 1999).

Threats to this species include habitat succession as a result of fire suppression, livestock grazing, exotic species, development, timber harvest, roads, and recreation (Paula Brooks, pers. comm. 2000; Peter Zika, pers. comm. 1999; Oregon Natural Heritage Program 1999; Zika *et al.* 1995; Wagner and Wagner 1994). The petition also stated that mining is a threat to *Botrychium lineare*, but currently no mining activities appear to be threatening this species (Paula Brooks, pers. comm. 2000). The petitioner contends that habitat succession and fire suppression threaten *B. lineare* habitat on the Wallowa-Whitman National Forest. However, our understanding of the relationship of habitat succession and fire suppression to the persistence of *B. lineare* is unclear. For example, in a biological assessment for sensitive plants in the Lostine River canyon, a U.S. Forest Service botanist notes that "*Botrychium* species seem to be found in areas that receive natural disturbances such as fire and landslides, but we are not yet able to predict what disturbance interval or successional stage best suits them" (Hustafa 1999). Although the petitioner states that the lack of implementation of a controlled burning program in Lostine Canyon is a threat to *B. lineare*, this program (if implemented) would affect only Federal lands (Paula Brooks, Wallowa-Whitman National Forest, *in litt.*, 1999), and the species does not occur on Federal lands in this canyon.

Although the current threats to the species may not be fully understood, habitat occupied by *Botrychium lineare* in Oregon is extremely restricted. The Lostine site occupies an area of approximately 10 by 10 m (30 by 30 ft) (Wagner and Wagner 1994), and the Hurricane Creek site is found in an area up to 1 hectare (2.5 acres) in size (Oregon Natural Heritage Program 1999). Since the Hurricane Creek *B. lineare* site is adjacent to a popular hiking and pack trail, the site may be affected by recreational impacts such as trampling or campfires (Oregon Natural Heritage Program 1999). The population that is found on the Lapover Ranch is threatened by grazing, trampling, and possible development (Zika pers. comm. 1999).

The largest known *Botrychium lineare* site (based on number of individuals) at Pikes Peak is approximately 35 by 10 m (115 by 30 ft) in size and is located 100 m (330 ft) from the Pikes Peak toll road (Carpenter 1996a, 1996b). The petitioner contends that the site is threatened by recreational impacts. Although the toll road itself is heavily used, the *B. lineare* site is located along the lower half of the road and receives little recreational use (Steve Tapia, Pike and San Isabel National Forest, pers. comm. 1999). A possible threat to this species could result from maintenance of an adjacent power line, although permission from the Forest Service would have to be obtained prior to commencing any maintenance work (S. Tapia, pers. comm. 1999). This site is not affected by erosion or livestock grazing (S. Tapia, pers. comm. 1999; Carpenter 1996a). Threats to the lower elevation *B. lineare* site at Pikes Peak, containing far fewer plants, are unknown. However, this site may be subject to disturbance due to its proximity to the Pikes Peak toll road. Although habitat for *B. lineare* at Pikes Peak does not appear to be imminently threatened, the limited amount of occupied habitat makes this species potentially vulnerable to naturally occurring events or human activities.

The Glacier National Park site is located along the Babb-Many Glacier road (P. Zika, pers. comm. 1999). This site is vulnerable to road maintenance activities and to naturally occurring events.

We have reviewed the petition, literature cited in the petition, other available literature and data, and consulted with biologists familiar with *Botrychium lineare*. After reviewing the best scientific and commercial information available, the Service finds that the petition presents substantial information that listing *B. lineare* may be warranted. This species is currently known from only 5 sites, with a total of fewer than 100 individuals. The small population size, small amount of occupied habitat, and proximity of all the known sites to human disturbance suggest that this species may be threatened by a variety of factors.

When we make a positive 90-day finding, we are required to promptly commence a review of the status of the species. In the case of *Botrychium lineare*, we are requesting information on the status of the species throughout its range in the United States and Canada. We are soliciting information primarily on distribution, population status and trends, and documented threats. Section 4(b)(3)(B) of the Act requires that we make a finding within 1 year from the date the petition was received as to whether listing *B. lineare* as threatened or endangered is warranted (12-month finding).

The petitioner also requested that critical habitat be designated for *Botrychium lineare*. If the 12-month finding indicates that the petitioned action to list *B. lineare* as endangered or threatened is warranted, we would address the designation of critical habitat in a proposed rule to list the species.

References Cited

Carpenter, A. 1996a. Monitoring plan for the rare fern, *Botrychium lineare*, on the Pikes Peak Ranger District, Pike-San Isabel National Forest, El Paso County, Colorado. The Nature Conservancy, Boulder, Colorado, dated May 14, 1996. 6 pages.

Carpenter, A. 1996b. Annual report of monitoring of the rare fern, *Botrychium lineare*, on the Pikes Peak Ranger District, Pike-San Isabel National Forest, El Paso County, Colorado. The Nature Conservancy, Boulder, Colorado, dated August 27, 1996. 3 pages + figures.

Hustafa, J. 1999. Biological assessment for sensitive plants, Lostine Recreation Facilities Project, Eagle Cap Ranger District, Wallowa-Whitman National Forest.

Oregon Natural Heritage Program. 1999. Element occurrence records for *Botrychium lineare*.

Root, P. 1999. A survey of possible additional populations of the narrow leaf moonwort on Pikes Peak (order number 43–82BH–8–0096). Prepared for the Pikes Peak Ranger District, U.S. Forest Service. 3 pages + figures.

Wagner, W.H. and F.S. Wagner. 1994. Another widely disjunct, rare and local North American moonwort (Ophioglossaceae: *Botrychium* subg. *Botrychium*). American Fern Journal 84(1):5–10.

Zika, P.F., R. Brainerd and B. Newhouse. 1995. Grapeferns and moonworts (*Botrychium*, Ophioglossaceae) in the Columbia Basin. A report submitted to the Eastside Ecosystem Management Project, U.S. Forest Service, Walla Walla, Washington. Pages 1, 20, and 26.

Author

The author of this document is Edna Rey-Vizgirdas, U.S. Fish and Wildlife Service, Snake River Basin Office (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 12, 2000.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 00–11684 Filed 5–9–00; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 65, No. 91
Wednesday, May 10, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Northwest Sacramento Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Northwest Sacramento Provincial Advisory Committee (PAC) will meet on Thursday, May 18, 2000, at the Mt. Shasta Community Center, 629 Alder Street, Mt. Shasta, California. The meeting will start at 9 a.m. and adjourn at 3 p.m. Topics for the meeting are: (1) An update on the High Complex Fire; (2) update on the Clear Creek/ Resource Conservation District proposal; (3) update on the Story Creek Coordinated Resource Management Plan; and (4) public comment periods. All PAC meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Connie Hendryx, USDA, Klamath National Forest, 11263 N. Highway 3, Fort Jones, California 96032; telephone 530–468–1281; TDD (530) 468–2783; email: *chendryx@fs.fed.us.*

Dated: May 4, 2000.

Constance J. Hendryx,

PAC Support Staff.

[FR Doc. 00–11646 Filed 5–9–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Request for Proposals: Fiscal Year 2000 Funding Opportunity for Research on Rural Cooperative Opportunities and Problems

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS) announces the availability of approximately $300,000 in competitive cooperative agreement funds allocated from FY 2000 appropriations. RBS hereby requests proposals from institutions of higher education or nonprofit organizations interested in applying for competitively awarded cooperative agreements for research related to agricultural and nonagricultural cooperatives serving rural communities. The intent of the funding is to encourage research on critical issues vital to the development and sustainability of cooperatives as a means of improving the quality of life in America's rural communities.

DATES: Cooperative agreement applications must be postmarked no later than June 30, 2000. Proposals postmarked after June 30, 2000, will not be considered for funding.

ADDRESSES: Send Proposals and other required materials to Dr. Thomas H. Stafford, Director, Cooperative Marketing Division, Rural Business-Cooperative Service, USDA, Stop 3252, Room 4204, 1400 Independence Avenue SW, Washington, DC 20250–3252. Telephone: (202) 690–0368.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas H. Stafford, Director, Cooperative Marketing Division, Rural Business-Cooperative Service, USDA, Stop 3252, Room 4204, 1400 Independence Avenue SW, Washington, DC 20250–3252. Telephone: (202) 690–0368.

SUPPLEMENTARY INFORMATION:

General Information

This solicitation is issued pursuant to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 making appropriations for programs administered by USDA's RBS for the fiscal year ending September 30, 2000. The mission of RBS is to improve the quality of life in rural America by financing community facilities and businesses, providing technical assistance and creating effective strategies for rural development. RBS has authority to enter into cooperative agreements pursuant to section 607(b)(4) of the Rural Development Act of 1972, as amended by section 759A of the Federal Agriculture Improvement and Reform Act of 1996.

The primary objective of this funding is to encourage research through cooperative agreements on critical issues vital to the development and sustainability of user-owned cooperatives as a means of improving the quality of life in America's rural communities. Issue areas on which proposals should focus are:

(1) Equity management issues in new generation cooperatives including alternatives to appreciated delivery rights: the challenges, benefits, and pitfalls;

(2) Cooperatives and e-commerce: how the internet is changing the competitive landscape for farmer-owned businesses and their adaptation to it;

(3) Marketing-agencies-in-common: a case-study examination of successes and failures;

(4) The role of social capital in generating positive market outcomes for cooperatively owned agribusinesses;

(5) Governance and control issues in evolving cooperative structures and environments;

(6) Cooperatives as a means of putting global markets within reach of small farmers;

(7) The roles of cooperatives contracting and helping producers of identity-preserved crops match the needs of end-users and negotiate acceptable terms of trade; and

(8) Evaluation of cooperatives' roles in the changing market structure of the food and fiber system.

A cooperative agreement reflects a relationship between the United States Government and an eligible recipient where (1) The principal purpose of the relationship is the transfer of money, property, services, or anything of value to the eligible recipient to carry out research related to rural cooperatives; and (2) substantial involvement is anticipated between RBS acting for the United States Government, and the eligible recipient during the performance of the research in the agreement. A cooperative agreement is not a grant. Cooperative agreements are to be awarded on the basis of merit, quality, and relevance to advancing the purpose of federally-supported rural development programs that increase economic opportunities in farming and rural communities.

All forms required to apply are available from the Cooperative Services Program web-site at www.usda.gov/rbs/

coops/rrcop.htm, by calling (202) 690–0368, or faxing (202) 690–2723. Forms may also be requested via Internet by sending a message with your name, mailing address (not E-mail), and phone number to "thomas.stafford@usda.gov". When calling or e-mailing Cooperative Services, please indicate that you are requesting forms for Fiscal Year 2000 (FY 2000) Research on Rural Cooperative Opportunities and Problems (RRCOP). Forms will be mailed to you (not e-mailed or faxed) as quickly as possible. Forms are also usually available from the local university grants office.

Use of Funds

Funds may be used to pay up to 75 percent of the total cost (Federal plus non-Federal) for carrying out relevant projects. Applicants' contributions may be in cash or in-kind contribution and must be from nonfederal funds. Funds may not be used to: (1) Pay more than 75 percent of relevant project or administrative costs; (2) pay costs of preparing the application package; (3) fund political activities; or (4) pay costs incurred prior to the effective date of the cooperative agreement. Indirect costs may not exceed 10 percent of direct costs.

Available Funds and Award Limitations

The amount of funds available for cooperative agreements in FY 2000 is approximately $300,000. The actual number of cooperative agreements funded will depend on the quality of proposals received and the amount of funding requested. Maximum amount of Federal funds awarded for any one proposal will be $100,000. In 1999, the 15 awards may ranged from $15,000 to $100,000, with an average award of $59,000.

Eligible Applicants

Proposals may be submitted by public or private colleges or universities, research foundations maintained by a college or university, or private nonprofit organizations. Under the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(4)), which engages in lobbying activities, is not eligible to apply.

Methods for Evaluating and Ranking Applications

Applications will be evaluated by a panel of RBS technical experts. Applications also will be evaluated competitively and points awarded as specified in the Evaluation Criteria and Weights section of this notice. After assigning points upon those criteria, applications will be listed in rank order and presented, along with funding level recommendations, to the Administrator of RBS, who will make the final decision on awarding of agreements. Applications will then be funded in rank order until all available funds have been expended. RBS reserves the right to make selections out of rank order to provide for a geographic or subject matter distribution of funded projects. In addition, timely completion of past cooperative agreements with RBS may be considered in awarding funds. With respect to any approved proposal, the amount of funding and the project period during which the project may be funded and will be completed, are subject to negotiation prior to finalization of the cooperative agreement.

Evaluation Criteria and Weights

RBS will initially determine whether the submitting organization is eligible and whether the application contains the information required by this notice. Prior to technical examination, each proposal will be reviewed for responsiveness to the funding solicitation. Proposals focusing on technical assistance, consulting, or problem solving for the benefit of a single cooperative are not encouraged. Submissions that do not fall within the guidelines as stated in the solicitation will be eliminated from the competition and will be returned to the applicant.

After this initial screening, RBS will use the following criteria to rate and rank proposals received in response to this notice of funding availability. The maximum number of points is 100. Failure to address any of the following criteria will disqualify the proposal:

(1) Relevance: Focuses on cooperatives serving rural areas and demonstrates a clear relationship with the research topics contained in this notice (maximum 20 points);

(2) Demonstrates potential to contribute innovative ideas or solutions to identified problems or issues (maximum 20 points);

(3) Shows capacity for broad applicability in facilitating new or improved cooperative development or new or improved cooperative approaches (maximum 15 points);

(4) Outlines a sound plan of work and appropriate methodology to accomplish the stated objective of the research (maximum 15 points);

(5) Adequately documents the need for and clearly defines the objectives of the research (maximum 10 points);

(6) Demonstrates cost effectiveness (maximum 10 points); and

(7) Identifies qualified resources and personnel, including a demonstrated track record of similar research (maximum 10 points).

Deliverables

Upon completion of the project, recipients will deliver the results of the research to RBS, in the form of a document of publishable quality, accompanied by all applicable supporting data. Publishable documents include, but are not limited to, manuscripts, videotapes, or software, or other media, as may be identified in approved proposals. RBS retains publishing rights to such documents, as well as rights to any raw or preliminary data collected as part of the project.

Content of a Proposal

A proposal should contain the following:

(1) *Form SF–424,* "Application for Federal Assistance."

(2) *Form SF–424A,* "Budget Information—Non-Construction Programs."

(3) *Form SF–424B,* "Assurances—Non-Construction Programs."

(4) *Form AD–1047,* "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

(5) *Form AD–1049,* "Certification Regarding Drug-Free Workplace Requirements."

(6) *Table of Contents:* For ease of locating information, each proposal must contain a detailed Table of Contents immediately following the required forms. The Table of Contents should include page numbers for each component of the proposal. Pagination should begin immediately following the Table of Contents.

(7) *Project Summary.* A summary of the Project Proposal, not to exceed one-page, should include the following: title of the project; names of principal investigators and applicant organization; and a description of the overall goals and relevance of the project.

(8) *Project Proposal:* The application must contain a narrative statement describing the nature of the proposed research. The proposal must include at least the following:

(i) Project Title. The title of the proposed project must be brief, yet represent the major thrust of the project.

(ii) Project Leaders. List the names and contact information for the principal investigators. Minor collaborators or consultants should be so designated and not listed as principal investigators.

(iii) Need for the Project. A concisely worded rationale for the research must be presented. Included should be a summarization of the body of knowledge (literature review) which substantiates the need for the research. The need for the proposed research must be clearly and directly related to the facilitation of new or improved cooperative approaches.

(iv) Objectives of the Project. Discuss the specific objectives of the project and the impact of the research on end-users.

(v) Procedures. Discuss the hypotheses or questions being asked and the methodology or approach to be used in carrying out the proposed research and accomplishing the objectives. A description of any subcontracting arrangements to be used in carrying out the project must be included.

(vi) Time Table. A tentative schedule for conducting the major steps of the research must be included.

(vii) Expected Output. Describe how the results will be presented and disseminated. Include who will be responsible for any published output.

(viii) Coordination and Management Plan. Describe how the project will be coordinated among various participants and the nature of the collaborations. Describe plans for management of the project to ensure its proper and efficient administration. Describe scope of RBS involvement in the project.

(9) *Personnel Support.* To assist reviewers in assessing the competence and experience of proposed principal investigators, the following must be included for each:

(i) Estimated time commitment to the project;

(ii) A one-page curriculum-vitae;

(iii) A chronological list of all publications during the past 5 years.

What To Submit

An original and two copies must be submitted in one package.

When and Where To Submit

Proposals must be postmarked no later than June 30, 2000. Proposals must be sent to Dr. Thomas H. Stafford, Director, Cooperative Marketing Division, Rural Business-Cooperative Service, USDA, Stop 3252, Room 4204, 1400 Independence Avenue SW., Washington, DC 20250–3252.

Other Federal Statutes and Regulations That Apply

Several other Federal statutes and regulations apply to proposals considered for review and to cooperative agreements awarded. These include but are not limited to:

7 CFR part 15, subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agricultureu—Effectuation of Title VI of the Civil Rights Act of 1964.

7 CFR part 3015—Uniform Federal Assistance Regulations.

7 CFR part 3017—Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR part 3018—New Restrictions on Lobbying.

7 CFR part 3019—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR part 3052—Audits of States, Local Governments, and Non-Profit Organizations.

Paperwork Reduction Act

The collection information in this notice have received temporary emergency clearance by the Office of Management and Budget (OMB) under Control Number 0570–0028. However, in accordance with the Paperwork Reduction Act of 1995, RBS will seek standard OMB approval of the reporting requirements contained in the Notice and hereby opens a 60-day comment period.

Abstract: Approximately $300,000 in cooperative agreement funds has been allocated from the FY 2000 appropriations for programs administered by USDA's Rural Business-Cooperative Service (RBS) to encourage research related to rural cooperatives. The funds will be available to institutions of higher education and nonprofit organizations for research on issues vital to the development and sustainability of cooperatives as a means of improving the quality of life in America's rural communities. These issues include:

(1) Equity management issues in new generation cooperatives including alternatives to appreciated delivery rights: the challenges, benefits, and pitfalls;

(2) Cooperatives and e-commerce: how the internet is changing the competitive landscape for farmer-owned businesses and their adaptation to it;

(3) Marketing-agencies-in-common: a case-study examination of successes and failures;

(4) Roles of social capital in generating positive market outcomes for cooperatively owned agribusinesses;

(5) Governance and control issues in evolving cooperative structures and environments;

(6) Cooperatives as a means of putting global markets within reach of small farmers;

(7) Roles of cooperatives contracting and helping producers of identity-preserved crops match the needs of end-users and negotiate acceptable terms of trade; and

(8) Evaluation of cooperatives' roles in the changing market structure of the food and fiber system.

The funds will be awarded on a competitive basis using specific selection criteria.

Public Burden in This Notice

Form SF–424, "Application for Federal Assistance"

This application is used by applicants as a required face sheet for applications for Federal funding.

Form SF–424A, "Budget Information-Non-Construction Programs"

This form must be completed by applicants to show the project's anticipated budget breakdown in terms of expense categories and division of Federal and non-Federal sources of funds. Identifying the project's requested funding by expense category is necessary to assure that the expense is necessary for successful conduct of the project, is allowable under applicable Federal cost principles, and is not prohibited under any applicable Federal statute or regulation.

SF–424B, "Assurances-Non-Construction Programs"

This form must be completed by the applicant to provide the Federal government certain assurances of the applicant's legal authority to apply for Federal assistance and financial capability to pay the non-Federal share of project costs. The applicant also assures compliance with various legal and regulatory requirements as described in the form.

Project Proposal

All applicants must submit a project proposal containing the elements described in the notice and in the format prescribed. This allows for in-depth evaluation, as well as for consistency, organization, and clarity. The elements of the proposal are:

Reporting Requirements

Funding recipients will be required to submit written project performance reports on a quarterly basis. The project performance reports will include, but are not limited to: (1) A comparison of actual accomplishments to established objectives; (2) reasons established objectives were not met; (3) problems,

delays, or adverse conditions which will materially affect attainment of planned project objectives; (4) objectives for the next reporting period; and (5) status of compliance with any special conditions on the use of awarded funds.

Record-Keeping Requirements

Regulations require that financial records, supporting documents, statistical records, and all other records pertinent to the award will be retained for a period of at least 3 years after the agreement closing. The exception that records will be retained beyond 3 years is if audit findings have not been resolved.

Estimate of Burden: Public reporting burden for this collection is estimated to range from 15 minutes to 15 hours per response.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 5.

Estimated Number of Responses: 240.

Estimated Total Annual Burden on Respondents: Roman 1,140.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden to collect the required information, including the validity of the strategy used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized, included in the request for OMB approval, and will become a matter of public record. Comments on the paperwork burden may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Rural Development, U.S. Department of Agriculture, Stop 0742, 1400 Independence Avenue SW, Washington, DC 20250–0742.

Dated: May 4, 2000.

Wilbur T. Peer,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 00–11639 Filed 5–9–00; 8:45 am]

BILLING CODE 3410–XY–U

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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: U.S. Census Bureau.

Title: National Employers Survey 2000.

Form Number(s): None.

Agency Approval Number: 0607–0787.

Type of Request: Reinstatement, with change, of an expired collection.

Burden: 6,500 hours.

Number of Respondents: 18,000.

Avg Hours Per Response: 21 and one half minutes.

Needs and Uses: The Census Bureau requests approval to conduct the 2000 National Employers Survey (NES–2000) which includes a linked Employee Survey. The Census Bureau conducted two earlier National Employers Surveys (1994 and 1997) and two supplemental Employer surveys (1996 and 1998). As with the previous surveys, NES 2000 will be conducted on a reimbursable basis through the Department of Education's Office of Educational Research and Improvement (OERI), and the National Center for Postsecondary Improvement (NCPI). Funding will be provided by the National Center for Education Statistics and the National School-to-Work Office.

The NES 2000 will provide specific and unique information on employers' recruiting, hiring, training, and other work environment and human resources practices from both the employer and employee perspectives. The NES 2000 will provide the Census Bureau with information on formal and informal training programs and participation by establishments in school-to-work programs of various types.

This data collection effort will provide, for the first-time, information collected from employees of a sample of the employer establishments. Employee histories and employee perceptions of training programs and their working environment will be collected directly from employees. The information from these employees will be linked to the employer information enabling analysts to identify those areas where employee and employer views are similar and where they are different.

The information from the linked surveys will help the sponsors and other concerned organizations to determine how our Nation's firms and schools can improve their effectiveness through improved education, recruiting and hiring, training, and school-to-work programs.

The NES 2000 will incorporate a telephone survey of 3,000 business establishments that completed the telephone interview for NES–III, the 1997 survey. As we conduct the telephone survey, we will ask employers to volunteer to participate in the employee survey. The survey of employees will cover up to 15,000 employees. Employers who volunteer to participate in the employee survey will receive 30 employee questionnaires and simple instructions on how to forward the questionnaires to a sample of their employees. The employees will then complete the questionnaires and mail them back to the Census Bureau.

Affected Public: Businesses or other for-profit organizations.

Frequency: One-time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 USC, Section 182; National Education Statistics Act, Chapter 71, Title 20.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

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 5033, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 5, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–11699 Filed 5–9–00; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

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: Bureau of Economic Analysis.

Title: BEA Customer Satisfaction Survey

Form Number(s): Not applicable.

Agency Approval Number: None.

Type of Request: New.

Burden: 1,875 hours.

Number of Respondents: 7,500.

Avg Hours Per Response: 15 minutes.

Needs and Uses: The Bureau of Economic Analysis (BEA) would like to conduct a Customer Satisfaction Survey to obtain feedback from customers on the quality of BEA products and services. The results of the information collected will serve to assist BEA in improving the quality of its data products and its methods of dissemination.

BEA needs to inform and educate all of its staff about the public's perception of the agency. This customer satisfaction survey will give us first-hand knowledge of what our customers want, need, and expect from BEA. To more effectively inform and educate the public on what we do, how we do it, and why we do it, we need to obtain reliable information on how the public views our output. This results of this survey will serve that purpose.

The Survey and a cover letter with instructions on how to complete the survey will be mailed to 2,000 potential respondents. BEA will request that responses be returned 30 days after the mailing. The survey will also be posted on BEA's web site for 5,500 potential respondents. The survey will be designed so that all responses are anonymous and therefore eliminates the necessity for recordkeeping of respondents.

Affected Public: Individuals from profit and non-profit organizations and individuals from other Federal, state, and local government agencies.

Frequency: One-time.

Respondent's Obligation: Voluntary.

Legal Authority: Executive Order 12862, Section 1(b), of September 11, 1993.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 14 and Constitution Avenue, NW, Washington, DC 20230, (202) 482–3272, (or via e-mail at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Paul Bugg, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 5, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–11697 Filed 5–9–00; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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: U.S. Census Bureau.

Title: Census 2000 Evaluation: Survey of Partners.

Form Number(s): D–1401, D–1401A(L), D–1401.F1(L), D–1401.F2(L), D–1401A(E), D–1401.1(E), D–1401(E).

Agency Approval Number: None.

Type of Request: New collection.

Burden: 5,333 hours.

Number of Respondents: 16,000.

Avg Hours Per Response: 20 minutes.

Needs and Uses: The Census 2000 Partnership Program works to establish partnerships with State, local and tribal governments; private industry; local governments and community groups. The goal is to increase the awareness of the census and to increase response rates, especially among historically undercounted populations.

The program has both a national and a regional focus. On the national level, the program is designed to implement promotional activities that may be sponsored and/or supported by national/umbrella government and nongovernmental organizations. In addition, the Census Bureau will partner with Fortune 500 companies to promote the importance of the census through the services and products they provide.

The regional partnership program reflects the Census Bureau's belief that the foundation for broad-based participation in the census must be built at the community level. Its primary purpose is to establish partnerships with state, local, and tribal governments; community organizations; businesses and the media.

This request is for clearance of an evaluation of that partnership program to be carried out via an information collection. A contractor will survey a sample of partners through self-administered questionnaires. The questionnaire will ask the partners about the effectiveness of the marketing campaign and the partnership activities in motivating their constituents to complete and mail back their census questionnaires. The results will be used to evaluate the program, for 2010 planning purposes and to improve future census operations.

Affected Public: Businesses or other for-profit organizations, Not-for-profit organizations, Federal Government, State, Local or tribal Government.

Frequency: One-time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 USC, sections 141 and 193.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

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 5033, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 5, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–11698 Filed 5–9–00; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Current Population Survey (CPS)—Voting and Registration Supplement November 2000

AGENCY: U.S. Census Bureau, Department of Commerce.

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 10, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at lengelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Michelle Schwab, Census Bureau, FOB 3, Room 3340, Washington, DC 20233–8400, at (301) 457–3806.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau is requesting clearance for the collection of data concerning the Voting and Registration Supplement to be conducted in conjunction with the November 2000 CPS. The Census Bureau sponsors these questions, which have been collected biennially in the CPS since 1964.

This survey has provided statistical information for tracking historical trends of voter and nonvoter characteristics in each Presidential or Congressional election since 1964. The data collected from the November supplement relates demographic characteristics (age, sex, race, education, occupation, and income) to voting and nonvoting behavior. The November CPS supplement is the only source of data that provides a comprehensive set of voter and nonvoter characteristics distinct from independent surveys, media polls, or other outside agencies. Federal, state, and local election officials use these data to formulate policies relating to the voting and registration process. College institutions, political party committees, research groups, and other private organizations also use the voting and registration data.

II. Method of Collection

The voting and registration information will be collected by both personal visit and telephone interviews in conjunction with the regular November CPS interviewing. All interviews are conducted using computer-assisted interviewing.

III. Data

OMB Number: 0607–0466.

Form Number: There are no forms. We conduct all interviewing on computers.

Type of Review: Regular.

Affected Public: Households.

Estimated Number of Respondents: 48,000.

Estimated Time Per Response: 1.5 minutes.

Estimated Total Annual Burden Hours: 1,200.

Estimated Total Annual Cost: There are no costs to the respondents other than their time to answer the CPS questions.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182; and Title 29, United States Code, Sections 1–9.

IV. Request for Comments

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 (including hours and cost) 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.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 4, 2000.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–11635 Filed 5–9–00; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Survey of Local Government Finances (School Systems), Forms F–33, F–33–1, F–33–L1, F–33–L2, and F33–L3

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 1, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at lengelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Sharon Meade, Bureau of the Census, Governments Division, Washington, DC 20233–6800. Her telephone number is 301–457–1563.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau collects education finance data as part of its Annual Survey of State and Local Governments. This survey is the only comprehensive source of public fiscal data collected on a nationwide scale using uniform definitions, concepts and procedures. The collection covers the revenues, expenditures, debt, and assets of all public school systems. This data collection has been coordinated with the National Center for Education Statistics (NCES). The NCES uses this collection to satisfy its need for school system level finance data.

Information on the finance of our public schools is vital to assessing their effectiveness. This data collection makes it possible to access a single data base to obtain information on such things as per pupil expenditures and the percent of state, local, and federal funding for each school system. Recently, as exemplified by the establishment of the America 2000 education goals, there has been increased interest in improving the Nation's public schools. One result of this intensified interest has been a significant increase in the demand for school finance data.

The five forms used in the school finance portion of the survey are:

Form F–33. This form contains item descriptions and definitions of the elementary-secondary education finance items collected jointly by the Census Bureau and NCES. It is used primarily as a worksheet by the state education agencies that provide school finance data centrally for all of the school systems in their respective states. Most states supply their data by electronic means.

Form F–33–1. This form is used at the beginning of each survey period to solicit the assistance of the state education agencies It establishes the

conditions by which the state education agencies provide their school finance data to the Census Bureau.

Form F–33–L1. This is a supplemental letter sent to the school systems in states where the state education agencies cannot provide information on the assets of individual school systems.

Form F–33–L2. This is a supplemental letter sent to the school systems in states where the state education agency cannot provide information on the indebtedness of individual school systems.

Form F–33–L3. This is a supplemental letter sent to the school systems in states where the state education agency cannot provide information on either indebtedness or assets. This letter combines the items requested on the forms F–33–L1 and F–33–L2.

The data to be collected is identical to the previous collections except as follows: The request for indebtedness information (Forms F–33–L2 and F–33–L3) is added because some state education agencies have been deleting this information from their data bases. Others have not been editing this information or following up when the school systems fail to report this information to the state.

New special processing items have been added for state payments made on behalf of the school systems in the areas of textbooks, and transportation. These items will make it possible for expenditure data to be more accurately reported at the functional level.

II. Method of Collection

Through central collection arrangements with the state education agencies, the Census Bureau collects almost all of the finance data for local school systems from state education agency data bases. The states transfer most of this information in electronic format on microcomputer disks and over the Internet. The Census Bureau has facilitated central collection of school finance data by accepting data in whatever formats the states elect to transmit.

III. Data

OMB Number: 0607–0700.
Form Number: F–33, F–33–1, F–33–L1, F–33–L2, F–33–L3.
Type of Review: Regular.
Affected Public: State and local governments.
Estimated Number of Respondents: 3500.
Estimated Time Per Response: 1.1 hours.
Estimated Total Annual Burden Hours: 3,737.
Estimated Total Annual Cost: 8,013.
Respondent's Obligation: Voluntary.
Legal Authority: Title 13 U.S.C., sections 161 and 181.

IV. Request for Comments

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 (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 4, 2000.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–11636 Filed 5–9–00; 8:45 am]
BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 16–2000]

Foreign-Trade Zone 3—San Francisco, California Area; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the San Francisco Port Commission, grantee of Foreign-Trade Zone 3, requesting authority to expand its zone to include the San Francisco International Airport fuel system and related facilities, within the San Francisco Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 28, 2000.

FTZ 3 was approved on March 10, 1948 (Board Order 16, 13 F.R. 1459, 3/19/48). The zone project currently consists of 225,000 square feet at Piers 19 and 23 on the Embarcadero in San Francisco.

The applicant is now requesting authority to expand the general-purpose zone to include the jet fuel storage and distribution system (261 acres) at the San Francisco International Airport, which consists of the airport hydrant and storage facilities, two adjacent off-Airport terminals, a pipeline and two offsite terminals, as follows: *Proposed Site 2:* the jet fuel storage and delivery facilities at the San Francisco International Airport; the Chevron jet fuel tank farm (8.5 acres), the PS Trading tank farm (1 acre) and related pipelines between the tanks farms; jet fuel transmission pipelines and the terminal and cargo area hydrant pipelines; the petroleum and jet fuel storage facilities (26 acres) at the Brisbane Terminal (owned by SFPP, L.P.), 950 Tunnel Avenue, Brisbane; and, the petroleum and jet fuel storage facilities (7 acres) at the Equilon Terminal (owned by Equilon Enterprises LLC), 135 North Access Road, South San Francisco, including the 4.7 mile segment of the SFPP jet fuel pipeline from the two terminals to the airport; *Proposed Site 3*: (55 acres) at the petroleum facilities of Selby Terminal (owned by Shore Terminals LLC), 90 San Pablo Avenue, Crockett; and, *Proposed Site 4* (164 acres) at the petroleum facilities of Martinez Terminal (owned by Shore Terminals LLC), 2801 Waterfront Road, Martinez. The City of San Francisco owns fuel facilities at the airport and the land on which the Chevron tank farm and the PST tank farms are located (the companies own the improvements). In addition to the storage of jet fuel, the Brisbane, Equilon, Selby and Martinez Terminals may also be used for the receipt and storage of other petroleum products under zone procedures.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 10, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 24, 2000).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 250 Montgomery Street, 14th Floor, San Francisco, CA 94104–3406

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: May 1, 2000.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 00–11738 Filed 5–9–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(A–421–701)

Notice of Preliminary Results of Antidumping Duty Administrative Review: Brass Sheet and Strip From the Netherlands

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on brass sheet and strip from the Netherlands. This review covers imports of brass sheet and strip from one producer/exporter during the period of review (POR), August 1, 1998 through July 31, 1999.

We preliminarily determine that sales of the subject merchandise have not been made below normal value (NV). If these preliminary results are adopted in the final results, we will instruct the U.S. Customs Service not to assess antidumping duties on the subject merchandise exported by this company.

EFFECTIVE DATE: May 10, 2000.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Jarrod Goldfeder, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4126 or (202) 482–2305, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations refer to the regulations codified at 19 CFR Part 351 (1999).

Background

On August 12, 1988, the Department published in the **Federal Register** the antidumping duty order on brass sheet and strip from the Netherlands (53 FR 30455). On August 11, 1999, we published in the **Federal Register** the notice of "Opportunity to Request an Administrative Review" of this order, for the period August 1, 1998 through July 31, 1999 (64 FR 43649). On August 31, 1999, in accordance with 19 CFR 351.213(b), Outokumpu Copper Strip B.V. (OBV), the sole producer/exporter, and the petitioners [1] requested an administrative review of OBV's exports of the subject merchandise to the United States during this POR. OBV also requested that the Department revoke the antidumping duty order against brass sheet and strip from the Netherlands, pursuant to 19 CFR 351.222(b), based on the absence of dumping and the fact that OBV is not likely to sell the subject merchandise at less than NV in the future. OBV subsequently withdrew its revocation request on April 4, 2000. On September 24, 1999, in accordance with 19 CFR 351.221(b), the Department initiated this administrative review (*see Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 64 FR 53318 (October 1, 1999)).

On October 4, 1999, the Department issued an antidumping questionnaire [2] to OBV. OBV submitted its response to sections A, B, and C in November 1999. The Section D questionnaire response was received in December 1999. The Department issued Section A, B, and C supplemental questionnaires in February 2000 and received responses in March 2000. The Department issued and received a response to the Section D supplemental questionnaire in April 2000.

[1] The petitioners in this proceeding are Heyco Metals, Inc., Olin Corporation, PMX Industries, Inc., Revere Copper Products, Inc., International Association of Machinists and Aerospace Workers, United Auto Workers (Local 2367), and the United Steelworkers of America (AFL–CIO/CLC).

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the subject merchandise under review, and the sales of the foreign like product in all of its markets. Sections B and C of the questionnaire request comparison market sales listings and U.S. sales listings, respectively. Section D requests additional information about the cost of production of the foreign like product and constructed value of the merchandise under review.

Scope of Review

Imports covered by this review are brass sheet and strip, other than leaded and tin brass sheet and strip, from the Netherlands. The chemical composition of the products under review is currently defined in the Copper Development Association (CDA) 200 Series or the Unified Numbering System (UNS) C2000 series. This review does not cover products the chemical compositions of which are defined by other CDA or UNS series. The physical dimensions of the products covered by this review are brass sheet and strip of solid rectangular cross section over 0.006 inch (0.15 millimeter) through 0.188 inch (4.8 millimeters) in gauge, regardless of width. Included in the scope are coiled, wound-on-reels (traverse wound), and cut-to-length products. The merchandise under review is currently classifiable under item 7409.21.00 and 7409.29.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

Product Comparisons

In accordance with section 771(16) of the Act, the Department first attempted to match contemporaneous sales of products sold in the U.S. and home markets that were identical with respect to the following characteristics: (1) Type (alloy); (2) gauge (thickness); (3) width; (4) temper; (5) coating; and (6) packed form. Where there were no sales of identical merchandise in the home market to compare with U.S. sales, we compared U.S. sales with the most similar product based on the characteristics listed above, in descending order of priority.

For purposes of the preliminary results, we have calculated the adjustment for differences in merchandise based on the difference in the variable cost of manufacturing between each U.S. model and the most similar home market model selected for comparison.

Comparisons to Normal Value

To determine whether OBV's sales of brass sheet and strip were made to the United States at less than NV, the Department compared the export price (EP) to the NV, as described in the "*Export Price*" and "*Normal Value*" sections of this notice. In accordance with section 777A(d)(2) of the Act, the Department calculated monthly

weighted-average prices for NV and compared these to individual U.S. transactions.

Export Price

For the price to the United States, we used EP in accordance with section 772(a) of the Act, because the subject merchandise was sold to an unaffiliated U.S. purchaser prior to the date of importation and CEP methodology was not otherwise warranted.

We calculated EP based on the packed, delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2) of the Act, where appropriate, we deducted from the starting price international freight expense, marine insurance, U.S. brokerage and handling expenses, and U.S. Customs duties.

Normal Value

A. Selection of Comparison Market

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared OBV's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Since OBV's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like products were first sold in the home market, in the usual commercial quantities and in the ordinary course of trade.

B. Cost of Production Analysis

Because we disregarded sales that failed the cost test in the most recently completed review, we had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for determining NV in this review may have been made at prices below the cost of production (COP), as provided in section 773(b)(2)(A)(ii) of the Act. *See Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Duty Order: Brass Sheet and Strip from the Netherlands,* 65 FR 742, 743 (January 6, 2000) (*Brass 97/98 Final Results*). Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by OBV.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the respondent's cost of materials and fabrication employed in producing the foreign like product, plus the costs for selling, general, and administrative expenses (SG&A), including interest expense, and packing costs.

We relied on the home market sales and COP information that OBV provided in its questionnaire responses. Furthermore, we have calculated weighted-average monthly metal costs based on "metal fix prices." [3] For fabrication costs, we have used weighted-average annual costs. In addition, we computed SG&A on an annual basis as a ratio of the total SG&A expenses divided by the cost of sales.

Use of Monthly Metal Cost Data. OBV calculated and reported monthly per-unit manufacturing costs for metal because of the significant fluctuation in metal input prices (*i.e.*, copper and zinc) throughout the POR. [4] In the immediately preceding review, the Department calculated weighted-average monthly metal costs based on metal fix prices, and used weighted-average annual fabrication costs to calculate COP and constructed value (CV). *See Brass 97/98 Final Results,* 65 FR at 743. We explained in that review that OBV's reported metal costs make up a significant portion of the total cost of manufacturing brass sheet and strip, and that the market values of these inputs fluctuated sharply from the beginning to the end of the POR.

Our normal practice for a respondent in a country that is not experiencing high inflation is to calculate a single weighted-average cost for the entire POR except in unusual cases where this preferred method would not yield an appropriate comparison. *See, e.g., Final Determination of Sales at Less than Fair Value: Brass Sheet and Strip From Netherlands,* 53 FR 23431, 23432 (June 22. 1988) (*Brass LTFV Final Determination*) (dividing the period of investigation into three periods because of the significant metal price fluctuations during that period); *Final Results of Antidumping Administrative Review: Brass Sheet and Strip from Italy,* 52 FR 9235, 9236 (March 17, 1992) (*Brass Sheet and Strip from Italy*) (using monthly costs to resolve the distortive effects the fluctuating metal prices had on the margin calculations); *Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan,* 63 FR 8909, 8925 (February 23, 1998) (the Department will utilize shorter cost periods if markets experience significant and consistent price declines); *Final Determination of Sales at Less than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea,* 58 FR 15467, 15476 (March 23, 1993) (determining that the Department may use weighted-average costs of shorter periods where there exists a consistent downward trend in both U.S. and home market prices during the period); *Final Determination of Sales at Less than Fair Value: Erasable Programable Read Only Memories from Japan,* 51 FR 39680, 39682 (October 30, 1986) (finding that significant changes in the COP during a short period of time due to technological advancements and changes in production process justified the use of weighted-average costs of less than a year); and *Final Results of Antidumping Duty Administrative Review of Brass Sheet and Strip from Canada and Revocation, in Part, of the Antidumping Duty Order,* 56 FR 57317, 57318 (November 8, 1991) (using monthly metal costs to calculate differences in merchandise adjustments).

We have reviewed the information on the record of this review and find that both OBV's sales prices for the subject merchandise and the cost of metal used in the manufacture of this merchandise displayed an overall pattern of significant and consistent decline during the first half of the POR and a pattern of overall significant and sharp incline during the second half of the POR. As in the immediately preceding review, we believe that computing a single annual weighted-average cost under these circumstances would distort the results of the cost test since (1) the metal costs represent a significant percentage of the total cost of producing brass sheet and strip; (2) the cost of the metal fluctuated significantly

[3] In the immediately preceding review, we found that in the ordinary course of business, OBV accounts for metal as a pass-through item. Specifically, OBV requires its customers to purchase the metal inputs prior to fabrication. As a service to its customers, OBV purchases the metals on the customer's behalf. OBV then bills the customer for the cost of metals, the terms of which are set forth on the finished brass sales invoice. The parties determine the price of the metals at a metal fix date, which occurs prior to the invoice dates for sales of finished brass. Since OBV purchases the metal and then passes on the cost of the metal to the customer, the company records and recognizes the cost of this purchased metal in its accounting system. *See Brass 97/98 Final Results,* 65 FR at 747.

[4] Originally, OBV reported costs on a quarterly basis. *See* OBV's Section D questionnaire response, dated December 1, 1999. Based on our request in a supplemental cost questionnaire, OBV provided cost data files that had costs reported on both a quarterly and a monthly basis.

throughout the POR; and (3) those metal costs are treated as pass-through items when brass is sold to customers. In order to avoid this distortion, we have preliminarily relied upon the submitted monthly weighted-average metal costs rather than calculating single weighted-average annual costs.

We find that using monthly weighted-average metal costs, rather than quarterly or annual weighted-average costs, is the most appropriate method in this proceeding for several reasons. First, the record indicates that the price of metal fluctuated sharply on a monthly basis. *See* the proprietary memorandum from Geoffrey Craig to John Brinkmann, "Analysis of Metal Costs," dated May 2, 2000, on file in the Central Records Unit (CRU), Room B–099 of the Main Commerce Building. In this regard, by using the weighted-average monthly metal fix cost based on the company's metal fix date, we are able to make a contemporaneous comparison of metal values which results in a more accurate calculation of the margin of dumping in this case than using either quarterly or annual weighted-average costs. We also note that this method conforms with the manner in which OBV accounts for its metal transactions in its normal accounting records, which are kept in accordance with home market generally accepted accounting principles (GAAP). Specifically, the company records metal costs in its accounting system on the date on which the price of metal is fixed. This is consistent with section 773(f)(1)(A) of the Act, which provides that the Department normally calculates costs based on the exporter's or producer's records, as long as such records are kept in accordance with the GAAP of the exporting (or producing) country and reasonably reflect the costs associated with the production and sale of the merchandise.

Therefore, we compared monthly weighted-average COP figures for OBV, adjusted where appropriate, to home market sales of the foreign like product in the same month in which the metal price was fixed in order to determine whether these sales had been made at prices below the COP.

Startup Adjustment.—OBV claimed a startup adjustment to costs pursuant to section 773(f)(1)(C) of the Act, covering a nine-month startup period from January 1998 through September 1998 for its new continuous strip casting line, which replaced OBV's ring casting mill. In the preceding review, we determined that the start-up period ended on May 31, 1998, based upon evidence that OBV reached commercial production levels as of that date. *See Brass 97/98 Final Results,* 65 FR at 744–45. During the course of this review we have not received any new evidence, nor has OBV made any new arguments, that would persuade us to change our prior determination on this issue. Accordingly, in the current review, we preliminarily determine that OBV is not entitled to a start-up adjustment because we continue to find that the start-up period ended on May 31, 1998, a date which is prior to the start of the current review period. *See* the proprietary Memorandum from Stan Bowen to the File, "Analysis of Start-up Period," dated May 2, 2000, on file in the CRU. Consistent with the previous review, we have continued to amortize the capitalized startup costs and included a portion of the amortized costs in the calculation of COP. *See Brass 97/98 Final Results,* 65 FR at 743.

2. Test of Home Market Prices

After calculating COP, we tested to see whether home market sales of subject brass sheet and strip were made at prices below COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COP to the reported home market prices less any applicable movement charges, discounts and rebates, where appropriate.

3. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of OBV's home market sales for a model were at prices less than the COP, we did not disregard below-cost sales of that model because the Department determined that the below cost sales were not made within an extended period of time in "substantial quantities." Where 20 percent or more of OBV's home market sales of a given product were at prices less than the COP, we determined that such sales were made within an extended period of time in substantial quantities in accordance with section 773(b)(2)(C) of the Act. To determine whether such sales were at prices which would not permit the full recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act, we compared home market prices to the weighted-average COP for the POR. When we found that below-cost sales had been made in "substantial quantities" and were not at prices which would permit recovery of all costs within a reasonable period of time, we disregarded the below-cost sales in accordance with section 773(b)(1) of the Act.

While we disregarded some below-cost sales, sufficient sales remained that passed the cost test in the current review. Therefore, it was unnecessary to calculate CV in this case.

C. Level of Trade (LOT)

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, the Department determines NV based on sales in the comparison market at the same LOT as the EP transaction or, if applicable, CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to the importer.

To determine whether comparison market sales are at different LOTs than EP or CEP sales, the Department examines stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's length) customers. If the comparison-market sales are at a different LOT, and the differences affect price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, the Department makes a LOT adjustment under section 773(a)(7)(A) of the Act.

In this review, all of OBV's U.S. sales have been categorized as EP sales. OBV claims that the Department can match U.S. sales to identical sales at the same LOT in the home market and therefore a LOT adjustment is not necessary. OBV manufactures to order and ships directly to original equipment manufacturers (OEMs) in the United States and home market, and also ships directly to a home market trading company. In order to determine (1) whether the two home market customer categories constituted one LOT or distinct LOTs, and (2) whether U.S. sales were made at the same LOT as sales in the home market, we examined OBV's questionnaire responses with regard to its distribution system, including selling functions, class of customer and selling expenses. To determine whether there was more than one LOT in the home market, we examined the chain of distribution and the selling activities associated with sales reported by OBV to its two home market customer categories (*i.e.*, OEMs and trading company). We found that the two home market customer categories did not differ significantly from each other with respect to selling activities, although there were slight

differences between them for sales process/marketing support and freight and delivery. Based on our analysis, we found that the two home market categories constituted one LOT.

OBV reported EP sales to its unaffiliated U.S. customers in one customer category, OEMs, which we determined to constitute one LOT. To determine whether U.S. sales were made at the same LOT as sales in the home market, we compared the channel of distribution and the selling activities associated with sales reported by OBV to the single LOT in the Netherlands and that in the United States, and found that the LOT in these two markets were the same. Therefore, all price comparisons are at the same LOT and a LOT adjustment pursuant to section 773(a)(7)(A) of the Act is unwarranted.

D. Calculation of Normal Value Based on Home-Market Prices

Where appropriate, we deducted early-payment discounts, rebates, inland freight expense (plant-to-customer), inland insurance, and packing expense from the home market price in accordance with section 773(a)(6)(B) of the Act. We made adjustments, where appropriate, for differences in credit expenses between the U.S. and home market sales in accordance with section 773(a)(6)(C)(iii) of the Act.

We increased NV by U.S. packing expenses in accordance with section 773(a)(6)(A) of the Act. To the extent there were comparisons of U.S. merchandise to home market merchandise that were not identical but similar, the Department made adjustments to NV for differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act.

Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine that a fluctuation exists, we substitute the benchmark for the daily rate.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following percentage weighted-average margin exists for the period August 1, 1998 through July 31, 1999:

Manufacturer/exporter	Margin (percent)
OBV	zero.

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the date of publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Parties who submit case briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 7 days after the date of filing of case briefs. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at a hearing, if requested, within 120 days from the publication of these preliminary results.

Assessment Rate

Upon completion of this review, the Department will issue appraisement instructions to the U.S. Customs Service. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to liquidate all entries subject to this review without regard to antidumping duties.

If these preliminary results are not adopted in the final results, we will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rates calculated in the final results of this review are above *de minimis* (*i.e.*, at or above 0.5 percent). For assessment purposes, we intend to calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping margins for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer.

Cash Deposit Requirements

As a result of a Sunset Review of brass sheet and strip from the Netherlands, the Department has revoked the antidumping duty order for this case, effective January 1, 2000. *See Revocation of Antidumping Duty Orders: Brass Sheet and Strip From the Republic of Korea, the Netherlands, and Sweden*, 65 FR 25305 (May 1, 2000). Therefore, we have instructed the Customs Service to terminate suspension of liquidation for all entries of subject merchandise made on or after January 1, 2000. We will issue additional instructions directing the Customs Service to liquidate all entries of brass sheet and strip made on or after January 1, 2000, without regard to antidumping duties.

Entries of subject merchandise made prior to January 1, 2000, will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 2, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–11599 Filed 5–9–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–804]

Cold-Rolled Carbon Steel Flat Products From the Netherlands: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests from the petitioners and respondent, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on cold-rolled carbon steel flat products from the Netherlands. The review covers one manufacturer/exporter of the subject merchandise to the United States during the period August 1, 1998 through July 31, 1999. The sole respondent did not respond to our supplemental questionnaire and subsequently withdrew from this review. As a result, we are basing our preliminary results on adverse facts available. If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on entries during the POR.

We invite interested parties to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: May 10, 2000.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Robert James, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2657 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA) of 1994. In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR part 351 (1999).

Background

The Department of Commerce published an antidumping duty order on cold-rolled carbon steel flat products from the Netherlands on August 19, 1993 (58 FR 44172). The Department published a notice of "Opportunity To Request Administrative Review" of the antidumping duty order for the 1998–1999 review period on August 11, 1999 (64 FR 43649). On August 31, 1999, both the respondent, Hoogovens Staal BV and Hoogovens Steel USA, Inc. (Hoogovens), and petitioners (Bethlehem Steel Corporation, U.S. Steel Group (a Unit of USX Corporation), Ispat Inland Inc., LTV Steel Company, Inc. and National Steel Corporation) filed requests for review. We published a notice of initiation of the review on October 1, 1999 (64 FR 53318).

The Department is conducting this review in accordance with section 751(a) of the Tariff Act.

Scope of the Review

The products covered by this review include cold-rolled (cold-reduced) carbon steel flat-rolled products, of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished or coated with plastics or other nonmetallic substances, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7215.50.0015, 7215.50.0060, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090. Included in this review are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges. Excluded from this review is certain shadow mask steel, *i.e.*, aluminum-killed, cold-rolled steel coil that is open-coil annealed, has a carbon content of less than 0.002 percent, is of 0.003 to 0.012 inch in thickness, 15 to 30 inches in width, and has an ultra flat, isotropic surface. These HTS item numbers are provided for convenience and Customs purposes. The written description of the scope of this order remains dispositive.

Use of Facts Available

Section 776(a)(2) of the Tariff Act provides that if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d). use the facts otherwise available in reaching the applicable determination under this title.

On October 5, 1999, the Department issued its antidumping questionnaire to Hoogovens. Hoogovens submitted its response to sections A, B, C, and the constructed value (CV) portion of section D on November 19, 1999. On December 9, 1999, petitioners alleged that Hoogovens had made sales in the home market at prices below its cost of production (COP) and requested that the Department commence a sales-below-cost investigation. Based on our review of petitioners' allegation, we determined that there were reasonable grounds to believe or suspect that Hoogovens had made sales of subject merchandise in the Netherlands at prices below COP. Thus, on December 22, 1999, the Department announced that it would initiate a sales-below-cost investigation to determine whether Hoogovens' sales of cold-rolled carbon steel flat products were made at prices below COP during the POR. We subsequently issued a letter requiring Hoogovens to submit home market COP data by January 20,

2000. Hoogovens timely responded to this initial COP questionnaire.

On January 18, 2000 the Department issued a supplemental questionnaire to address significant deficiencies in sections A, B, and C of Hoogovens' original questionnaire. In our supplemental questionnaire we requested clarification on issues such as the total value of home market sales and the calculation of various home market and U.S. movement and selling expenses. Additionally, the Department sought information concerning the sales process in the U.S. in order to determine whether Hoogovens' U.S. sales should be classified as export price (EP) or constructed export price (CEP) sales. We requested that Hoogovens respond to this supplemental questionnaire by February 1, 2000. In response to Hoogovens' requests on January 28, 2000 and February 8, 2000 to extend this deadline, the Department first granted an extension until February 15, 2000 and then a further extension until February 22, 2000. On February 17, 2000, Hoogovens submitted another request that the deadline for its response be postponed. The Department declined this third request for an extension.

Hoogovens did not submit a response to the Department's supplemental questionnaire. In a March 3, 2000 submission Hoogovens declared that it was withdrawing from this review because the recent merger between Hoogovens and British Steel to form the Corus Group rendered Hoogovens "unable at this time to devote the necessary resources to the Department's review."

Absent the supplemental information requested by the Department, we find that Hoogovens' original questionnaire response is unusable for purposes of our analysis. Pursuant to section 782(e) of the Tariff Act, the Department must consider information submitted by an interested party if all of the following criteria are met: (1) The information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority with respect to the information; and (5) the information can be used without undue difficulties.

Hoogovens withdrew from this review without ever responding to the Department's supplemental questionnaire. In failing to provide clarification on significant issues in this case, we have determined that Hoogovens did not act to the best of its ability. Without the additional information and clarification we requested on Hoogovens' home market sales value, U.S. sales process, and home market and U.S. expense calculations, the Department cannot determine whether the complete universe of home market sales was reported, whether Hoogovens Stahl USA's (HSUSA's) sales should be classified as EP or CEP, or whether Hoogovens has reported certain of its home market and U.S. expenses appropriately. Therefore, the information provided in the original questionnaire response does not serve as a reliable basis upon which to calculate a dumping margin for Hoogovens. Further, because of Hoogovens' withdrawal from this proceeding, the Department could not verify, as provided in section 782(i) of the Tariff Act, any of the information that Hoogovens placed on the record prior to its withdrawal.

Since Hoogovens failed to meet the requirements set forth in section 782(e) of the Tariff Act, we have determined that the information submitted by Hoogovens in this review cannot be used to make a determination in this case. Therefore, we determine that the use of facts available is warranted pursuant to section 776(a)(2)(A) and (C) of the Tariff Act because Hoogovens failed to provide information requested by the Department and significantly impeded this proceeding.

In addition, section 776(b) of the Tariff Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *See* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994).

The Department finds that in not responding to the supplemental questionnaire, Hoogovens failed to cooperate by not acting to the best of its ability to comply with requests for information. Therefore, pursuant to section 776(b) of the Tariff Act, we may, in making our determination, use an adverse inference in selecting from the facts otherwise available. This adverse inference may include reliance on data derived from the petition, a previous determination in an investigation or review, or any other information placed on the record. For this review we have assigned a margin of 19.32 percent as the facts available rate to Hoogovens. This rate represents the highest rate for any respondent in any prior segment of this proceeding, which happens to be a prior rate calculated for Hoogovens itself, as corrected pursuant to litigation. See Amended Final Determination Pursuant to CIT Decision: Certain Cold-Rolled Carbon Steel Flat Products From the Netherlands, 61 FR 47871 (September 11, 1996).

Information from prior segments of the proceeding constitutes secondary information, and section 776(c) of the Tariff Act provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value (*see* the SAA at 870.

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see, e.g.,* Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)).

As discussed above, it is not necessary to question the reliability of a calculated margin from a prior segment of the proceeding. Further, there are no circumstances indicating that this margin is inappropriate as facts

available. Again, this margin represents a calculated rate for Hoogovens, using its own data and as corrected pursuant to litigation. Therefore, we preliminarily find that the 19.32 percent rate is corroborated.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that a weighted-average dumping margin of 19.32 percent exists for Hoogovens for the period August 1, 1998 through July 31, 1999.

Interested parties may submit written comments (case briefs) no later than 30 days after the date of publication of these preliminary results. Rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, may be filed no later than 37 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument, not to exceed five pages in length. Any interested party may request a hearing within 30 days of publication. Requests for a hearing should specify the number of participants and identify the issues to be discussed. Any hearing, if requested, will be held two days after the submission of rebuttal briefs, if any, or the first working day thereafter. *See* 19 CFR 351.310(c) and (d). The Department will publish a notice of the final results of the administrative review, which will include the results of its analysis of issues raised by the parties, within 120 days of publication of these preliminary results. *See* 19 CFR 351.213(h).

Cash Deposit

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review the Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for Hoogovens will be the rate established in the final results of this administrative review; (2) for exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific published for the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 19.32 percent, the "all others" rate established in the original fair value investigation (61 FR 47871).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: Dated: May 2, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–11597 Filed 5–9–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–703]

Granular Polytetrafluoroethylene Resin From Italy; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the respondent, Ausimont S.p.A. (Ausimont), the Department of Commerce is conducting an administrative review of the antidumping duty order on granular polytetrafluoroethylene (PTFE) resin from Italy. The period of review is August 1, 1998, through July 31, 1999.

We preliminarily find that sales have not been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess no antidumping duties on the subject merchandise exported by Ausimont. We invite interested parties to comment on these preliminary results. Parties who submit comments in this proceeding are requested to submit with each argument: (1) A statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: May 10, 2000.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Charles Riggle, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4162 or (202) 482–0650, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations provided in 19 CFR Part 351 (1999).

Background

On August 30, 1988, the Department of Commerce (the Department) published in the **Federal Register** the antidumping duty order on granular PTFE resin from Italy (53 FR 33163). On August 27, 1999, we received a timely request for review from Ausimont and its U.S. affiliated company, Ausimont USA, the only respondent in this administrative review. On November 4, 1999, the Department published in the **Federal Register** a list of antidumping and countervailing duty cases with September anniversary dates for which we were initiating reviews. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 64 FR 60161. This initiation notice also included the initiation of this review of the antidumping duty order on granular PTFE resin from Italy because we inadvertently omitted this review from the previous initiation notice for antidumping cases with August anniversary dates.

We issued a questionnaire to Ausimont on October 8, 1999, followed by a supplemental questionnaire on February 8, 2000, and received

responses on November 5, November 19, November 29, December 17, 1999, and February 29, 2000.

On October 22, 1999, Ausimont requested that the Department apply the "special rule" in accordance with section 772(e) of the Act and exclude sales of further-manufactured wet raw polymer from the analysis in this review on the grounds that the value added to the imported wet raw polymer in the United States is at least 65 percent of the price charged to the first unaffiliated U.S. customer. On December 9, 1999, we rejected Ausimont's request to exclude the sales of further-manufactured wet raw polymer because the burden of using the Department's standard methodology is relatively low and the proportion of further-manufactured sales is sufficiently high as to raise concerns about the accuracy of the antidumping duty margin. *See* the December 9, 1999, memorandum, *Application of the Special Rule to Ausimont's Further-Manufactured Sales of Imported Wet Raw Polymer in the 1998–99 Administrative Review of the Antidumping Duty Order on Granular Polytetrafluoroethylene Resin from Italy,* which is on file in the Central Records Unit (CRU) (room B–099 of the main Commerce Building).

Scope of the Review

The product covered by this review is granular PTFE resin, filled or unfilled. This order also covers PTFE wet raw polymer exported from Italy to the United States. *See Granular Polytetrafluoroethylene Resin from Italy; Final Determination of Circumvention of Antidumping Duty Order,* 58 FR 26100 (April 30, 1993). This order excludes PTFE dispersions in water and fine powders. During the period covered by this review, the subject merchandise was classified under item number 3904.61.00 of the Harmonized Tariff Schedule of the United States (HTS). We are providing this HTS number for convenience and customs purposes only. The written description of the scope remains dispositive.

Fair Value Comparisons

We compared the constructed export price (CEP) to the NV, as described in the *Constructed Export Price* and *Normal Value* sections of this notice. Pursuant to section 777A(d)(2) of the Act, we compared the CEPs of individual transactions to contemporaneous monthly weighted-average prices of sales of the foreign like product.

We first attempted to compare contemporaneous sales of products sold in the United States and the comparison market that were identical with respect to the following characteristics: type, filler, percentage of filler, and grade. Where we were unable to compare sales of identical merchandise, we compared U.S. sales with comparison market sales of the most similar merchandise based on the characteristics listed above, in that order of priority.

Since there were appropriate comparison market sales of comparable merchandise, we did not need to compare the merchandise sold in the United States to constructed value (CV), in accordance with section 773(a)(4) of the Act.

Constructed Export Price

For all sales to the United States, we calculated CEP as defined in section 772(b) of the Act because all sales to unaffiliated parties were made after importation of the subject merchandise into the United States through Ausimont USA, the respondent's affiliate. We based the starting price for the calculation of CEP on the packed, delivered prices to unaffiliated purchasers in the United States. We adjusted the starting price, net of billing credit, for movement expenses, in accordance with section 772(c)(2)(A) of the Act, including domestic inland freight, international freight, marine insurance, brokerage and handling, U.S. inland freight, and U.S. customs duties.

In accordance with section 772(d)(1) of the Act, we deducted selling expenses incurred in connection with economic activity in the United States. These expenses include credit, inventory carrying costs, and indirect expenses incurred by Ausimont USA.

With respect to sales involving imported wet raw polymer that was further manufactured into finished PTFE resin in the United States, we deducted the cost of such further manufacturing in accordance with section 772(d)(2) of the Act.

Finally, we made an adjustment for the profit allocated to the above-referenced selling and further manufacturing expenses, in accordance with section 772(d)(3) of the Act.

No other adjustments were claimed or allowed.

Normal Value

In order to determine whether there was a sufficient volume of sales of granular PTFE resin in the home market to serve as a viable basis for calculating NV, we compared Ausimont's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a) of the Act. Because the aggregate volume of home market sales of the foreign like product was greater than 5 percent of the respective aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provides a viable basis for calculating NV. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like product was first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade.

We determined home market prices net of price adjustments (early payment discounts and rebates). Where applicable, we made adjustments for packing and movement expenses, in accordance with sections 773(a)(6)(A) and (B) of the Act. In order to adjust for differences in packing between the two markets, we deducted home market packing costs from NV and added U.S. packing costs. We also made adjustments for differences in costs attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act, and for other differences in the circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act. We made a COS adjustment for home market credit expense. Also, we made a CEP-offset adjustment to the NV for indirect selling expenses pursuant to section 773(a)(7)(B) of the Act as discussed in the *Level of Trade/CEP Offset* section below.

Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales at the same level of trade in the comparison market as the level of trade of the U.S. sales. The NV level of trade is that of the starting-price sales in the comparison market. For CEP sales, such as those made by Ausimont in this review, the U.S. level of trade is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than that of the U.S. sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, if the NV level is more remote

from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See e.g., Industrial Nitrocellulose From the United Kingdom; Notice of Final Results of Antidumping Duty Administrative Review,* 65 FR 6148, 6151 (February 8, 2000) (*Industrial Nitrocellulose*).

In implementing these principles in this review, we obtained information from Ausimont about the marketing stage involved in the reported U.S. sales and in the home market sales, including a description of the selling activities performed by Ausimont for each channel of distribution. In identifying levels of trade for CEP and for home market sales, we considered the selling functions reflected in the CEP, after the deduction of expenses and profit under section 772(d) of the Act, and those reflected in the home market starting price before making any adjustments. We expect that, if claimed levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that levels of trade are different for different groups of sales, the functions and activities of the seller should be dissimilar.

The record evidence before us in this review indicates that the home market and the CEP levels of trade have not changed from the 1996–97 review,[1] the most recently completed review in this case. As in prior segments of the proceeding, we determined that for Ausimont there was one home market level of trade and one U.S. level of trade (*i.e.*, the CEP level of trade). In the home market, Ausimont sold directly to fabricators. These sales primarily entailed selling activities such as technical assistance, engineering services, research and development, technical programs, and delivery services.

In determining the level of trade for the U.S. sales, we only considered the selling activities reflected in the price after making the appropriate adjustments under section 772(d) of the Act. *See e.g., Industrial Nitrocellulose*, 65 FR 6148, 6149–6150 (February 8, 2000). The CEP level of trade involves minimal selling functions such as invoicing and the occasional exchange of personnel between Ausimont S.p.A. and its U.S. affiliate. Based on a comparison of the home market level of trade and this CEP level of trade, we find the home market sales to be at a different level of trade from, and more remote from the factory than, the CEP sales.

Section 773(a)(7)(A) of the Act directs us to make an adjustment for difference in levels of trade where such differences affect price comparability. However, we were unable to quantify such price differences from information on the record. Because we have determined that the home-market level of trade is more remote from the factory than the CEP level of trade but the data necessary to calculate a level-of-trade adjustment are unavailable, we made a CEP-offset adjustment to NV pursuant to section 773(a)(7)(B) of the Act.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation."

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/exporter	Period	Margin (percent)
Ausimont S.p.A.	08/01/98–07/31/99	0.34

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding within five days after the date of publication of this notice any calculations performed in connection with these preliminary results. An interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. Parties who submit arguments in this proceeding are requested to submit with each argument: (1) A statement of the issue and (2) a brief summary of the argument. The Department will issue the final results of the administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days of issuance of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service. If the final margin is above *de minimis*, for duty assessment purposes, we will calculate an importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate these duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. However, if these preliminary results are adopted in our final results, we will instruct the Customs Service to assess no antidumping duties on the merchandise subject to review pursuant to 19 CFR 351.106(c)(2).

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of granular PTFE resin from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Ausimont will be the rate established in the final results of administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less than fair value (LTFV) investigation or a previous review, the cash deposit will continue

[1] *See Notice of Final Results of Antidumping Duty Administrative Review: Granular Polytetrafluoroethylene Resin From Italy*, FR 63, 49080, 49083 (September 14, 1998), and *Notice of Preliminary Results of Antidumping Duty Administrative Review: Polytetrafluoroethylene Resin from Italy*, 63 FR 25826, 25827 (May 11, 1998).

to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, a previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 46.46 percent, the "all others" rate established in the LTFV investigation (50 FR 26019, June 24, 1985).

This notice also serves as a preliminary reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 2, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–11598 Filed 5–9–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–840]

Manganese Metal From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review of manganese metal from the People's Republic of China.

SUMMARY: We have determined that sales by China Metallurgical Import & Export Hunan Corporation/Hunan Nonferrous Metals Import & Export Associated Corporation and by China Hunan International Economic Development (Group) Corporation have been made below normal value during the period of review of February 1, 1998, through January 31, 1999. Based on our analysis of the comments received, we have made changes in the margin calculation of China Metallurgical Import & Export Hunan Corporation/Hunan Nonferrous Metals Import & Export Associated Corporation. Consequently, the final results differ from the preliminary results. The final weighted-average dumping margin for this firm is listed below in the section entitled "Final Results of the Review." Based on these final results of review, we will instruct the Customs Service to assess antidumping duties based on the difference between the export price and normal value on all appropriate entries. China Hunan International Economic Development (Group) Corporation did not respond to our questionnaire and has been assigned a dumping margin based on adverse facts available.

EFFECTIVE DATE: May 10, 2000.

FOR FURTHER INFORMATION CONTACT: Greg Campbell or Suresh Maniam, Group 1, Office I, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–2239 or (202) 482–0176, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (Department) regulations are to 19 CFR part 351 (1999).

Background

On December 9, 1999, the Department published the *Preliminary Results*.[1] The review covers two PRC exporters. The period of review (POR) is February 1, 1998, through January 31, 1999. We invited parties to comment on our preliminary results of review. At the request of certain interested parties, we held a public hearing on February 3, 2000. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

The merchandise covered by this review is manganese metal, which is composed principally of manganese, by weight, but also contains some impurities such as carbon, sulfur, phosphorous, iron and silicon. Manganese metal contains by weight not less than 95 percent manganese. All compositions, forms and sizes of manganese metal are included within the scope of this administrative review, including metal flake, powder, compressed powder, and fines. The subject merchandise is currently classifiable under subheadings 8111.00.45.00 and 8111.00.60.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" (Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated May 3, 2000, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ita.doc.gov/import_admin/records/frn/. The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculation for China Metallurgical Import & Export Hunan Corporation/Hunan Nonferrous Metals Import & Export Associated Corporation (CMIECHN/CNIECHN). These changes are as follows:

Ore 2: To value Ore 2, we are using an average of two price quotations from separate Indian manganese ore producers. See the Decision Memo at Comment 4.

Electricity: We have derived a surrogate value for electricity based on electricity price data published by the Center for Monitoring Indian Economy (CMIE) and on an electricity-specific

[1] *Manganese Metal from the People's Republic of China; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 64 FR 68999 (December 9, 1999) (*Preliminary Results*).

price index published by the Reserve Bank of India. See the Decision Memo at Comment 5.

Factory Overhead, SG&A and Profit: We have derived surrogate ratios for factory overhead, SG&A and profit based on financial data for Indian nonferrous metals producers, as published by the CMIE. See the Decision Memo at Comment 9.

Ocean Freight: We have used as a surrogate value for ocean freight information obtained from the Federal Maritime Commission on freight rates during the POR. See the Decision Memo at Comment 12.

Final Results of Review

We determine that the following percentage weighted-average margins exist for the period February 1, 1998, through January 31, 1999:

Exporter	Margin (percent)
CMIECHN/CNIECHN	36.49
PRC-wide	143.32

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

In order to assess duties on appropriate entries as a result of this review, we have calculated entry-specific duty assessment rates based on the ratio of the amount of duty calculated for each of CMIECHN/CNIECHN's verified sales during the POR to the entered value of the corresponding entry. The Department will instruct the Customs Service to assess these rates on those entries which correspond to sales verified by the Department as having been made directly by CMIECHN/CNIECHN. With respect to Sumitomo Canada, Ltd. (SCL) and London & Scandinavian Metallurgical Co., Ltd. (LSM), third-country resellers which established the identity of their PRC suppliers, the Department will instruct Customs to liquidate these entries at the cash deposit rate in effect for their supplier(s) at the time of entry.

As discussed in the *Preliminary Results*,[2] however, the Customs entry data for the POR indicates that many more shipments of manganese metal listing CMIECHN/CNIECHN as the manufacturer/exporter were entered into the United States than the number of POR sales reported by CMIECHN/CNIECHN. On those entries listing CMIECHN/CNIECHN as the direct exporter but for which there are no corresponding verified sales or sales by LSM or SCL, the Department will instruct the Customs Service to assess the PRC-wide rate of 143.32 percent. This is consistent with the Department's practice as applied during the previous review.[3] The Department will likewise instruct the Customs Service to assess the PRC-wide rate on all POR entries from China Hunan International Economic Development (Group) Corporation (HIED) and on all entries from other PRC exporters that do not have separate rates.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of manganese metal from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for CMIECHN/CNIECHN will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) for sales made by LSM, SCL and other non-PRC exporters of subject merchandise from the PRC, the cash deposit rates will be those cash deposit rates in effect at the time of entry for their respective PRC supplier(s);[4] and (4) for all other PRC exporters, including HIED, the cash deposit rate will be 143.32 percent. This rate is the "PRC-wide" rate from the less-than-fair-value investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 771(i) of the Act.

Dated: May 3, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administratian.

Appendix—List of Comments and Issues in the Decision Memorandum

Comment 1: Application of China-wide Rate
Comment 2: Normal Value for SCL
Comment 3: Factual Information Regarding CMIECHN/CNIECHN
Comment 4: Ore Valuation
Comment 5: Electricity Valuation
Comment 6: Liquid Ammonia Valuation
Comment 7: Selenium Dioxide Valuation
Comment 8: Positive Mud Valuation
Comment 9: Factory Overhead, SG&A, and Profit Valuation
Comment 10: Excluding Labor from Factory Overhead and SG&A Ratios
Comment 11: Ocean Freight—Use of Reported Costs
Comment 12: Ocean Freight Valuation

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[2] 64 FR at 69001.

[3] *Manganese Metal from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 64 FR 49449 (September 13, 1999).

[4] *See e.g., Manganese Metal from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 64 FR 49447 (September 13, 1999); *Fresh Garlic from the PRC; Final Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review*, 62 FR 23758, 23760 (May 1, 1997); *Sparklers from the PRC; Final Results of Antidumping Duty Administrative Review*, 61 FR 39630, 39631 (July 30, 1996).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–504]

Porcelain-on-Steel Cookware From Mexico: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 5, 1999, the Department of Commerce published the preliminary results of the administrative

review of the antidumping duty order on porcelain-on-steel cookware from Mexico. The review covers two manufacturers/exporters. The period of review is December 1, 1997, through November 30, 1998.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: May 10, 2000.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Rebecca Trainor, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–4929 or (202) 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (1998).

Background

The review covers two manufacturers/exporters, Cinsa, S.A. de C.V. (Cinsa) and Esmaltaciones de Norte America, S.A. de C.V. (ENASA). The period of review (POR) is December 1, 1997, through November 30, 1998.

On November 5, 1999, the Department published in the **Federal Register** the preliminary results of the twelfth antidumping duty administrative review of the antidumping duty order on porcelain-on-steel cookware from Mexico (64 FR 60417). On January 14, 2000, respondents submitted a supplemental questionnaire response. On February 3, 2000, the Department published in the **Federal Register** a notice of extension of the time limit for the final results of this review (65 FR 5311). On February 29 and March 1, 2000, the Department conducted a verification on the issue of reimbursement.

We invited parties to comment on the preliminary results of review. A public hearing was held on March 30, 2000. At this hearing the Department gave the petitioner and the respondents an opportunity to comment further on certain issues. On April 3, 2000, the respondents filed a post-hearing submission. The petitioner declined to file a submission in response to the Department's offer. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

The products covered by this review are porcelain-on-steel cookware, including tea kettles, which do not have self-contained heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 7323.94.00. Kitchenware currently classifiable under HTSUS subheading 7323.94.00.30 is not subject to the order. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Verification

Pursuant to section 782(i) of the Act, we verified the duty reimbursement information provided by Cinsa and ENASA using standard verification procedures, including the examination of relevant sales and financial records, as well as the selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report, dated March 15, 2000, and located in the public file in Room B–099 of the Department's main building.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping duty administrative review are addressed in the "Issues and Decision Memorandum" (Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary for Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated May 3, 2000, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ita.doc.gov/import_admin/records/frn. The paper copy and electronic version of the Decision Memo are identical in content.

Duty Reimbursement

For the reasons outlined in the Decision Memorandum, we have found that Cinsa and ENASA have rebutted the presumption of reimbursement as to twelfth review entries when they become due.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculations. For a discussion of these changes, see the "Margin Calculations" section of the Decision Memo, which is on file in room B–099 at the Department and available on the Web at www.ita.doc.gov/import_admin/records/frn.

Final Results of Review

We determine that the following weighted-average margin percentages exists for the period December 1, 1997, through November 30, 1998:

Manufacturer/exporter	Margin (percent)
Cinsa	8.96
ENASA	27.37

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated importer-specific assessment rates. We will direct Customs to assess the resulting percentage margin against the entered Customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of the administrative review for all shipments of porcelain-on-steel cookware from Mexico entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for Cinsa and ENASA will be the rates shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate

will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 29.52. This rate is the "All Others" rate from the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 777(i) of the Act.

Dated: May 3, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Appendix—List of Issues

1. Duty Reimbursement
2. Reclassification of All U.S. Sales as Constructed Export Price Sales
3. Indirect Selling Expenses Incurred in Mexico
4. Calculation of Cinsa International Corporation's Indirect Selling Expenses/ Bad Debt
5. Calculation of CEP Profit
6. CEP Offset Adjustment
7. Pre-Sale Warehousing Expenses
8. Model Matching Methodology

[FR Doc. 00–11735 Filed 5–9–00; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–814]

Pure Magnesium From Canada; Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of 1998–1999 administrative review and intent not to revoke.

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on pure magnesium from Canada. The period of review is August 1, 1998 through July 31, 1999. This review covers imports of pure magnesium from one producer/ exporter.

We have preliminarily found that sales of subject merchandise have not been made below normal value. We have also preliminarily determined not to revoke the order with respect to pure magnesium from Canada produced by Norsk Hydro Canada, Inc. If these preliminary results are adopted in our final results, we will instruct the Customs Service not to assess antidumping duties.

Interested parties are invited to comment on these preliminary results. We will issue the final results not later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: May 10, 2000.

FOR FURTHER INFORMATION CONTACT: Zak Smith or Melani Miller, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0189 or (202) 482–0116, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations refer to 19 CFR Part 351 (1998).

Background

The Department published an antidumping duty order on pure magnesium from Canada on August 31, 1992 (57 FR 39390). On August 11; 1999, the Department published a notice of "Opportunity to Request an Administrative Review" of this order (64 FR 43649). On August 13, 1999, Magnesium Corporation of America (the "petitioner") requested an administrative review of imports of the subject merchandise produced by Norsk Hydro Canada, Inc. ("NHCI"). NCHI made a similar request for review on August 18, 1999. We initiated the review on October 1, 1999. This review covers the period August 1, 1998 through July 31, 1999.

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

The product covered by this review is pure magnesium. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Granular and secondary magnesium are excluded from the scope currently classifiable under subheading 8104.11.0000 of the Harmonized Tariff Schedule ("HTS"). The HTS item number is provided for convenience and for customs purposes. The written description remains dispositive.

Export Price

For sales to the United States, we used export price ("EP") as defined in section 772(a) of the Act because the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation. The use of constructed export prices was not warranted based on the facts of the record. EP was based on the packed, delivered, duties unpaid price to unaffiliated purchasers in the United States. We made a deduction for movement expenses in accordance with section 772(c)(2)(A) of the Act; this included the foreign and U.S. inland freight expenses.

Normal Value

We compared the aggregate quantity of home market and U.S. sales and determined that the quantity of the company's sales in its home market was more than five percent of the quantity of its sales to the U.S. market. Consequently, pursuant to section 773(a)(1) of the Act, we based normal value ("NV") on home market sales.

We made adjustments for differences in packing in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act. We also made adjustments for movement expenses, consistent with section 773(a)(6)(B)(ii) of the Act, for inland freight. In addition, we made adjustments for differences in

circumstances of sale ("COS") in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made COS adjustments by deducting direct selling expenses incurred on home market sales (credit expenses) and adding U.S. direct selling expenses (credit expenses).

Revocation

Pursuant to 19 CFR 351.222(b)(2), NHCI requested revocation of the antidumping duty order, in part. In accordance with 19 CFR 351.222(e), the request was accompanied by certifications that NHCI had not sold the subject merchandise at less than normal value during the current period of review and would not do so in the future. NHCI further certified that it sold the subject merchandise to the United States in commercial quantities for a period of at least three consecutive years. NHCI also agreed to immediate reinstatement of the antidumping duty order, as long as any exporter or producer is subject to the order, if the Department concludes that NHCI, subsequent to the revocation, sold the subject merchandise at less than normal value.

We must determine, as a threshold matter, in accordance with 19 CFR 351.222, whether the company requesting revocation sold the subject merchandise in commercial quantities in each of the three years forming the basis of the request. *See* Pure Magnesium From Canada; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke Order in Part, 64 FR 12977, 12978 (March 16, 1999) ("Fifth Review") and Pure Magnesium From Canada; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke Order in Part, 64 FR 50489, 50490 (September 17, 1999) ("Sixth Review"). In the Fifth Review, we determined that NHCI did not sell the subject merchandise in the United States in commercial quantities in any of the three years cited by NHCI to support its request for revocation (the administrative review years 1994–1995, 1995–1996, and 1996–1997). In the Sixth Review, we determined that NHCI did not sell the subject merchandise in the United States in commercial quantities in two of the three years cited by NHCI to support its request for revocation (the administrative review years 1995–1996 and 1996–1997). Consistent with our findings in the Fifth Review and Sixth Review, we preliminarily find that NHCI does not qualify for revocation of the order on pure magnesium because it does not have three consecutive years of sales in commercial quantities at not less than normal value, as provided for in 19 CFR 351.222(b) and (e)(1)(ii). In particular, NHCI's sales in 1996–1997 were not in commercial quantities. (See the Memorandum from Team to Susan Kuhbach, "Commercial Quantities," dated April 20, 2000, for a discussion of NHCI's selling activity).

Preliminary Results of the Review

As a result of this review, we preliminarily determine that NHCI's margin for the period August 1, 1998, through July 31, 1999, is zero.

Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held 42 days after the publication of this notice, or the first workday thereafter. Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice.

Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included. The Department will publish the final results of this administrative review subsequently, including the results of its analysis of issues raised in any such written briefs or hearing. The Department will issue final results of this review within 120 days of publication of these preliminary results.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of pure magnesium from Canada entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed company will be the rate established in the final results of this administrative review (except no cash deposit will be required for the company if its weighted-average margin is de minimis, i.e., less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less than fair value investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received an individual rate; (3) if the exporter is not a firm covered in this review, the previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 21 percent, the "all others" rate established in Pure Magnesium from Canada; Amendment of Final Determination of Sales At Less Than Fair Value and Order in Accordance With Decision on Remand (58 FR 62643, November 29, 1993).

This notice serves as a preliminary reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 2, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–11600 Filed 5–9–00; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–810]

Certain Welded ASTM A–312 Stainless Steel Pipe From the Republic of Korea; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On December 28, 1999, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on certain welded ASTM A–312 stainless steel pipe (WSSP) from Korea (64 FR 72645). The merchandise covered by this order is austenitic stainless steel pipe that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the

welded form of chromium-nickel pipe designated ASTM A–312. The review covers one manufacturer. The period of review is December 1, 1997 through November 30, 1998.

Based on our analysis of the comments received, we have made changes in the margin calculations. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled "Final Results of the Review."

EFFECTIVE DATE: May 10, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn or Mark Hoadley, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–0648 and (202) 482–0666, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (1999).

Background

On December 28, 1999, the Department published the preliminary results of administrative review of the antidumping duty order on WSSP from Korea (64 FR 72645). We invited parties to comment on our preliminary results of review. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

The merchandise covered by this order consists of austenitic stainless steel pipe that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A–312. WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines and paper process machines. Imports of these products are currently classifiable under the following United States Harmonized Tariff Schedule (HTS) subheadings: 7306.40.5005, 7306.40.5015, 7306.40.5045, 7306.40.5060 and 7306.40.5075. Although these subheadings include both pipes and tubes, the scope of this order is limited to welded austenitic stainless steel pipes. Although HTS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order remains dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" (Decision Memo) from Joseph A. Spetrini, Deputy Assistant Secretary for AD/CVD Enforcement Group III, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated April 26, 2000, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, located in room B–099 of the main Department of Commerce Building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ita.doc.gov/import_admin/records/frn/. The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculations. We have also corrected certain programming and clerical errors in our preliminary results. These changes and corrections are discussed in the relevant sections of the Decision Memo, accessible in B–099 and on the Web at www.ita.doc.gov/import_admin/records/frn/.

Final Results of Review

We determine that the following percentage weighted-average margin exists for the period December 1, 1997 through November 30, 1998:

Manufacturer/exporter	Margin (percent)
SeAH Steel Corporation Ltd.	1.02

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. We divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct Customs to assess the resulting percentage margins against the entered Customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of WSSP from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed company will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 7.00 percent. This rate is the "All Others" rate from the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations

and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: April 26, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Appendix

List of Issues

1. Cost of Production.
2. Model Matching.
3. Programming and Clerical Errors.

[FR Doc. 00–11737 Filed 5–9–00; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended export trade certificate of review, Application No. 88–3A012.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to National Tooling & Machining Association ("NTMA") on October 18, 1988. Notice of issuance of the Certificate was published in the **Federal Register** on October 25, 1988 (53 FR 43140).

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) or at E-mail at oetca@ita.doc.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 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 (1999).

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 the certification 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 Amended Certificate

Export Trade Certificate of Review No. 88–00012, was issued to NTMA on October 18, 1988 (53 FR 43140, October 25, 1988) and previously amended on December 4, 1989 (54 FR 51914, December 19, 1989), and September 2, 1993 (58 FR 47868, September 13, 1993).

NTMA's Export Trade Certificate of Review has been amended to include the attached list of companies as "Members" of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)).

A copy of the amended 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, N.W., Washington, D.C. 20230.

Dated: May 3, 2000.

Morton Schnabel,

Director, Office of Export Trading, Company Affairs.

Attachment

b & b Tool Company, Inc., Rockford, IL
A & A Industries, Inc., Peabody, MA
A & A Machine Company, Inc., Southampton, PA
A & A Machine Shop, Inc., La Marque, TX
A & B Machine, Van Nuys, CA
A & B Machine Shop, Rockford, IL
A & B Tool & Manufacturing Corp., Toledo, OH
A & D Precision, Fremont, CA
A & E Custom Manufacturing, Kansas City, KS
A & E Machine Shop, Inc., Lone Star, TX
A & G Machine, Inc., Auburn, WA
A & S Tool & Die Company, Inc., Kernersville, NC
A A Precisioneering, Inc., Meadville, PA
A B A Division, Manchester, CT
A B C O Tool & Engineering, Phoenix, AZ
A B Heller, Inc., Milford, MI
A B N Industrial Co., Inc., Buena Park, CA
A B R Enterprises Inc., South Pasadena, CA
A C Machine, Inc., Akron, OH
A C Mfg. Co. Inc., Malden, MA
A E Cole Die & Engraving, Columbus, OH
A E Machine Works, Inc., Houston, TX
A F C Tool Company, Inc., Dayton, OH
A I M Tool & Die, Grand Haven, MI
A M C Precision, Inc., N. Tonawanda, NY
A M Design, E. Canton, OH
A M Machine Company, Inc., Baltimore, MD
A Mfg., Grand Terrace, CA
A S C Corporation, Owings Mills, MD
A T G, Inc., Houston, TX
A. C. Cut-Off, Inc., Azusa, CA
A+ Engineering, Ipswich, MA
A–G Tool & Die, Miamitown, OH
A-Line Tool & Die, Inc., Louisville, KY
A-RanD, Inc., Phoenix, AZ
A–W Engineering Company, Inc., Santa Fe Springs, CA
Abbott Machine & Tool, Inc., Toledo, OH
Abbott Tool, Inc., Toledo, OH
Ability Tool Company, Rockford, IL
Able Wire EDM, Inc., Brea, CA
Abrams Airborne Manufacturing, Tucson, AZ
Abrasive Machining Inc., Rockford, IL
Absolute Manufacturing, N. Chelmsford, MA
Absolute Turning & Machine, Tucson, AZ
Acadiana Hydraulic Works, Inc., New Iberia, LA
Accu Die & Mold Inc., Stevensville, MI
Accu-Right Laser Corporation, Villa Ridge, MO
Accu-Roll, Inc., Rochester, NY
Accudynamics, Inc., Middleboro, MA
Accudyne Aerospace & Defense, Palm Bay, FL
Accura Industries, Inc., Rochester, NY
Accurate Grinding & Mfg. Corp., Los Angeles, CA
Accurate Grinding Corp., Warwick, RI
Accurate Machine Co. Inc., Indianapolis, IN
Accurate MachineWorks, Inc., Newport Beach, CA
Accurate Machining, Mukilteo, WA
Accurate Manufacturing Company, Glendale, CA
Accurate Manufacturing Company, Alsip, IL
Accurate Products Co., Tucson, AZ
Accurite Machine & Mfg. Inc., Louisville, KY
Accutronics, Inc., Littleton, CO
AccuCraft, New Haven, MO
AccuRounds, Avon, MA
Ace Manufacturing Company, Cincinnati, OH
Ace Specialty Company, Inc., Tonawanda, NY
Ackley Machine Corporation, Moorestown, NJ
Acklin Stamping, Toledo, OH
Acme Brass & Machine Works, Inc., Kansas City, MO
Acra Aerospace, Inc., Anaheim, CA
Acraloc Corporation, Oak Ridge, TN
Acro Industries, Inc., Rochester, NY
Acro Tool & Die Company, Inc., Akron, OH
Actco Tool & Mfg. Co., Meadville, PA
Action Die & Tool Inc., Wyoming, MI
Action Mold & Machining, Inc., Grand Rapids, MI
Action Mold & Tool Co., Anaheim, CA
Action Precision Grinding Inc., North Tonawanda, NY

Action SuperAbrasive Products, Brimfield, OH
Action Tool & Die Inc., Rockford, IL
Action Tool & Manufacturing Inc., Dallas, TX
Active Tool Company, Meadville, PA
Acucut, Inc., Southington, CT
Acutec Precision Machining Inc., Saegertown, PA
Ada Machine Company, Inc., Santa Clara, CA
Adams Engineering, Division of Manufacturing Technology, Inc., South Bend, IN
Adaptive Technologies Inc., Springboro,OH
Addison Precision Mfg. Corp., Rochester, NY
Adena Tool Corporation, Dayton, OH
Admill Machine Company, Newington, CT
Adron Tool Corporation, Menomonee Falls, WI
Advance Gear & Machine Corp., Gardena, CA
Advance Manufacturing Corp., Cleveland, OH
Advance Manufacturing Technology, Salt Lake City, UT
Advanced Ceramic Technology, Orange, CA
Advanced Composite Products, Huntington Beach, CA
Advanced Cutting Tools, Inc., Clio, MI
Advanced Machine & Eng. Co., Rockford, IL
Advanced Machine Programming, Morgan Hill, CA
Advanced Machining Corporation, Salisbury, NC
Advanced Measurement Labs, Inc., Sun Valley, CA
Advanced Mold & Tooling Inc., Rochester, NY
Advanced Tooling Systems, Inc., Comstock Park, MI
Advantage Mold & Design, Meadville, PA
Aero Comm Machining, Wichita, KS
Aero Design & Manufacturing Co., Phoenix, AZ
Aero Engineering & Mfg. Company, Valencia, CA
Aero Gear, Inc., Windsor, CT
Aero Machining Company, Garden Grove, CA
Aero Mechanical Engineering, Inc., Huntington Beach, CA
Aero-Tech Engineering, Inc., Wichita, KS
Aerofab, Inc., Tucson, AZ
Aerofast Ltd., Scottsdale, AZ
Aerostar Aerospace Inc., Phoenix, AZ
Aetna Machine Company, Cochranton, PA
Aggressive Tool & Die, Inc., Coopersville, MI
Aggressive Tool & Die, Inc., Buckner, KY
Agrimson Tool Company, Brooklyn Park, MN
Ahaus Tool & Engineering, Inc., Richmond, IN
Aimco Precision, Inc., Phoenix, AZ
Airfoil Technology, Inc., Gilbert, AZ
Airmetal Corporation, Jackson, MI
Ajax Tool, Inc., Fort Wayne, IN
Akro Tool Co., Inc., Cincinnati, OH
Akron Steel Fabricators Company, Akron, OH
Akron Tool & Die Company, Inc., Akron, OH
Alamance Machine Company, Inc., Burlington, NC
Alart Tool & Die, Inc., Houston, TX
Albert Seisler Machine Corp., Mohnton, PA
Albertson & Hein, Inc., Wichita, KS
Albion Machine & Tool Company, Albion, MI
Alco Manufacturing, Inc., Santa Ana, CA
Alfred Manufacturing Company, Denver, CO
Alfro Custom Manufacturing, Waterbury, CT
Alger Machine Company, Inc., Rochester, NY
Alignment Engineering Co., Inc., Knoxville, TN
Alkron Manufacturing Corporation, Rochester, NY
All Five Tool Company, Inc., Bristol, CT
All Precision Mfg., LLC, Nokomis, IL
All Tool Company, Union, NJ
All Tools Company, Oklahoma City, OK
All Tools Texas, Inc., Houston, TX
All Weld Machine, Milpitas, CA
All-Tech Machine & Eng., Inc., San Jose, CA
All-Tech Machining, Inc., Wilmer, AL
Allen Aircraft Products, Inc., Ravenna, OH
Allen Precision Industries, Inc., Asheboro, NC
Allen Precision Machining Co., Angleton, TX
Allen Randall Enterprises, Inc., Akron, OH
Alliance Machine Tool Co., Inc., Louisville, KY
Allied Mechanical Products, Ontario, CA
Allied Screw Products, Inc., Mishawaka, IN
Allied Tool & Die Company, LLC, Phoenix, AZ
Allied Tool & Die, Inc., Cleveland, OH
Allied Tool & Machine Company, Kernersville, NC
Allied Tool & Machine, Inc., Saginaw, MI
Allied Tools Of Texas, Houston, TX
Alloy Metal Products, Hayward, CA
Alloy Tool Steel, Inc., Santa Fe Springs, CA
Allstate Tool & Die, Inc., Rochester, NY
Almar Mfg. & Engineering, Inc., Garden Valley, CA
Alpa Precision Machine Works, Houston, TX
Alpha Mold Inc., LLC, Huber Heights, OH
Alpha Mold West Inc., Broomfield, CO
Alpha Precision Machining Inc., Kent, WA
Alpha Tool & Machine Company, Bellmawr, NJ
Alpha Tooling, Inc., Santa Fe Springs, CA
Alpine Precision, Inc., North Billerica, MA
Alro Specialty Metals, St. Louis, MO
Alt's Tool & Machine, Inc., Santee, CA
Alta Engineering, Inc., Sun Valley, CA
Alton Products, Inc., Maumee, OH
Aluminum Precision Products, Inc., Santa Ana, CA
Alves Precision Engineered, Watertown, CT
Amatrol, Inc., Jeffersonville, IN
Ambel Precision Mfg. Corp., Bethel, CT
Ambox, Inc., Houston, TX
Amcraft Corporation, Oceanside, CA
American Machine & Gundrilling, Co., Maple Grove, MN
American Metal Masters, Inc., Plantsville, CT
American Mfg. & Machining, Inc., Racine, WI
American Mold & Engineering Co., Fridley, MN
American Precision Hydraulics, Huntington Beach, CA
American Precision Machining, Phoenix, AZ
American Precision Technologies, San Fernando, CA
American Tool & Die, Inc., Toledo, OH
American Wire EDM, Inc., Orange, CA
Amerimold, Inc., Mogadore, OH
Ameritech Die & Mold, Inc., Mooresville, NC
Ames Engineering Corp., Wilmington, DE
Amity Mold Company, Tipp City, OH
Ampswiss Engineering, Fremont, CA
Anchor Lamina Inc., Madison Heights, MI
Anchor Lamina Inc., Cheshire, CT
Anchor Tool & Die Company, Cleveland, OH
Anchor Tool & Die Company, Warren, MI
Anders Machine and Engraving, Rochester, NY
Anderson Tool & Engineering Co., Anderson, IN
Andrew Tool Company, Inc., Plymouth, MN
Anglo-American Mold, Inc., Louisville, KY
Angus Industries, LLC, Indianapolis, IN
Anmar Precision Components Inc., North Hollywood, CA
Anoplate Corporation, Syracuse, NY
Apex Machine Company, Ft. Lauderdale, FL

Apex Machine Tool Company, Inc., Farmington, CT
Apex Manufacturing, Inc., Phoenix, AZ
Apex Precision Technologies, Inc., Indianapolis, IN
Apex Tool & Manufacturing, Inc., Evansville, IN
Apollo E.D.M. Company, Fraser, MI
Apollo Precision, Inc., Plymouth, MN
Apollo Products Inc., Willoughby, OH
Applegate EDM, Inc., Dallas, TX
Applied Engineering, Inc., Yankton, SD
Applied Technology Manufacturing, Owego, NY
Applied Technology Manufacturing, Rochester, NY
Aram Precision Tool & Die, Inc., Chatsworth, CA
Arc Drilling Inc., Garfield Heights, OH
Arc Weld Inc./A.W.I., West Newton, PA
Arca Systems, Tacoma, WA
Arco Industries, Inc., Dayton, OH
Arco Metals Corporation, Baltimore, MD
Ardekin Machine Company, Rockford, IL
Area Tool & Manufacturing, Inc., Meadville, PA
Argo Tool Corporation, Twinsburg, OH
Argus Machine, Inc., Tucson, AZ
Aries Tool, Inc., New Berlin, WI
Arkansas Tool & Die, Inc., North Little Rock, AR
Arken Manufacturing, Inc., Cleveland, OH
Arlington Machine & Tool Company, Fairfield, NJ
Arma Tool & Die Company, Inc., Ridgefield, CT
Armin Tool & Manufacturing Co., South Elgin, IL
Armstrong Machine Works, Inc., Rogersville, TN
Armstrong Mold, Machining Div., East Syracuse, NY
Armstrong-Blum Mfg. Co., Mt. Prospect, IL
Arnett Tool, Inc., New Paris, OH
Arrington Supply House, Inc., Tuscaloosa, AL
Arro Tool & Die, Inc., Lakewood, NY
Arrow Diversified Tooling, Inc., Ellington, CT
Arrow Grinding, Inc., Tonawanda, NY
Arrow Tool & Gage Company, Inc., Tulsa, OK
Arrowsmith International, Inc., Southfield, MI
Arthur J. Evers Corporation, Riverton, NJ
Artisan Associates, Detroit, MI
Artisan Machining, Inc., Bohemia, NY
Ascension Industries, North Tonawanda, NY
Ash Machine Corporation, Pataskala, OH
Aspen Precision Technologies, Petaluma, CA
Associated Electro-Mechanics, Springfield, MA
Associated Gear, Inc., Santa Fe Springs, CA
Associated Technologies, Brea, CA
Associated Toolmakers, Inc., Keokuk, IA
Associates Commercial Corp., Irving, TX
Astley Precision Machine Co., Irwin, PA
Astro Automation, Inc., Irwin, PA
Astro Machine Works Inc., Ephrata, PA
Astrotronics Inc., Mesa, AZ
Atec Tool & Engineering, Inc., Santa Clara, CA
Athens Industries, Southington, CT
Atkins Tool Company, Riverton, NJ
Atlantic Alloys, Inc., Bristol, RI
Atlantic Precision Products Inc., Biddeford, ME
Atlantic Tool & Die Company, Strongsville, OH
Atlantis Tool Corporation, Rochester, NY
Atlas Die & Manufacturing Co., Rockford, IL
Atlas Machine & Supply, Inc., Louisville, KY
Atlas Tool, Inc., Roseville, MI
Atols Tool & Mold Corporation, Schiller Park, IL
August Machine, Inc., Phoenix, AZ
Austin Machine Company Inc., O'Fallon, MO
Austinburg Machine, Inc., Austinburg, OH
Austro Mold Incorporated, Rochester, NY
Autocam Corporation, Kentwood, MI
Automated Cells & Equipment, Inc., Painted Post, NY
Automated EDM Incorporated, Ramsey, MN
Automatic Stamp Products, Inc., Cleveland, OH
Automation Technologies Corp., Cranston, RI
Automation Tool & Die, Inc., Brunswick, OH
Automation Tool Company, Cookeville, TN
Axian Technology, Phoenix, AZ
Axis Machining Inc., Slatersville, RI
Ay Machine Company, Ephrata, PA
Ay-Mac Precision, Inc., Yorba Linda, CA
Azbill Tool & Die, Inc., Huntington Beach, CA
AAA Machine Inc., Rochester, NY
ABBEC Manufacturing, Rochester, NY
ACMT, Inc. dba A C Tool & Machine, Louisville, KY
ALKAB Contract Manufacturing, Inc., New Kensington, PA
AMA Plastics, Corona, CA
AMS Production Machining Inc., Plainfield, IN
AMT Inc., Tullahoma, TN
APEC, LLC, Hingham, MA
AT Engineering & Mfg., Inc., Chatsworth, CA
B & A Design Inc., Vernon, CT
B & B Machine & Grinding Service, Denver, CO
B & B Manufacturing Company, Largo, FL
B & B Precision Mfg., Inc., Avon, NY
B & E Tool Company, Inc., Southwick, MA
B & G Quality Machine & Tool, Baltimore, MD
B & H Fabricators, Inc., Wilmington, CA
B & H Tool Co. Inc., San Marcos, CA
B & H Tool Works, Inc., Richmond, KY
B & K Engineering, Inc., Mountain View, CA
B & L Tool and Machine Company, Plainville, CT
B & R Mold, Inc., Simi Valley, CA
B & W Tool & Die, Inc., Dallas, TX
B C D Metal Products Inc., Malden, MA
B J Williams Machining Co., Edinboro, PA
B P I Corporation, Santa Clara, CA
B. Radtke & Sons, Inc., Round Lake Park, IL
B-W Grinding Service, Inc., Houston, TX
Babbitt Bearing, Inc., Syracuse, NY
Bachman Machine Company, Inc., St. Louis, MO
Bachmann Precision Machine, South El Monte, CA
Badge Machine Products, Inc., Canandaigua, NY
Baham & Sons Machine Works, Inc., Houston, TX
Bahrs Die & Stamping Company, Cincinnati, OH
Baker Hill Industries, Inc., Coral Springs, FL
Banner Machine Inc., Phoenix, AZ
Banner Tool & Die, Inc., Rockford, IL
Barberie Mold, Gardena, CA
Barile Precision Grinding Inc., Cleveland, OH
Basic VI, San Jose, CA
Bass Machining Inc., Baltimore, MD
Bateman Manufacturing Co., Inc., Hayward, CA
Baumann Engineering, Claremont, CA
Bawden Industries, Inc., Romulus, MI
Baxter Machine Products, Inc., Huntingdon, PA
Bay Industrial Machine, Green Bay, WI
Bayport Machine, Inc., La Porte, TX
Beach Mold & Tool, Inc., New Albany, IN
Beacon Tool Company, Inc., Whittier, CA
Beaver Fab Inc., Cedar Hill, TX
Beaver Tool & Machine Company, Inc., Feasterville, PA
Bechler Cams, Inc., Anaheim, CA
Beck Tool Incorporated, Edinboro, PA
Becker, Inc., Kenosha, WI
Beckstead Machine, Inc., Tucson, AZ
Bedard Machine, Inc., Brea, CA
Beja Precision Manufacturing, Rochester, NY
Bel-Kur, Inc., Temperance, MI
Belco Tool & Mfg. Inc., Meadville, PA
Belgian Screw Machine Products, Jackson, MI

Bell Engineering, Inc., Saginaw, MI
Bell Tool, Inc., Germantown, WI
Bellco Precision Manufacturing, McKinney, TX
Beloit Precision Die Co. Inc., Beloit, WI
Benda Tool & Model Works, Hercules, CA
Bendon Gear Machine, Rockland, MA
Bennett Tool & Die Company, Nashville, TN
Bennett Tool & Machine, Fremont, CA
Benning Inc., Blaine, MN
Bent River Machine Inc., Clarkdale, AZ
Berman Tool & Die, Waldorf, MD
Bermar Associates, Inc., Troy, MI
Bertram Tool & Machine Co., Inc., Farrell, PA
Best Carbide Cutting Tools, Inc., Gardena, CA
Best Tool & Manufacturing Co., Kansas City, MO
Best Way Stamping Inc., La Mirada, CA
Bestway Industries, Inc., Cleveland, OH
Beta Machine Co. Inc., Cleveland, OH
Beta Tool & Mold/Dyna-Tech, Wadsworth, OH
Bilar Tool & Die Corporation, Warren, MI
Billet Industries, Inc., York, PA
Bishop Steering Technology, Inc., Indianapolis, IN
Blackburn Melton Mfg. Company, Houston, TX
Blackwood Grinding Inc., Hurst, TX
Blandford Machine & Tool Co., Louisville, KY
Blankinship Industries, Ltd., Kent, WA
Blue Chip Mold, Inc., Rochester, NY
Blue Chip Tool Company, Inc., New Castle, PA
Bluegrass Forging, Tool & Die, Shelbyville, KY
Bob's Tool & Cutter Grinding, Indianapolis, IN
Boehnen Tool Company, Cleveland, OH
Boice Industrial Corporation, Ruffsdale, PA
Bolttech Inc., West Newton, PA
Bopp-Busch Manufacturing Company, Au Gres, MI
Boring, Inc., Rockford, IL
Bosma Machine & Tool, Tipp City, OH
Boston Centerless Inc., Woburn, MA
Bowden Manufacturing Corp., Willoughby, OH
Boyce Machine, Inc., Cuyahoga Falls, OH
Boyle, Inc., Freeport, PA
Bra-Vor Tool & Die Company, Inc., Meadville, PA
Bradhart Products, Inc., Brighton, MI
Bramko Tool & Engineering, Inc., O'Fallon, MO
Bratt Machine Company Inc., No. Andover, MA
Brimar Products Inc., Fontana, CA
Brimfield Precision, Brimfield, MA
Brink's Machine Company, Inc., Alma, MI
Brinkman Tool & Die, Inc., Dayton, OH
Bristol Instrument Gears, Inc., Forestville, CT
Britt Tool Inc., Brazil, IN
Brittain Machine, Inc., Wichita, KS
Broadway Companies, Inc., Englewood, OH
Brogdon Tool & Die, Inc., Blue Springs, MO
Bromac, Inc., Mountain View, CA
Brookfield Machine, Inc., West Brookfield, MA
Brooklyn Machine & Mfg. Co. Inc., Cuyahoga Heights, OH
Brooklyn Scraping & Re-Machining, W. Lafayette, IN
Brown-Covey, Inc., Kansas City, MO
Brownstown Quality Tool & Design, Brownstown, IN
Budney Overhaul & Repair, LTD., Berlin, CT
Buerk Tool & Machine Corporation, Buffalo, NY
Buiter Tool & Die, Inc., Grand Rapids, MI
Bundy Manufacturing Inc., El Segundo, CA
Burckhardt America, Inc., Greensboro, NC
Burco Precision Products, Inc., Denton, TX
Burger Engineering, Inc., Olathe, KS
Burgess Brothers, Inc., Canton, MA
Burkland Textron Inc., Goodrich, MI
Burton Industries Inc., Mentor, OH
Burtree, Inc., Van Nuys, CA
BMCO Industries Inc., Cranston, RI
BNB Manufacturing Company, Inc., Winsted, CT
BT Laser, Inc., Santa Clara, CA
C + H Manufacturing Inc., Ontario, CA
C & C Machine Company, Akron, OH
C & C Manufacturing Corporation, Englewood, CO
C & J Industries Inc., Meadville, PA
C & M Machine Products, Inc., Willoughby, OH
C & R Manufacturing, Inc., Shawnee, KS
C & S Machine & Manufacturing, Louisville, KY
C & W Machine, Indianapolis, IN
C A R Engineering & Mfg., Victor, NY
C B Enterprises, Manchester, CT
C B Kaupp & Sons, Inc., Maplewood, NJ
C B S Manufacturing Company, Inc., Windsor, CT
C D M Tool & Mfg. Co., Inc., Hartford, WI
C F A Company, Inc., Milford, CT
C J Winter Machine Technologies, Rochester, NY
C K Tool, Harborcreek, PA
C M Gordon Industries Inc., Santa Fe Springs, CA
C M Industries, Inc., Old Saybrook, CT
C M Smillie & Company, Ferndale, MI
C N C Machine & Engineering, Colorado Springs, CO
C N C Precision Machining, Inc., Comstock Park, MI
C Q Machining, Inc., Phoenix, AZ
C R E Enterprises, Inc., Phoenix, AZ
C T D Machines, Inc., Los Angeles, CA
C T M, Inc., Grand Rapids, MI
C V Tool Company, Inc., Southington, CT
C. G. Tech, Inc., Phoenix, AZ
C.N.C. Tool & Mold, Naples, FL
C–P Mfg. Corp., Van Nuys, CA
Caco Pacific Corporation, Covina, CA
Cadco Program & Machine, St. Charles, MO
Cal-Weld, Fremont, CA
Calder Machine Co. (C M C), Florence, SC
California Composite Design, Inc., Santa Ana, CA
California Mold, Fullerton, CA
California Reamer Company Inc., Santa Fe Springs, CA
Calmax Machining, Inc., Santa Clara, CA
Cambridge Specialty Company, Inc., Kensington, CT
Cambridge Tool & Die Corp., Cambridge, OH
Cambridge Tool & Manufacturing, North Billerica, MA
Cameron Machine Shop, Inc., Richardson, TX
Campbell Grinding & Machine, Inc., Lewisville, TX
Campbell Machinery, Inc., Stow, OH
CamTech Systems Inc., Alhambra, CA
Canto Tool Corporation, Meadville, PA
Capitol Technologies, Inc., South Bend, IN
Capitol Tool & Die, L. P., Madison, TN
Carbi-Tech, Inc., Apollo, PA
Carbide Probes, Inc., Dayton, OH
Cardinal Machine Company, Inc., Strongsville, OH
Carius Tool Co., Inc., Cleveland, OH
Carlin Machine Company, Inc., Southborough, MA
Carlson Capital Manufacturing Co., Rockford, IL
Carlson Industrial Grinding Inc., Erie, PA
Carlson Tool & Manufacturing, Cedarburg, WI
Cascade Mold & Die, Inc., Portland, OR
Cass Screw Machine Products, Brooklyn Center, MN
Castle Precision Products, Stockton, CA
Catalina Precision Engineering, LLC, Orange, CA
Catalina Tool & Mold, Inc., Tucson, AZ
Cates Machine Shop, Inc., Tyler, TX
Cedar CNC Machining, Inc., Cedar Springs, MI
Cee-San Machine & Fabrication, Houston, TX
Cempi Industries Inc., Orange, CA
Centaur Tool & Die, Inc., Bowling Green, OH
Centennial Technologies, Inc., Saginaw, MI
Center Line Industries, Inc., West Springfield, MA

Center Line Machine Company, Lafayette, CO
Center Line Tool, Freeport, PA
Central Industrial Supply, Grand Prairie, TX
Central Mass. Machine, Inc., Holyoke, MA
Central States Machine Service, Elkhart, IN
Central Tool & Machine Co., Inc., Bridgeport, CT
Central Tool Company, Inc., Fortville, IN
Central Tools, Inc., Cranston, RI
Centric Machine & Instrument, Tampa, FL
Century Die Company, Fremont, OH
Century Mold Company, Inc., Rochester, NY
Century Tool & Engr., Inc., Indianapolis, IN
Cer Mac Inc., Horsham, PA
Certified Grinding & Machine, Rochester, NY
Certified Industries, II, LLC, Phoenix, AZ
Challenger Worldwide (USA), LLC, Chandler, AZ
Chalmers & Kubeck, Inc., Aston, PA
Chamtek Mfg., Inc., Rochester, NY
Chance Tool & Die Co., Inc., Cincinnati, OH
Chandler Tool & Design Inc., Rockford, IL
Chapman Engineering, Inc., Santa Ana, CA
Chapman Machine Company, Inc., Terryville, CT
Charmilles Technologies, Lincolnshire, IL
Chase Machine & Mfg. Co., Rochester, NY
Chelar Tool & Die, Inc., Belleville, IL
Cherokee Industries, Hampshire, IL
Cherry Valley Tool & Machine Inc., Belvidere, IL
Chicago Grinding & Machine Co., Melrose Park, IL
Chicago Mold Engineering Co., Inc., St. Charles, IL
Chickasha Manufacturing Company, Chickasha, OK
Chip-Makers Tooling Supply, Whittier, CA
Chippewa Tool & Manufacturing Co., Woodville, OH
Christie Manufacturing, Inc., Gainesville, TX
Christopher Tool & Manufacturing, Solon, OH
Circle-K-Industries, Sterling, VA
City Industrial Tool & Die, Harbor City, CA
Clarion Tech. Caledonia Tool, Caledonia, MI
Clark & Wheeler Engineering, Inc., Cerritos, CA
Clark-Reliance Corporation, Strongsville, OH
Clarke Engineering, Inc., North Hollywood, CA
Class Machine & Welding, Inc., Akron, OH
Classic Tool, Saegertown, PA
Classic Tool, Inc., Macedonia, OH
Classic Wire Cut Company, Inc., Valencia, CA
Clay & Bailey Mfg. Co., Kansas City, MO
Cleveland Electric Laboratories, Twinsburg, OH
Clifton Automatic Screw, Lake City, PA
Clifton Technical Company, Lincolnton, NC
Cloud Company, San Luis Obispo, CA
Coast Cutters Company, Inc., South El Monte, CA
Coastal Machine Company, Branford, CT
Cobak Tool & Manufacturing Co., St. Louis, MO
Coffey Associates, Washington, DC
Coleman-Fabro, Inc., Morgan Hill, CA
Collins Instrument Company, Angleton, TX
Collins Machine & Tool Co., Inc., Madison, TN
Collins Machine Works, Inc., Wellford, SC
Collins Manufacturing, Inc., Essex, MA
Colonial Machine & Tool Co., Inc., Coventry, RI
Colonial Machine Company, Kent, OH
Colorado Laser Marking, Inc., Colorado Springs, CO
Colorado Surface Grinding, Inc., Denver, CO
Columbia Machine Works, Inc., Columbia, TN
Columbia Products, Inc., Dallastown, PA
Comac Manufacturing Corporation, Oroville, CA
Comet Tool, Inc., Hopkins, MN
Comfab, Inc., Spartanburg, SC
Command Tooling Systems, Ramsey, MN
Commerce Grinding, Inc., Dallas, TX
Commercial Aircraft Products, Wichita, KS
Commonwealth Machine Co., Inc., Danville, VA
Companion Industries, Inc., Southington, CT
Competition Tooling, Inc., High Point, NC
Competitive Engineering Inc., Tucson, AZ
Composidie, Inc., Apollo, PA
Compu Die, Inc., Wyoming, MI
Compumachine Incorporated, Wilmington, MA
Computech Manufacturing Co., Inc., North Kansas City, MO
Computerized Machining Service, Englewood, CO
Concept Tool & Die Company, Euclid, OH
Conco Systems, Inc., Verona, PA
Condor Engineering, Inc., Colorado Springs, CO
Connecticut Jig Grinding, Inc., New Britain, CT
Connelly Machine Works, Santa Ana, CA
Connolly Tool & Machine Co., Dallas, TX
Connor Formed Metal Products, Grand Prairie, TX
Conroy & Knowlton, Inc., Los Angeles, CA
Consolidated Mold & Mfg. Inc., Kent, OH
Consulting-Design-Construction, Inc., Phoenix, AZ
Conti Machine Tool Company, Inc., Haverhill, MA
Conti Tool & Die Company, Akron, OH
Continental Precision, Inc., Phoenix, AZ
Continental Tool & Machine, Strongsville, OH
Continental Tool & Manufacturing, Lenexa, KS
Contour Metrological & Mfg., Inc., Troy, MI
Converse Industries Inc., Kenosha, WI
Convex Mold, Inc., Sterling Heights, MI
Cook Machine and Engineering, Gardena, CA
Cook Specialty Company, Green Lane, PA
Coorstek, Livermore, CA
Corbitt Mfg. Company, St. Louis, MO
Cornerstone Screw Machine, Burbank, CA
Corrigan Manufacturing Co., Inc., Rockford, IL
Corrugated Roller & Machine Inc., Santa Fe Springs, CA
Corry Custom Machine, Corry, PA
Corver Engineering Company, Inc., Detroit, MI
Cosar Mold, Inc., Brimfield, OH
Costa Machine, Inc., Akron, OH
Country Machine & Tool, Inc., Tipp City, OH
Coventry Carbide Tool, Coventry, RI
Covert Manufacturing, Inc., Galion, OH
Cox Mfg. Co. Inc., San Antonio, TX
Cox Tool Company, Inc., Excelsior Springs, MO
Craft Tech, Inc., Addison, TX
Craft-Tech Enterprises, Inc., Troy, MI
Craig Machinery & Design, Inc., Louisville, KY
Creative Precision, West, Phoenix, AZ
Creb Engineering, Inc., Pascoag, RI
Crenshaw Die & Manufacturing, Irvine, CA
Crest Manufacturing Company, Lincoln, RI
Criterion Tool & Die, Inc., Brook Park, OH
Crosrol, Inc., Greenville, SC
Crossland Machinery, Kansas City, MO
CrossRidge Precision, Oak Ridge, TN
Crowe Manufacturing Services Inc., Dayton, OH

Crown Machine, Inc., Rockford, IL
Crown Mfg. Co., Inc., Newark, CA
Crown Mold & Machine, Streetsboro, OH
Crown Tool & Die Co., Inc., Bridgeport, CT
Crucible Materials Corporation, Camillus, NY
Crush Master Grinding Corp., Walnut, CA
Cumberland Machine Company, Nashville, TN
Custom Engineering, Inc., Evansville, IN
Custom Gear & Machine, Inc., Rockford, IL
Custom Machine, Inc., Woburn, MA
Custom Machine, Inc., Cleveland, OH
Custom Mold & Design, Inc., New Hope, MN
Custom Tool & Design, Inc., Erie, PA
Custom Tool & Grinding Inc., Washington, PA
Custom Tool & Model Corp., Frankfort, NY
Cut-Right Tools Corporation, Willoughby, OH
CAMtech Precision Manufacturing, Jupiter, FL
CDL Manufacturing, Inc., Rochester, NY
CG Manufacturing Company, Willoughby, OH
CHIPSCO, Inc., Meadville, PA
D & B Industries, Inc., Dayton, OH
D & H Manufacturing Company, Fremont, CA
D & J Precision Machining, Inc., Hayward, CA
D & K Industries, Inc., Chatsworth, CA
D & M Precision Manufacturing, Vandergrift, PA
D & N Precision, Inc., San Jose, CA
D & R Precision Machining, San Jose, CA
D & S Manufacturing Corporation, Southwick, MA
D & S Mold & Tool Company, Inc., Marinette, WI
D K Mold & Engineering, Inc., Wyoming, MI
D M E Company, Madison Heights, MI
D M Machine & Tool, Kennerdell, PA
D M Machine Company, Inc., Willoughby, OH
D P I, Inc., Southampton, PA
D P Tool & Machine Inc., Avon, NY
D S A Precision Machining, Inc., Lakeville, NY
D S Greene Company, Inc., Wakefield, MA
D S Mfg., Inc., Ventura, CA
D–K Manufacturing Corporation, Fulton, NY
D-Velco Manufacturing, Phoenix, AZ
Dadeks Machine Works Corporation, Houston, TX
Daily Industrial Tools, Costa Mesa, CA
Dan McEachern Company, Alameda, CA
Dan's Precision Grinding, Sun Valley, CA
Danco Precision, Inc., Phoenixville, PA
Dane Systems, Inc., Stevensville, MI
Danly IEM, Chicago, IL
Data Mold & Tool, Inc., Walbridge, OH
Dave Jones Machinists, Mishawaka, IN
David Engineering & Mfg., Corona, CA
Davis Machine & Manufacturing, Arlington, TX
Davis Technologies, Inc., Poway, CA
Davken Inc., Brea, CA
Dayton Progress Corporation, Dayton, OH
Dayton Reliable Tool & Mfg. Co., Dayton, OH
DaCo Precision Manufacturers, Sandy, UT
De King Screw Products Inc., Burbank, CA
De Long Manufacturing Co., Inc., Santa Clara, CA
De-Lux Mold & Machine, Inc., Brady Lake, OH
Dean Machine, Cranston, RI
Dearborn Precision Tubular, Fryeburg, ME
Deck Brothers, Inc., Buffalo, NY
Dekalb Tool & Die, Inc., Tucker, GA
Delco Corporation, Akron, OH
Delco Machine & Gear, No. Long Beach, CA
Dell Tool, Penfield, NY
Delltronics, Inc., Englewood, CO
Delta Machine & Tool Company, Cleveland, OH
Delta Machining, Inc., Niles, MI
Delta Systems, Inc., Streetsboro, OH
Delta Tech, Inc., Mentor, OH
Demaich Industries, Inc., Johnston, RI
Dependable Machine Company, Inc., Indianapolis, IN
Dependable Tool & Manufacturing, Cleveland, OH
Desert Precision Mfg., Inc., Tucson, AZ
Designs For Tomorrow, Inc., St. Louis, MO
Desselle Maggard Corporation, Baton Rouge, LA
Detail Technologies, Inc., Grandville, MI
Detroit Tool & Engineering Co., Lebanon, MO
Deutsch ECD, Hemet, CA
Devtek Engineering, Colorado Springs, CO
Di-Matrix, Phoenix, AZ
Dial Machine Company, Andalusia, PA
Diamond Lake Tool, Inc., Anoka, MN
Diamond Machine Works, Inc., Seattle, WA
Diamond Mold & Die, Inc., Tallmadge, OH
Diamond Tool & Die Co., Inc., Euclid, OH
Diamond Tool & Engineering, Inc., Bertha, MN
Dickey & Son Machine & Tool Co., Indianapolis, IN
Dickson Machine & Tool, Inc., Dickson, TN
Die Cast Die and Mold, Inc., Perrysburg, OH
Die Dimensions, Kentwood, MI
Die Matic Corporation, Brooklyn Heights, OH
Die Products Corporation, Minneapolis, MN
Die Quip Corp., Bethel Park, PA
Die Tech Industries, Ltd., Providence, RI
Die-Matic Tool and Die, Inc., Grand Rapids, MI
Die-Mension Corporation, Brunswick, OH
Die-Namic Inc., Taylor, MI
Diemaster Tool & Mold, Inc., Macedonia, OH
Dietooling, Div. of Diemolding, Wampsville, NY
Digital Tool & Die, Inc., Grandville, MI
Dimac Manufacturing Co., Inc., Alexander, AR
Distinctive Machine Corporation, Grand Rapids, MI
Diversified Engraving Stamp, Akron, OH
Diversified Manufacturing, Lockport, NY
Diversified Tool & Die, Vista, CA
Diversified Tool, Inc., Mukwonago, WI
Dixie Tool & Die Co., Inc., Gadsden, AL
Dixon Automatic Tool, Inc., Rockford, IL
Double B Tool, San Leandro, CA
Double D Machine & Tool Company, Fremont, OH
Douglas Machine & Engineering Co., Davenport, IA
Downey Grinding Company, Inc., Downey, CA
Dowty's Machine Works, Inc., Baton Rouge, LA
Doyle Manufacturing, Inc., Holland, OH
Drabik Tool and Die Inc., Brook Park, OH
Draco Manufacturing, Inc., Ashtabula, OH
Drewco Corporation, Franksville, WI
Drill Masters Inc., Hamden, CT
Droitcour Company, Warwick, RI
Du-Well Grinding Company, Inc., Milwaukee, WI
Dugan Tool & Die Company, Toledo, OH
Dugan Tool & Die, Inc., Cottage Hills, IL
Dun-Rite Fabricating Inc., Saginaw, MI
Dun-Rite Industries, Inc., Monroe, MI
Dunn & Bybee Tool Company, Inc., Sparta, TN
Duplicate Parts Company, Inc., San Marcos, CA
Dura-Metal Products Corporation, Irwin, PA
Durivage Pattern & Mfg. Co. Inc., Williston, OH
DuWest Tool & Die, Inc., Cleveland, OH
Dwyer Instruments Inc., Grandview, MO
Dynamic Engineering, Inc., Minneapolis, MN
Dynamic Fabrication, Inc., Santa Ana, CA
Dynamic Machine & Fabricating, Phoenix, AZ

Dynamic Technologies and Design, Grand Rapids, MI
Dynamic Tool & Design, Inc., Menomonee Falls, WI
DynaGrind Precision, Inc., New Kensington, PA
Dysinger Incorporated, Dayton, OH
DB Design Group Inc., Milpitas, CA
E&C Manufacturing Company, Inc., Toledo, OH
E B&Sons Machine Inc., Aliquippa, PA
E C M Of Florida, Jupiter, FL
E F Precision Inc., Willow Grove, PA
E J Codd Co. of Baltimore City & Codd Fabricators & Boiler Co., Inc., Baltimore, MD
E R C Concepts Company, Inc., Sunnyvale, CA
E W Johnson Company, Inc., Lewisville, TX
E.C.M. Mold & Die, Inc., Tucson, AZ
E.D.M. Exotics, Inc., Hayward, CA
E.T. Tool, Inc., Racine, WI
E-Fab, Inc., Santa Clara, CA
E-M-Solutions, Inc., Fremont, CA
Eagle Metalcraft, Inc., East Syracuse, NY
Eagle Mold Company, Inc., Carlisle, OH
Eagle Technology Group, St. Joseph, MI
Eagle Tool & Die Company Inc., Malvern, PA
Eagle Tool & Machine Company, Springfield, OH
Eason & Waller, Phoenix, AZ
East Coast Tool & Mfg., Inc., Orchard Park, NY
East Side Machine, Inc., Webster, NY
East Texas Machine Works, Inc., Longview, TX
Eastern Tool & Die, Inc., Newington, CT
Eaton Manufacturing, Inc., Fremont, CA
Ebway Corporation, Fort Lauderdale, FL
Eckert Enterprises Ltd., Tempe, AZ
Eckert Machining, Inc., San Jose, CA
Eclipse Mold, Inc., Clinton Township, MI
Eclipse Tool & Die, Inc., Wayland, MI
Ed Brown Products, Inc., Perry, MO
Edco, Inc., Toledo, OH
Edwards Enterprises, Newark, CA
Edwardsville Machine & Welding, Edwardsville, IL
Efficient Die & Mold Inc., Cleveland, OH
Egbert Precision, Inc., Woodland Park, CO
Egli Machine Company, Inc., Sidney, NY
Ehlert Tool Co., Inc., New Berlin, WI
Ehrhardt Tool & Machine Company, Granite City, IL
Eicom Corporation, Moraine, OH
Ejay's Machine Co., Inc., Fullerton, CA
Elcam Tool & Die, Inc., Wilcox, PA
Electra Form, Inc., Vandalia, OH
Electric Enterprise Inc., Stratford, CT
Electro Form Corporation, Binghamton, NY
Electro-Freeto Manufacturing Co., Wayland, MA
Electro-Mechanical Products, Inc., Denver, CO
Electro-Tech Machining, Long Beach, CA
Electroform Co. Inc., Machesney Park, IL
Electropolishing shop, Inc., Santa Clara, CA
Elgin Machine Corporation, Inwood, NY
Elite Tool & Machinery Systems, Inc., O'Fallon, MO
Elizabeth Carbide of North, Lexington, NC
Elizabeth Carbide Die Co., Inc., McKeesport, PA
Elliot Tool & Manufacturing Co., St. Louis, MO
Elliott's Precision, Inc., Peoria, AZ
Ellison Machine Company, Laurens, SC
Elrae Industries, Alden, NY
Emig Machine and Tool, Warwick, PA
Emmert Welding & Manufacturing, Independence, MO
Empire Manufacturing Corporation, Bridgeport, CT
Engbrecht Tool, Inc., San Jose, CA
Engineered Machine Tool, Inc., Wichita, KS
Engineered Pump Services, Inc., Pasadena, TX
Entek Corporation, Norman, OK
Enterprise Die & Mold, Inc., Grandville, MI
Enterprise Tool & Die, Brooklyn Heights, OH
Ephrata Precision Parts, Inc., Denver, PA
Epicor Software Corporation, Minneapolis, MN
Erca Tool Die & Stamping Company, Richmond Hill, NY
Erickson Tool & Machine Company, Rockford, IL
Erie Shore Machine Co., Inc., Cleveland, OH
Erie Specialty Products, Inc., Erie, PA
Ermco, Inc., Cleveland, OH
Estee Mold & Die, Inc., Dayton, OH
Esterle Mold & Machine Co., Stow, OH
Estul Tool & Manufacturing Co., Matthews, NC
Evans Tool & Die, Inc., Conyers, GA
Ever Fab, Inc., East Aurora, NY
Ever-Ready Tool, Inc., Pinellas Park, FL
Everett Pattern and Mfg., Inc., Middleton, MA
Everite Machine Products, Philadelphia, PA
Ewart-Ohlson Machine Company, Cuyahoga Falls, OH
Ex-Cel Machine & Tool, Inc., Louisville, KY
Exact Cutting Service, Inc., Brecksville, OH
Exact Tool & Die, Inc., Brook Park, OH
Exacta Tech Inc., Livermore, CA
Exacto, Inc. of South Bend, South Bend, IN
Excalibur Precision Machine Co., Hampstead, NH
Excel Machine Company, Philadelphia, PA
Excel Manufacturing Inc., Seymour, IN
Excel Manufacturing, Inc., Valencia, CA
Excel Stamping & Manufacturing, Houston, TX
Excel Tool & Mfg., Lenexa, KS
Executive Mold Corporation, Huber Heights, OH
Ezell Precision Tool Company, Clearwater, FL
EDM Supplies, Inc., Downey, CA
EISC, Inc., Toledo, OH
E2 Systems Inc., Blue Ash, OH
F & F Machine Specialties, Mishawaka, IN
F & G Tool & Die Company, Dayton, OH
F & L Tools Corporation, Corona, CA
F & S Tool, Inc., Erie, PA
F C Machine Tool & Design, Inc., Cuyahoga Falls, OH
F D T Precision Machine Co., Inc., Taunton, MA
F G A Inc., Baton Rouge, LA
F H Peterson Machine Corporation, Stoughton, MA
F K Instrument Co., Inc., Clearwater, FL
F M Machine Company, Akron, OH
F N Smith Corporation, Oregon, IL
F P Pla Tool & Manufacturing Co., Buffalo, NY
F R B Machine Inc., Emlenton, PA
F S G Inc, Mishawaka, IN
F T T Manufacturing Inc., Geneseo, NY
F Tinker & Sons Company, Pittsburgh, PA
F W Gartner Thermal Spraying Co., Houston, TX
F. S. Machining, Inc., Englewood, CO
F-Squared, Inc., Tarentum, PA
Fab Lab, Inc., Maryland Heights, MO
FabCorp, Inc., Houston, TX
Fairbanks Machine & Tool, Raytown, MO
Fairview Machine Company. Inc., Topsfield, MA
Faith Tool & Manufacturing, Inc., Willoughby, OH
Falcon Precision Machining Co., West Springfield, MA
Falls City Machine Technology, Louisville, KY
Falls Mold & Die, Inc., Stow, OH
Fame Tool & Manufacturing Co., Cincinnati, OH
Fantasy Manufacturing, Inc., Windsor, CA
Fargo Machine Company, Inc., Ashtabula, OH
Farzati Manufacturing Corp., Greensburg, PA
Fast Physics Inc., Tempe, AZ
Fay & Quartermaine Machining, El Monte, CA
Fay Tool & Die, Inc., Orlando, FL
Feedall, Inc., Willoughby, OH
Feilhauer's Machine Shop Inc., Cincinnati, OH
Feller Tool Co., Inc., Elyria, OH
Fenwick Machine & Tool, Piedmont, SC
Feral Productions LLC., Newark, CA

Ferriot Inc., Akron, OH
Fidelity Tool & Machine Company, Fort Lauderdale, FL
First International Bank, Hartford, CT
First Precision Machine, LLC, Blaine, MN
Fischer Precision Spindles, Inc., Berlin, CT
Fischer Tool & Die Corporation, Temperance, MI
Fitzwater Engineering Corp., Scituate, RI
Five Star Industries LLC, Dayton, OH
Five Star Tool Company, Inc., Rochester, NY
Flasche Models & Patterns, Inc., Cleveland, OH
Fleck Machine Company, Inc., Hanover, MD
Foriska Machine Shop, Saegertown, PA
Forrest Manufacturing Company, Houston, TX
Forster Tool & Mfg. Inc., Bensenville, IL
Forte Company, Kansas City, MO
Foster-Tobin Corp., Meadville, PA
Foundry Service & Supplies, Inc., Torrance, CA
Fox Valley Tool & Die, Inc., Kaukauna, WI
Franchino Mold & Engineering, Lansing, MI
Frank J. Stolitzka & Son, Inc., Akron, OH
Frasal Tool Co., Inc., Newington, CT
Frazier Aviation, Inc., San Fernando, CA
Fre-Mar Industries, Inc., North Royalton, OH
Frederick's Machine Shop, New Iberia, LA
Fredon Corporation, Mentor, OH
Freeport Welding & Fabricating, Freeport, TX
FreeMarkets, Pittsburgh, PA
Frost & Company, Charlestown, RI
Fulcrum Group, LLC, Hayward, CA
Fulton Industries, Inc., Rochester, IN
Fulton Tool Company, Inc., Fulton, NY
Furno Co. Inc., Pomona, CA
Future Fabricators, Phoenix, AZ
Future Tool & Die Company, Inc., Cleveland, OH
Future Tool & Die, Inc., Grandville, MI
Future Tool, Inc., Rockford, IL
Fyco Tool & Die, Inc., Houston, TX
FMF Racing, Rancho Dominguez, CA
G & G Tool Company, Inc., Sidney, OH
G & K Machine Company, Denver, CO
G & L Tool Corp., Agawam, MA
G B F Enterprises, Inc., Santa Ana, CA
G B Tool Company, Warwick, RI
G F T Manufacturing Company, Vandergrift, PA
G H Tool & Mold, Inc., Washington, MO
G M T Corporation, Waverly, IA
G R McCormick, Inc., Burbank, CA
G S C Manufacturing Inc., Indianapolis, IN
G S G Tool and Manufacturing, Meadville, PA
G S Precision, Inc., Brattleboro, VT
Gadsden Tool, Inc., Gadsden, AL
Gainesville Machining Inc., Gainesville, TX
Gales Manufacturing Corporation, Racine, WI
Galgon Industries, Inc., Fremont, CA
Gambar Products Company, Inc., Warwick, RI
Garcia Associates, Arlington, VA
Gatco, Inc., Plymouth, MI
Gauer Mold & Machine Company, Tallmadge, OH
Gaum, Inc., Robbinsville, NJ
Gear Manufacturing, Inc., Anaheim, CA
Gebhardt Machine Works, Inc., Portland, OR
Geiger Manufacturing, Inc., Stockton, CA
Gem City Engineering Company, Dayton, OH
Gene's Gundrilling Inc., Alahambra, CA
General Aluminium Forgings, Colorado Springs, CO
General Die Engraving, Inc., Peninsula, OH
General Engineering Company, Toledo, OH
General Grinding, Inc., Oakland, CA
General Machine Shop, Inc., Cheverly, MD
General Machine-Diecron, Inc., Griffin, GA
General Tool & Die Company, Inc., Racine, WI
General Tool Company, Cincinnati, OH
General Weldments Inc., Irwin, PA
Genesee Manufacturing Company, Rochester, NY
Genesee Precision Mfg., Inc., Avon, NY
Genesis Plastics & Engineering, Scottsburg, IN
Gentec Manufacturing Inc., San Jose, CA
Geometric Tool & Machine Co., Piedmont, SC
George Welsch & Son Company, Cleveland, OH
German Machine, Inc., Rochester, NY
Germantown Tool & Machine, Huntingdon Valley, PA
Gibbs Die Casting Corporation, Henderson, KY
Gibbs Machine Company, Inc., Greensboro, NC
Giddings & Lewis, Dayton, OH
Gilbert Engineering Company, Glendale, AZ
Gilbert Machine & Tool Company, Greene, NY
Gill Tool & Die, Inc., Grand Rapids, MI
Gillette Machine & Tool Company, Rochester, NY
Gillilan Machine Co., Inc., Mt. Juliet, TN
Girard Tool & Die/Jackburn Mfg., Girard, PA
Gischel Machine Company Inc., Baltimore, MD
Givmar Precision Machining, Mountain View, CA
Glaze Tool & Engineering, Inc., New Haven, IN
Glendale Machine Company, Inc., Solon, OH
Glendo Corporation, Emporia, KS
Glidden Machine & Tool, Inc., North Tonawanda, NY
Global Mfg. & Assembly, Phoenix, AZ
Global Precision, Inc., Davie, FL
Goebel Machine Service, Inc., Kansas City, MO
Golis Machine, Inc., Montrose, PA
Goodwin-Bradley Pattern Co., Inc., Providence, RI
Graham Tech Inc., Cochranton, PA
Granby Mold, Inc., Walled Lake, MI
Grand Valley Manufacturing, Titusville, PA
Graybill's Tool & Die, Inc., Manheim, PA
Great Lakes E.D.M. Inc., Clinton Twp., MI
Great Lakes Metal Treating, Inc., Tonawanda, NY
Great Lakes Precision Machine, Niles, MI
Great Western Grinding & Eng., Huntington Beach, CA
Grind All Precision Tool Co., Warren, MI
Grind-All, Inc., Cleveland, OH
Grinding Service & Mfg. Co., Bristol, CT
Grindworks Inc., Glendale, AZ
GrindC/O Inc., Chelmsford, MA
Grosmann Precision, Ballwin, MO
Grover Gundrilling, Inc., Norway, ME
Guill Tool & Engineering Co., West Warwick, RI
Gulf Machining, Pinellas Park, FL
Gulf South Machine/Drilex Corp., Houston, TX
Gurney Precision Machining, Saint Petersburg, FL
H & H Machine & Tool Company, Woonsocket, RI
H & H Machine Company, Whittier, CA
H & H Machine Shop Of Akron, Inc., Akron, OH
H & H Machined Products, Inc., Erie, PA
H & J Tool and Die Co., Inc., Bohemia, NY
H & K Machine Service Co. Inc., O'Fallon, MO
H & M Precision Machining, Santa Clara, CA
H & S Enterprises, Inc., Monrovia, CA
H & W Machine Company, Broomfield, CO
H & W Tool Company, Inc., Dover, NJ
H B Machine, Inc., Phoenix, AZ
H Brauning Company, Inc., Manassas, VA
H H Mercer, Inc., Mesquite, TX
H R M Machine, Inc., Costa Mesa, CA
H T P, Inc., Louisville, KY
H–B Tool & Cutter Grinding Inc., Willow Grove, PA
Haberman Machine, Inc., St. Paul, MN
Hackett Precision Company, Nashville, TN

Hager Machine & Tool. Inc., Houston, TX
Haig Precision Mfg. Corp., Campbell, CA
Hal-West Technologies, Inc., Kent, WA
Hamblen Gage Corporation, Indianapolis, IN
Hamill Manufacturing Company, Trafford, PA
Hamilton Industries, Inc., Tempe, AZ
Hamilton Machine Co., Inc., Nashville, TN
Hamilton Mold & Machine, Inc., Cleveland, OH
Hamilton Tool Company, Inc., Meadville, PA
Hamlin Steel Products, Inc., Akron, OH
Hammill Manufacturing Company, Toledo, OH
Hammon Precision Technologies, Hayward, CA
Hanks Pattern Company, Montrose, MN
Hanover Machine Company, Ashland, VA
Hans Rudolph, Inc., Kansas City, MO
Hansen Engineering, Harbor City, CA
Hansford Manufacturing Corp., Rochester, NY
Hanson Mold, St. Joseph, MI
Har-Phill Machine Products, Inc., Tempe, AZ
Harding Machine, East Liberty, OH
Hardy Machine Inc., Hatfield, PA
Hardy-Reed Tool & Die Co., Manitou Beach, MI
Harley & Son, Inc., Yorba Linda, CA
Harrison Enterprise, Inc., Phoenix, AZ
Hartup Tool Inc., Columbus, IN
Haserodt Machine & Tool, Inc., Cleveland, OH
Haskell Machine & Tool, Inc., Homer, NY
Haumiller Engineering Company, Elgin, IL
Hawkeye Precision, Inc., Gilbert, AZ
Hawkins Machine Company, Inc., Coventry, RI
Hawkinson Mold Engineering Co., Alhambra, CA
Hayden Corporation, West Springfield, MA
Hayden Precision Industries, Orchard Park, NY
Heatherington Machine Corp., Orlando, FL
Heinhold Engineering & Machine, Salt Lake City, UT
Heisey Machine Co., Inc., Lancaster, PA
Heitz Machine & Manufacturing, Maryland Heights, MO
Hellebusch Tool & Die, Inc., Washington, MO
Helm Precision, Ltd., Phoenix, AZ
Henman Engineering & Machine, Muncie, IN
Herman Machine, Inc., Tallmadge, OH
Herrick & Cowell Company, Hamden, CT
Hetrick Mfg., Inc., Lower Burrell, PA
Heyden Mold & Bench Company, Tallmadge, OH
Heyl Engraving, Inc., Akron, OH
Hi Tech Manufacturing, LLC, Greensboro, NC
Hi-Tech Machining & Engineering LLC, Tucson, AZ
Hi-Tech Tool Industries, Inc., Troy, MI
Hi-Tech Tool, Inc., Lower Burrell, PA
Hiatt Metal Products Company, Muncie, IN
Hickory Machine Company, Inc., Newark, NY
High Tech Turning Co., Watertown, MA
High Tech West, Inc., Signal Hill, CA
High-Tech Industries, Holland, MI
Highland Mfg. Inc., Manchester, CT
Hill Engineering, Inc., Villa Park, IL
Hillcrest Precision Tool Co. Inc., Haverhill, MA
Hillcrest Tool & Die, Inc., Titusville, PA
Hilton Tool & Die Corporation, Rochester, NY
Hittle Machine & Tool Company, Indianapolis, IN
Hobson & Motzer, Inc., Durham, CT
Hodon Manufacturing Inc., Willoughby, OH
Hoercher Industries, Inc., East Rochester, NY
Hoffman Custom Tool & Die, Newport Beach, CA
Hoffstetter Tool & Die, Clearwater, FL
Hole Specialists, Inc., Ludlow, MA
Holland Hitch Co., Wylie, TX
Hollis Line Machine Co., Inc., Hollis, NH
Holmes Manufacturing Corporation, Cleveland, OH
Holton Mold & Engineering, Upland, CA
Homeyer Tool and Die Co., Marthasville, MO
Honemasters, Inc., Huntington Beach, CA
Hoop's Machine & Welding, Inc., Denton, TX
Hope Manufacturing, Inc., Greensboro, NC
Hoppe Tool, Inc., Chicopee, MA
Horizon Industries, Lancaster, PA
Horizon Tool & Die Corp., Grandville, MI
Houston Cutting Tools, Inc., Houston, TX
Howard Tool Co. Inc., Hampden, ME
Howell Tool & Machine, Flower Mound, TX
Howland Machine Corporation, Colorado Springs, CO
Hubbell Machine Company, Inc., Cleveland, OH
Humboldt Instrument Company, San Leandro, CA
Hunt Machine & Manufacturing Co., Tallmadge, OH
Huntington Beach Machining, Huntington Beach, CA
Huron Machine Products, Inc., Fort Lauderdale, FL
HydraWedge Corporation, El Segundo, CA
Hydro Aluminum Cedar Tools, Cedar Springs, MI
Hydrodyne Division Of FPI, Inc., Burbank, CA
Hydromat, Inc., St. Louis, MO
Hygrade Precision Technologies, Plainville, CT
Hytron Manufacturing Company, Huntington Beach, CA
HB Molding, Inc., Louisville, KY
I M I, Incorporated, Beaumont, TX
I T M, Inc., Shertz, TX
Ideal Grinding Technologies, Inc., Chatsworth, CA
Ideality Inc., Everett, WA
Imperial Die & Manufacturing Co., Cleveland, OH
Imperial Machine & Tool Company, Wadsworth, OH
Imperial Machining Co., Denver, CO
Imperial Mfg., Santa Fe Springs, CA
Imperial Newbould, Meadville, PA
Imperial Tool & Manufacturing Co., Lexington, KY
Independent Forge Company, Orange, CA
Indiana Tool & Die Company, Indiana, PA
Industrial Babbitt Bearing, Gonzales, LA
Industrial Custom Automatic, Dayton, OH
Industrial Grinding, Inc., Dayton, OH
Industrial Machine & Tool Co., Inc., Nashville, TN
Industrial Machine Company, Oklahoma City, OK
Industrial Machining Corporation, Santa Clara, CA
Industrial Maintenance, Lavergne, TN
Industrial Mold + Machine, Twinsburg, OH
Industrial Molds, Inc., Rockford, IL
Industrial Precision Products, Oswego, NY
Industrial Precision, Inc., Westfield, MA
Industrial Tool & Machine Co., Cuyahoga Falls, OH
Industrial Tool, Die & Engineering, Tucson, AZ
Industrial Tool, Inc., Minneapolis, MN
Industrial Tooling Technologies, Muskegon, MI
Ingersoll Contract Manufacturing, Loves Park, IL
Injection Mold & Machine Company, Akron, OH
Inland Tool & Manufacturing Co., Kansas City, KS
Inline Inc., Phoenix, AZ
Innex Industries, Inc., Rochester, NY
Innovative E D M, LLC, Troy, MI
Innovative Systems Machine, Toledo, OH
Inshield Die & Stamping Co., Toledo, OH
Insulate Industries, Auburn. WA
Integrated Machine Systems, Inc., Bethel, CT

Integrity Manufacturing, Colorado Springs, CO
Integrity Mfg. L.L.C., Farmington, CT
International Stamping Inc., Warwick, RI
International Tooling & Stamping, Mt. Juliet, TN
Interscope Manufacturing Inc., Middletown, OH
Intrex Corporation, Louisville, CO
Iverson Industries, Inc., Wyandotte, MI
ILM Tool, Inc., Hayward, CA
IMS, Inc., Decatur, AL
IQC, Inc., Vandalia, OH
ISO Machining, Inc., Pleasanton, CA
ITW CIP Tool and Die, Santa Fe Springs, CA
J & A Tool Company, Inc., Franklin, PA
J & F Machine Company, Cleveland, OH
J & F Machine Inc., Cypress, CA
J & J Tool Co., Inc., Louisville, KY
J & L Development, Inc., Keithville, LA
J & L EDM, Sunnyvale, CA
J & M Machine, Inc., Fairport Harbor, OH
J & M Unlimited, Ashland City, TN
J & S Centerless Grinding, New Britain, CT
J B Tool Die & Engineering, Inc., Fort Wayne, IN
J B Tool, Inc., Placentia, CA
J C B Precision Tool & Mold, Inc., Commerce City, CO
J D C Manufacturing, Inc., Redwood City, CA
J D Kauffman Machine Shop, Inc., Christiana, PA
J D Machining, Santa Clara, CA
J F Fredericks Tool Company, Inc., Farmington, CT
J I Machine Company, Inc., San Diego, CA
J K Tool & Die, Inc., Apollo, PA
J M Fabrication Corporation, Arlington, TX
J M Mold South, Easley, SC
J M Mold, Inc., Piqua, OH
J M P Industries, Inc., Cleveland, OH
J M S Mold & Engineering Co., South Bend, IN
J R Custom Metal Products, Inc., Wichita, KS
J Ross Miller & Sons, Inc., Kimberton, PA
J S Die & Mold, Inc., Byron Center, MI
J W Harwood Company, Cleveland, OH
J. C. Milling Co., Inc., Rockford, IL
J.B.A.T. t/a Cherry Hill, Cherry Hill, NJ
Jackman Machining, Corona, CA
Jackson & Heit Machine Company, Southampton, PA
Jackson's Precision Machine Co., Nashville, TN
Jacksonville Machine Inc., Jacksonville, IL
Jaco Engineering, Anaheim, CA
Jaco Tool & Die, Inc., Grand Rapids, MI
Jadco Inc., Springfield, MA
Jamison Mfg. Co., North Royalton, OH
Jaques Diamond Tool, Inc., Indianapolis, IN
Jasco Tools, Inc., Rochester, NY
Jason Tool & Engineering, Inc., Garden Grove, CA
Jatco Machine & Tool Company, Pittsburgh, PA
Jaycraft Corporation, Spring Valley, CA
Jena Tool Corporation, Dayton, OH
Jenkins Machine, Inc., Bethlehem, PA
Jenn Manufacturing Company, Inc., Warminster, PA
Jennison Corporation, Carnegie ,PA
Jergens Tool and Mold, Englewood, OH
Jergens, Inc., Cleveland, OH
Jeropa Swiss Precision, Inc., Escondido, CA
Jesel, Inc., Lakewood, NJ
Jesse Industries, Inc., Sparks, NV
Jet Products Co., Inc., Phoenix, AZ
Jetstream Water Cutting, Inc., Hayward, CA
Jewett Machine Mfg. Co., Inc., Richmond, VA
Jig Grinding Service Company, Cleveland, OH
Jirgens Modern Tool Corporation, Kalamazoo, MI
John Ramming Machine Company, St. Louis, MO
Johnson Engineering Company, Indianapolis, IN
Johnson Precision, Inc., Buffalo, NY
Johnson Tool, Inc., Fairview, PA
Johnstone Engineering & Machine, Parkesburg, PA
Joint Production Technology, Inc., Macomb, MI
Joint Venture Tool & Mold, Saegertown, PA
Jonco Tool Company, Racine, WI
Joseph Alziebler Company, Arleta, CA
Juell Machine Company, Inc., Pomona, CA
Just in Time CNC Machining Inc., Dansville, NY
JBK Manufacturing & Development, Dayton, OH
JRM Machine Company, St. Paul, MN
K & A Tooling, Santa Ana, CA
K & E Mfg. Company, Lee's Summit, MO
K & H Mold & Machine Division, Akron, OH
K & H Precision Products, Inc., Honeoye Falls, NY
K & M Machine-Fabricating, Inc., Cassopolis, MI
K & M Precision Machining, Inc., Signal Hill, CA
K & S Tool & Die, Inc., Meadville, PA
K & S Tool & Mfg. Company, Inc., Jamestown, NC
K L H Industries, Inc., Germantown, WI
K L N Precision Machining & Sheetmetal Corp., San Carlos, CA
K M F, Inc., Fairdale, KY
K M S Machine Works, Inc., Taunton, MA
K Mold & Engineering, Inc., Granger, IN
K V, Inc., Huntingdon Valley, PA
K.C.K. Tool & Die Co., Inc., Ferndale, MI
K-Form, Inc., Tustin, CA
Ka-Wood Gear & Machine Company, Madison Heights, MI
Kahre Brothers, Inc., Evansville, IN
Kalman Manufacturing, Morgan Hill, CA
Kamashian Engineering Inc., Bellflower, CA
Kamet, Santa Clara, CA
Kanis Machine & Manufacturing, Inc., Tewksbury, MA
Kansas City Screw Products Inc., Kansas City, MO
Karlson Machine Works, Inc., Phoenix, AZ
Kaskaskia Tool & Machine, Inc., New Athens, IL
Kaufhold Machine Shop, Inc., Lancaster, PA
Kearflex Engineering Company, Warwick, RI
Keck-Schmidt Tool & Die, South El Monte, CA
Kell-Strom Tool Company, Inc., Wethersfield, CT
Kellems & Coe Tool Corporation, Jeffersonville, IN
Keller Technology Corporation, Tonawanda, NY
Kelley Industries, Inc., Eighty Four, PA
Kelltech Precision Machining, Inc., San Jose, CA
Kelly & Thome, Pomona, CA
Kelm Manufacturing Company, Benton Harbor, MI
Kelmar, Inc., Midland, VA
Kem-Mil-Co, Hayward, CA
Kemco Tool & Machine Company, Fenton, MO
Kenlee Precision Corporation, Baltimore, MD
Kennametal Inc., Latrobe, PA
Kennedy & Bowden Machine Company, La Vergne, TN
Kennick Mold & Die, Inc., Cleveland, OH
Kentucky Machine & Tool Company, Louisville, KY
Kern Special Tools Company, Inc., New Britain, CT
Ketcham Diversified Tooling Inc., Meadville, PA
Kewill ERP, Inc., Edina, MN
Keyes Machine Works, Inc., Gates, NY
Keystone Electric Co., Inc., Baltimore, MD
Keystone Machine, Inc., Littlestown, PA
Kimberly Gear & Spline, Inc., Phoenix, AZ
King Machine & Engineering Co., Indianapolis, IN
King-Tek EDM & Precision Machining, Fullerton, CA
Kipp Group, Ontario, CA
Kirby Risk Precision Machining, Lafayette, IN
Kirca Precision, Rochester, NY

Kiwanda Machine Works, Inc., Clackamas, OR
Klein Steel Service, Inc., Rochester, NY
Klix Tool Corporation, Syracuse, NY
Knight Machine & Tool, South Hadley, MA
Knowlton Manufacturing Company, Norwood, OH
Knust—S B O, Houston, TX
Kolar Inc., Ithaca, NY
Kolenda Tool & Die, Inc., Wyoming, MI
Kordenbrock Tool & Die Company, Cincinnati, OH
Kovacs Machine & Tool Company, Wallingford, CT
Krato Products Corporation, St. Louis, MO
Krause Tool, Inc., Golden, CO
Kuester Tool & Die Co., Inc., Quincy, IL
Kuhn Tool & Die Co., Meadville, PA
Kurt J. Lesker Company, Pittsburgh, PA
Kurt Manufacturing Company, Minneapolis, MN
KG Tool Company, Madison Township, OH
L & L Machine, Inc., Ludlow, MA
L & P Machine, Inc., Santa Clara, CA
L A I Southwest, Inc., Phoenix, AZ
L H Carbide Corporation, Fort Wayne, IN
L P I Corporation, Hollywood, FL
L R G Corporation, Jeannette, PA
L R W Cutting Tools, Inc., Phoenix, AZ
L T L Company, Inc., Rockford, IL
Lake Manufacturing Co., Inc., Wakefield, MA
Lakeside Manufacturing Company, Stevensville, MI
Lamb Machine & Tool Company, Indianapolis, IN
Lamina, Inc., Oak Park, MI
Lampin Corporation, Uxbridge, MA
Lancaster Machine Shop, Lancaster, TX
Lancaster Metal Products Company, Lancaster, OH
Lancaster Mold, Inc., Lancaster, PA
Lancaster Tool & Machine, Inc., Lancaster, PA
Land Specialties Manufacturing, Raytown, MO
Lane Enterprise, Rochester, NY
Lane Punch Corporation, Salisbury, NC
Laneko Engineering Company, Ft. Washington, PA
Laneko Roll Form, Inc., Hatfield, PA
Langenau Manufacturing Company, Cleveland, OH
Laser Automation, Inc., Chagrin Falls, OH
Laser Beam Technology, Hayward, CA
Laser Fare, Inc., Smithfield, RI
Laser Tool, Inc., Saegertown, PA
LaserFab Inc., Concord, CA
Lathe Tool Works, Inc., South San Francisco, CA
Lavigne Manufacturing, Inc., Cranston, RI
Layke Incorporated, Phoenix, AZ
Layke Tool & Manufacturing, Inc., Meadville, PA
LaBarge Products, Inc., St. Louis, MO
Ledford Engineering Company, Inc., Cedar Rapids, IA
Lee's Grinding, Inc., Cleveland, OH
Leech Industries, Inc., Meadville, PA
Lees Enterprise, Chatsworth, CA
Leese & Co., Inc., Greensburg, PA
Leggett & Platt, Inc., Whittier, CA
Leicester Die & Tool, Inc., Leicester, MA
Lenz Technology Inc., Mountain View, CA
Leonardi Manufacturing Co., Inc., Weedsport, NY
Lewis Aviation, Phoenix, AZ
Lewis Machine & Tool Co. Inc., Cuba, MO
Lewis Machine and Tool Company, Milan, IL
LeBlanc Grinding Company, Anaheim, CA
LeFiell Manufacturing Company, Santa Fe Springs, CA
Liberty Machine Inc., Fremont, CA
Liberty Precision Industries, Ltd., Rochester, NY
Libra Precision Machining, Tecumseh, MI
Light & Medium Fabricating, Inc., Willoughby, OH
Light Machines Corporation, Manchester, NH
Ligi Tool & Engineering, Inc., Pompano Beach, FL
Lilly Software Associates, Inc., Hampton, NH
Limmco, Inc., New Albany, IN
Linco, Inc., Phoenix, AZ
Lindberg Heat Treating, Paramount, CA
Linmark Machine Products, Inc., Union, MO
Little Rhody Machine Repair, Inc., Coventry, RI
Littlecrest Machine Shop, Inc., Houston, TX
Lloyd Company, Houston, TX
Lobart Company, Pacoima, CA
Loecy Precision Mfg., Mentor, OH
Lordon Engineering, Gardena, CA
Louis C. Morin Co. Inc., N. Billerica, MA
Loyal Machine Company, Inc., Chelsea, MA
Luick Quality Gage & Tool, Inc., Muncie, IN
Lunar Tool & Machinery Company, St. Louis, MO
Lunar Tool & Mold, Inc., North Royalton, OH
Lunquist Manufacturing Corp., Rockford, IL
Lux Manufacturing, Inc., Sunnyvale, CA
Lynn Welding Co. Inc., Newington, CT
Lyons Tool & Die Company, Meriden, CT
LAR-VEL Engineering, Rialto, CA
LOMA Automation Technologies, Inc., Louisville, KY
M & B Tool, Baldwinsville, NY
M & D Loe Manufacturing, Inc., Benicia, CA
M & H Engineering Company, Inc., Danvers, MA
M & H Tool & Die, Inc., Gadsden, AL
M & J Grinding & Tool Co., Holland, OH
M & J Valve Services, Inc., Lafayette, LA
M & S Holes Corporation, Roselle Park, NJ
M C I Tool & Die, Inc., Saginaw, MI
M C Mold & Machine, Inc., Tallmadge, OH
M D F Tool Corporation, North Royalton, OH
M F Engineering Co. Inc., Bristol, RI
M J C Machine Tooling, Hudson, NH
M J K Precision, Woodland Park, CO
M P Components, Grand Rapids, MI
M P E Machine Tool Inc., Corry, PA
M P T America Corporation, Valencia, CA
M P Technologies, Inc., Brecksville, OH
M S Willett, Inc., Cockeysville, MD
M T E, Inc., San Jose, CA
M T M Grinding, Thorndike, MA
M W Industries, Inc., Houston, TX
M. J. Machining, Inc., Sunnyvale, CA
M. R. Mold & Engineering Corp., Brea, CA
M-C Fabrication, Inc., Olathe, KS
M-Ron Corporation, Glendale, AZ
M-Tron Manufacturing Company, San Fernando, CA
Mac Machine and Metal Works, Inc., Connersville, IN
Mac-Mold Base, Inc., Romeo, MI
Machine Incorporated, Stoughton, MA
Machine Mastery, Santa Clara, CA
Machine Specialties, Inc., Greensboro, NC
Machine Tooling, Inc., Cleveland, OH
Machinist Cooperative, Gilroy, CA
Machinists, Inc., Seattle, WA
Macnab Manufacturing, Inc., Kent, WA
MacKay Manufacturing, Spokane, WA
Maddox Metal Works, Inc., Dallas, TX
Madgett Enterprises Inc., Milipitas, CA
Magdic Precision Tooling, Inc., East McKeesport, PA
Maghielse Tool Corporation, Grand Rapids, MI
Magic Manufacturing, Inc., Sunnyvale, CA
Magna Machine & Tool Company, New Castle, IN
Magnolia IronWorks, Inc., Lafayette, LA
Magnum Manufacturing Center, Inc., Colorado Springs, CO
Magnus Mfg. Corp., Shortsville, NY
Mahuta Tool Corp., Germantown, WI
Main Tool & Mfg. Co., Inc., Minneapolis, MN
Maine Machine Products, South Paris, ME
Mainline Machine, Inc., Broussard, LA
Majer Precision Engineering, Inc., Tempe, AZ
Major Tool & Machine, Inc., Indianapolis, IN
Makino, Mason, OH
Malmberg Engineering, Inc., Livermore, CA

Manda Machine Company, Inc., Dallas, TX
Manetek, Inc., Broussard, LA
Manheim Special Machine Shop, Manheim, PA
Mann Tool Company, Inc., Pacific, MO
Manor Research, Inc., Hayward, CA
Manufactured Technical Solutions, Jenison, MI
Manufacturers Tool & Die, Spencerport, NY
Manufacturing Machine Corp., Pawtucket, RI
Manufacturing Service Corp., West Hartford, CT
Marberry Machine, Inc., Houston, TX
Marco Manufacturing Company, Akron, OH
Marcy Machine, Inc., Grandview, MO
Mardon Tool & Die Company, Inc., Rochester, NY
Marena Industries, Inc., East Hartford, CT
Marini Tool & Die Company, Inc., Racine, WI
Maris Systems Design, Inc., Spencerport, NY
Mark Mold, Sanford, MI
Markham Machine Co. Inc., Akron, OH
Marlin Tool, Inc., Cuyahoga Falls, OH
Marquette Tool & Die Company, St. Louis, MO
Marshall Manufacturing Company, Minneapolis, MN
Martinek Manufacturing, Fremont, CA
Martinelli Machine, San Leandro, CA
Marton Tool & Die Company, Inc., Grand Rapids, MI
Masco Machine, Inc., Cleveland, OH
Mason Electric Company, San Fernando, CA
Massachusetts Machine Works Inc., Westwood, MA
Massey Industries, Inc., Houston, TX
Master Cutting & Engineering, Santa Fe Springs, CA
Master Industries Inc., Piqua, OH
Master Machine, Inc., Elkhart, IN
Master Precision Mold Technology, Greenville, MI
Master Precision Tool Corp., Sterling Heights, MI
Master Research & Manufacturing, San Fernando, CA
Master Tool & Die, Anaheim, CA
Master Tool & Mold, Inc., Grafton, WI
Mastercraft Mold, Inc., Phoenix, AZ
Mastercraft Precision, Inc., Milpitas, CA
Mastercraft Tool & Machine Co., Southington, CT
Mastercraft Tool Co., St. Louis, MO
Masterman Engineering, Kent, WA
Matthews Gauge, Inc., Santa Ana, CA
Maudlin & Son Manufacturing Co., Kemah, TX
Maxcor Manufacturing, Inc., Colorado Springs, CO
May Tool & Die, Inc., North Royalton, OH
May Tool & Mold Company, Inc., Kansas City, MO
Mayfran International, Cleveland, OH
MaTech Machining Technologies, Salisbury, MD
McAfee Tool & Die, Inc., Uniontown, OH
McCurdy Tool & Machine Inc., Caledonia, IL
McDanniels Machinery Company, Erie, PA
McDowell Enterprises, Inc., Elkhart, IN
McGill Manufacturing Company, Flint, MI
McGough & Kilguss, Providence, RI
McIvor Manufacturing, Inc., Buffalo, NY
McKee Carbide Tool Division, Olanta, PA
McKenzie Automation Systems, Inc., Rochester, NY
McNeal Enterprises, Inc., San Jose, CA
McNeill Manufacturing Company, Oakland, CA
McSwain Manufacturing Corp., Cincinnati, OH
Meadows Manufacturing Co., Inc., Sunnyvale, CA
Meadville Plating Company, Inc., Meadville, PA
Meadville Tool Grinding, Meadville, PA
Mechanical Manufacturing Corp., Sunrise, FL
Mechanical Metal Finishing Co., Gardena, CA
Mechanized Enterprises, Inc., Anaheim, CA
MechTronics of Arizona Corp., Phoenix, AZ
Medved Tool & Die Company, Milwaukee, WI
Menegay Machine & Tool Company, Canton, OH
Mercer Machine Company, Inc., Indianapolis, IN
Mercier Tool & Die Company, Canton, OH
Meriden Manufacturing, Meriden, CT
Merritt Tool Company, Inc., Kilgore, TX
Metal Cutting Specialists, Inc., Houston, TX
Metal Form Engineering, Redlands, CA
Metal Processors Inc., Stevensville, MI
Metal Tronics, Inc., Haverhill, MA
Metallon, Inc., Thomaston, CT
Metals USA, Flagg Steel Co., Inc., St. Louis, MO
Metalsa—Perfek, Novi, MI
Metco Manufacturing Company, Inc., Warrington, PA
Metplas, Inc., Natrona Heights, PA
Metric Machining, Monrovia, CA
Metric Precision Inc., Spartanburg, SC
Metro Manufacturing, Inc., Phoenix, AZ
Michigan Machining Inc., Mt. Morris, MI
Micro Chrome & Lapping, Inc., San Jose, CA
Micro Engineering Inc., Caledonia, MI
Micro Instrument Corporation, Rochester, NY
Micro Matic Tool, Inc., Youngstown, OH
Micro Precision Company, Houston, TX
Micro Precision Corporation, Lancaster, PA
Micro Punch & Die Company, Rockford, IL
Micro Surface Engineering, Inc., Los Angeles, CA
Micro Tool & Manufacturing, Inc., Meadville, PA
Micro-Tec, Chatsworth, CA
Micro-Tech Machine Inc., Newark, NY
Micro-Tronics, Inc., Tempe, AZ
Microfinish, Clayton, OH
Micropulse West, Inc., Tempe, AZ
Mid-Central Manufacturing, Inc., Wichita, KS
Mid-Continent Engineering, Inc., Minneapolis, MN
Mid-State Manufacturing, Inc., Milldale, CT
Mid-States Forging Die & Tool, Rockford, IL
Middle River Machine Services, Baltimore, MD
Midland Precision Machining, Inc., Tempe, AZ
Midway Mfg. Inc., Elyria, OH
Midwest Machine & Manufacturing Co, Muskegon, MI
Midwest Tool & Die Corporation, Fort Wayne, IN
Midwest Tool & Engineering Co., Dayton, OH
Mikana Manufacturing Co., Inc., San Dimas, CA
Mikron Machine, Inc., Cranesville, PA
Mikron Manufacturing, Inc., Colorado Springs, CO
Mil-Tool & Plastics Inc., Zephyrhills, FL
Milco Wire EDM, Inc., Huntington Beach, CA
Millat Industries Corp., Dayton, OH
Miller Equipment Corporation, Richmond, VA
Miller Machine & Design, Inc., Charlotte, NC
Miller Mold Company, Saginaw, MI
Millrite Machine Inc., Westfield, MA
Milrose Industries, Cleveland, OH
Miltronics, Inc., Painesville, OH
Milturn Corporation, Indianapolis, IN
Milwaukee Precision Corporation, Milwaukee, WI
Milwaukee Punch Corporation, Greendale, WI
Minco Tool & Mold Inc., Dayton, OH
Mission Tool & Manufacturing Co., Hayward, CA
Mitchell Machine, Inc., Springfield, MA
Mitchum Schaefer, Inc., Indianapolis, IN
Mittler Brothers Machine & Tool, Foristell, MO
Mod Tech Industries, Inc., Shawano, WI
Model Machine Company, Inc., Baltimore, MD
Model Mold & Machine Company, Noblesville, IN

Modern Industries Inc., Phoenix, AZ
Modern Machine Company, San Jose, CA
Modern Machine Company, Bay City, MI
Modern Mold, Inc., Grand Rapids, MI
Modern Technologies Corp., Xenia, OH
Modular Mining Systems, Inc., Tucson, AZ
Mold Threads Inc., Branford, CT
Moldcraft, Inc., Depew, NY
Monks Manufacturing Co., Inc., Wilmington, MA
Monsees Tool & Die, Inc., Rochester, NY
Montgomery Machine Company, Houston, TX
Moon Tool & Die Inc., Conneaut Lake, PA
Moore Gear Mfg. Co., Inc., Hermann, MO
Moore Machine, Inc., Walkerton, IN
Moore Quality Tooling, Inc., Dayton, OH
Morlin Incorporated, Erie, PA
Morton & Company, Inc., Wilmington, MA
Moseys' Production Machinists, Anaheim, CA
Moss Machine/Module, San Francisco, CA
Motor Machine Co., Inc., Edison, NJ
Mountain States Automation, Inc., Englewood, CO
Mt. Sterling Industries, Mt. Sterling, KY
Mueller Machine & Tool Company, Berkeley, MO
Mullen Industries Inc., St. Clair, MO
Muller Tool Inc., Cheektowaga, NY
Multi Dimensional Machining Inc., Englewood, CO
Multi-Tool, Inc., Saegertown, PA
Mustang-Major Tool & Die Co., Eden, NY
Mutual Mold & Tool L.L.C., Attalla, AL
Mutual Precision, Inc., West Springfield, MA
Mutual Tool & Die, Inc., Dayton, OH
Myers Industries, Akron, OH
Myers Precision Grinding Company, Warrensville Hts., OH
Myles Tool Co., Inc., Sanborn, NY
MAC Tool & Die Corporation, Meadville, PA
MRC Technologies, Buffalo, NY
MTI Engineering Corp./Mitutoyo, Huntington Beach, CA
N C Dynamics, Inc., Long Beach, CA
N D T Industries, Inc., Dayton, OH
N E T & Die Company, Inc., Fulton, NY
Nashville Machine Company, Inc., Nashville, TN
Natco Machine & Welding Co., Inc., Houston, TX
National Carbide Die, McKeesport, PA
National Flight Services, Glendale, AZ
National Jet Company, Inc., LaVale, MD
National Tool & Machine Co. Inc., East St. Louis, IL
Nationwide Precision Products, Rochester, NY
Neal Manufacturing, Inc., Greensboro, NC
Nel-Mac Tool & Mfg. Inc., McKinney, TX
Nelson Bros. & Strom Co., Inc., Racine, WI
Nelson Engineering, Garden Grove, CA
Nelson Grinding, Inc., Fullerton, CA
Nelson Precision Drilling Co., Glastonbury, CT
Nemes Machine Co., Cuyahoga, OH
Nerjan Development Company, Stamford, CT
New Age Plastics, Inc., San Jose, CA
New Century Fabricators, Inc., New Iberia, LA
New Century Remanufacturing, Inc., Santa Fe Springs, CA
New Cov Fabrication Inc., Rochester, NY
New England Die Co., Inc., Waterbury, CT
New England Precision Grinding, Holliston, MA
New Standard Corporation, York, PA
Newman Machine Company, Inc., Greensboro, NC
Newton Tool & Manufacturing Co., Swedesboro, NJ
Niagara Punch & Die Corporation, Buffalo, NY
Nicholson Precision Instruments, Gaithersburg, MD
Nifty Bar, Inc., Penfield, NY
Niles Machine & Tool Works, Inc., Newark, CA
Nixon Tool Co., Inc., Richmond, IN
Noble Tool Corporation, Dayton, OH
Norbert Industries, Inc., Sterling Heights, MI
Nordon Tool & Mold, Inc., Rochester, NY
Noremac Manufacturing Corp., Westboro, MA
Norfil Manufacturing, Inc., Pacific, WA
Norman Noble, Inc., Cleveland, OH
Normike Industries, Inc., Plainville, CT
North Canton Tool Company, Inc., Canton, OH
North Central Tool & Die, Inc., Houston, TX
North Coast Tool & Mold Corp., Cleveland, OH
North Easton Machine Co., Inc., North Easton, MA
North Florida Tool Engineering, Jacksonville, FL
Northeast E D M, Newburyport, MA
Northeast Manufacturing Co., Inc., Stoneham, MA
Northeast Tool & Manufacturing, Indian Trail, NC
Northern Machine Tool Company, Muskegon, MI
Northland Extension Drills, Grove City, MN
Northmont Tool & Gage Inc., Clayton, OH
Northwest Machine Works, Inc., Grand Junction, CO
Northwest Tool & Die Company, Grand Rapids, MI
Northwest Tool & Die, Inc., Saegertown, PA
Northwest Tool Corporation, Tucson, AZ
Northwood Industries, Inc., Perrysburg, OH
Norton Advanced Ceramics, White House, TN
Norv's Molds, Inc., Nyssa, OR
Norwood Tool Company, Dayton, OH
Nova Manufacturing Company, North Hollywood, CA
Now-Tech Industries Inc., Lackawanna, NY
Nu-Tech Industries, Grandview, MO
Nu-Tool Industries, Inc., North Royalton, OH
Numeric Machine, Fremont, CA
Numeric Machining Co., Inc., West Springfield, MA
Numerical Precision, Inc., Wheeling, IL
Numerical Productions, Inc., Indianapolis, IN
Numet Machine, Stratford, CT
NuTec Tooling Systems, Inc., Meadville, PA
O & S Machine Company, Inc., Latrobe, PA
O–A, Inc., Agawam, MA
O A R Moldworks, Providence, RI
O E M Industries, Inc., Dallas, TX
O E M, Inc., Corvallis, OR
O-D Tool & Cutter Inc., Mansfield, MA
O'Keefe Ceramics, Woodland Park, CO
O'Neal Tool & Machine Co., Inc., DeSoto, MO
Oakley Die & Mold Company, Inc., Mason, OH
Obars Machine & Tool Company, Toledo, OH
Oberg Industries Inc., Freeport, PA
Oconee Machine & Tool Company, Westminster, SC
Oconnor Engineering Laboratories, Costa Mesa, CA
Ohio Gasket & Shim Company, Akron, OH
Ohio Transitional Machine & Tool, Toledo, OH
Ohlemacher Mold & Die, Strongsville, OH
Oilfield Die Manufacturing Co., Lafayette, LA
Okuma America Corporation, Charlotte, NC
Olson Mfg. & Distribution Inc., Shawnee, KS
Omax Corporation, Kent, WA
Omega One, Inc., Maple Heights, OH
Omega Tool, Inc., Menomonee Falls, WI
Omni Tool, Inc., Winston Salem, NC
Orange County Grinding, Anaheim, CA
Orchard Machine, Inc., Byron Center, MI
Orix Credit Alliance, Inc., Pasadena, CA
Osborn Products, Inc., Phoenix, AZ
Osley & Whitney, Inc., Westfield, MA

Ott Brothers Machine Company, Wichita, KS
Overland Bolling, Dallas. TX
Overton & Sons Tool & Die Co., Mooresville, IN
Overton Corporation, Willoughby, OH
OEM Controls Inc., Shelton, CT
P & A Tool & Die, Inc., Rochester, NY
P & N Machine Company, Inc., Houston, TX
P & P Mold & Die, Inc., Tallmadge, OH
P & R Industries, Inc., Rochester, NY
P D Q Machine & Tool Inc., Machesney Park, IL
P. J. M. Machine Inc., North Canton, OH
P. Tool & Die Company, Inc., N. Chili, NY
P–K Tool & Manufacturing Company, Chicago, IL
Pace Precision Products, Inc., Dubois, PA
Pacific Bearing Company, Rockford, IL
Pacific Precision Machine, Inc., San Carlos, CA
Pacific Tool & Die, Inc., Brunswick, OH
Pacific Tool Corporation, Englewood, CO
Pahl Tool Services, Cleveland, OH
Palma Tool & Die Company, Inc., Lancaster, NY
Palmer Machine Company Inc., Conway, NH
Palmer Manufacturing Company, Malden, MA
Parallax, Inc., Largo, FL
Paramount Machine & Tool Corp., Fairfield, NJ
Park Hill Machine, Inc., Lancaster, PA
Parker Plastics Corporation, Pittsburgh, PA
Parr-Green Mold and Machine Co., North Canton, OH
Parris Tool & Die Company, Goodlettsville, TN
Parrish Machine, Inc., South Bend, IN
Part-Rite, Inc., Cleveland, OH
Pasco Tool & Die, Inc., Meadville, PA
Patco Machine & Fab, Inc., Houston, TX
Path Technologies, Inc., Mentor, OH
Patkus Machine Company, Rockford, IL
Patriot Machine, Inc., St. Charles, MO
Patriot Precision Products, North Canton, OH
Patten Tool & Engineering, Inc., Kittery, ME
Paul E. Seymour Tool & Die Co., North East, PA
Peerless Precision, Inc., Westfield, MA
Peffen Machine Company, Nashville, TN
Peko Precision Products, Rochester, NY
Pell Engineering & Manufacturing, Pelham, NH
Penco Precision, Fontana, CA
Pendleton Tool Company, Inc., Erie, PA
Peninsula Screw Machine Products, Belmont, CA
Penn State Tool & Die Corp., North Huntingdon, PA
Penn United Tech, Inc., Saxonburg, PA
Pennoyer-Dodge Company, Glendale, CA
Pennsylvania Crusher, Cuyahoga Falls, OH
Pennsylvania Tool & Gages, Inc., Meadville, PA
Perfection Mold & Machine Co., Akron, OH
Perfection Tool & Mold Corp., Dayton, OH
Perfecto Tool & Engineering Co., Anderson, IN
Perfekta, Inc., Wichita, KS
Performance Grinding & Manufacturing, Inc., Tempe, AZ
Perry Tool & Research Inc., Hayward, CA
Petersen Precision Engineering, LLC, Redwood City, CA
Peterson Jig & Fixture, Inc., Rockford, MI
Pettey Machine Works, Inc., Trinity, AL
Petty Enterprises, Hollister, CA
Phil-Coin Machine & Tool Co., Hudson, MA
Philips Machining Company, Inc., Coopersville, MI
Philips Manufacturing Technology, South Plainfield, NJ
Phoenix Gear, Inc., Phoenix, AZ
Phoenix Grinding, Phoenix, AZ
Phoenix Precision Pattern Corp., Mesa, AZ
Phoenix Tool & Gage, Inc., Phoenix, AZ
Phoenix, Inc., Seekonk, MA
Piece-Maker Company, Troy, MI
Pierce Products, Inc., Cleveland, OH
Pierson Precision Inc., Campbell, CA
Pinehurst Tool & Die, Conneaut Lake, PA
Pinnacle Engineering Co., Inc., Manchester, MI
Pinnacle Manufacturing Co., Inc., Chandler, AZ
Pinnacle Tool & Engineering, Cleveland, OH
Pioneer Industries, Seattle, WA
Pioneer Motor Bearing Company, South San Francisco. CA
Pioneer Precision Grinding, Inc., West Springfield, MA
Pioneer Tool & Die Company, Akron, OH
Pioneer Tool & Die, Inc., Meadville, PA
Pioneer Tool Die & Machine Co., Ivyland, PA
Piper Plastics, Inc., Chandler, AZ
Pitt-Tex, Latrobe, PA
Plainfield Stamping Illinois, Inc., Plainfield, IL
Plano Machine & Instrument Inc., Gainesville, TX
Plas Tool Co., Niles, IL
Plastic Mold Technology Inc., Grand Rapids, MI
Plastipak Packaging, Inc., Medina, OH
PlastiFab Inc., Louisville, CO
Plating Technology, Inc., Columbus, OH
Pleasant Precision, Inc., Kenton, OH
Pleasanton Tool and Manufacturing ,Pleasanton, CA
Plesh Industries, Inc., Buffalo, NY
Pocal Industries Inc., Scranton, PA
Pol-Tek Industries, Ltd., Cheektowaga, NY
Polaris Machining, Inc., Marysville, WA
Polynetics, Inc., Fullerton, CA
Polytec Products Corporation, Menlo Park, CA
Ponderosa Industries, Inc., Denver, CO
Popp Machine & Tool, Inc., Louisville, KY
Port City Machine & Tool Company, Muskegon Heights, MI
Portage Knife Company, Inc., Mogadore, OH
Post Enterprises, Inc., Wichita, KS
Post Products, Inc., Kent, OH
Powder Metallurgy Company, Lewisville, TX
Powers Bros. Machine, Inc., Montebello, CA
Powill Manufacturing & Engineering, Inc., Phoenix, AZ
Practical Machine Company, Barberton, OH
Pre Tech Manufacturing, Bensenville, IL
Pre-Mec Corporation, Clinton Township, MI
Precise Products Corporation, Minneapolis, MN
Precise Technologies Inc., Largo, FL
Precise Technology, Inc., N. Versailles, PA
Precise Tool & Die, Inc., Leechburg, PA
Precision Aircraft Components, Dayton, OH
Precision Aircraft Machining, Sun Valley, CA
Precision Automated Machining, Englewood, CO
Precision Automation Co., Inc., Clarksville, IN
Precision Balancing & Analyzing, Mentor, OH
Precision Boring Company, Detroit, MI
Precision CNC Products, Canyon Country, CA
Precision Deburring Enterprises, Sun Valley, CA
Precision Die & Stamping Inc., Tempe, AZ
Precision Engineering & Mfg. Co., Haymarket, VA
Precision Engineering, Inc., Uxbridge, MA
Precision Gage & Tool Company, Dayton, OH
Precision Gage, Inc., Tempe, AZ
Precision Grinding & Mfg. Corp., Rochester, NY
Precision Grinding Inc., Phoenix, AZ
Precision Grinding, Inc., Birmingham, AL
Precision Identity Corporation, Campbell, CA
Precision Industries, Inc., Providence, RI

Precision Industries, Inc., Baton Rouge, LA
Precision Lasers, Rochester, NY
Precision Machine & Engineering, Phoenix, AZ
Precision Machine & Instrument, Houston, TX
Precision Machine & Tool Co., Longview, TX
Precision Machine Company, Lancaster, PA
Precision Machine Rebuilding, Rogers, MN
Precision Manufacturing, Grand Junction, CO
Precision Metal Crafters, Ltd., Greensburg, PA
Precision Metal Fabrication, Dayton, OH
Precision Metal Tooling, Inc., San Leandro, CA
Precision Mold & Engineering, Warren, MI
Precision Mold Base Corporation, Tempe, AZ
Precision Mold Welding, Inc., Little Rock, AR
Precision Mold, Inc., Kent, WA
Precision Piece Parts Inc., Mishawaka, IN
Precision Products Inc., Greenwood, IN
Precision Resource, Huntington Beach, CA
Precision Resource Tool & Machine, Shelton, CT
Precision Resources, Hawthorne, CA
Precision Specialists, Inc., West Berlin, NJ
Precision Specialties, San Jose, CA
Precision Stamping & Tool, Inc., Irvine, CA
Precision Stamping, Inc., Farmers Branch, TX
Precision Technology, Inc., Chandler, AZ
Precision Tool & Die, Inc., Derry, NH
Precision Tool & Mold, Inc., Clearwater, FL
Precision Tool Work, Inc., New Iberia, LA
Precision Valve, Inc., Reno, NV
Precision Wire Cut Corporation, Waterbury, CT
Precision Wire EDM Service Inc., Grand Rapids, MI
Preferred Grinding Co., Inc., Dallas, TX
Preferred Tool & Die Co., Inc., Comstock Park, MI
Preferred Tool Company, Inc., Seymour, IN
Prescott Aerospace, Inc., Prescott Valley, AZ
Pressco Products, Kent, WA
Prestige Mold Incorporated, Rancho Cucamonga, CA
Price Products, Inc., Escondido, CA
Pride, Champlin, MN
Prima Die Castings, Inc., Clearwater, FL
Prime-Co Tool Inc., East Rochester, NY
Primeway Tool & Engineering Co., Madison Heights, MI
Pro-Mold, Inc., Spencerport, NY
Pro-Tech Machine, Inc., Burton, MI
Process Equipment Company, Tipp City, OH
Product Engineering Company, Columbus, IN
Production Saw Works, Inc., North Hollywood, CA
Production Tool & Mfg. Co., Portland, OR
Producto Machine Company, Bridgeport, CT
Professional Grinding, Inc., Akron, OH
Professional Instruments Co., Inc., Hopkins, MN
Professional Machine & Tool Co., Gallatin, TN
Professional Machine & Tool, Inc., Wichita, KS
Professional Machine Works, Inc., Houston, TX
Proficient Machining Co., Inc., Mentor, OH
Profile Grinding, Inc., Cleveland, OH
Proformance Manufacturing, Inc., Corona, CA
Progressive Concepts Machining, Pleasanton, CA
Progressive Machine & Design, LLC, Victor, NY
Progressive Metallizing & Machine Company, Inc., Akron, OH
Progressive Tool & Die, Inc., Gardena, CA
Progressive Tool Company, Waterloo, IA
Promax Tool Co., Rancho Cordova, CA
Prompt Machine Products, Inc., Chatsworth, CA
Proper Cutter, Inc., Guys Mills, PA
Proper Mold & Engineering, Inc., Center Line, MI
Prospect Mold Inc., Cuyahoga Falls, OH
Proteus Manufacturing Co., Inc., Woburn, MA
Proto Machine & Manufacturing, Kent, OH
Proto-Cam, Inc., Grand Rapids, MI
Proto-Design, Inc., Redmond, WA
Protonics Engineering Corp., Cerritos, CA
Prototype & Plastic Mold Co., Middletown, CT
ProMold, Inc., Cuyahoga Falls, OH
Puehler Tool Company, Valley View, OH
Puget Plastics Corporation, Tualatin, OR
Pullbrite, Inc., Fremont, CA
Punch Press Products, Inc., Los Angeles, CA
Punchcraft Company—Subsidiary of MascoTech, Inc., Warren, MI
PDT Tooling, Inc., Lincolnshire, IL
PMR, Inc., Avon, OH
PQ Enterprise, L.L.C., Grand Rapids, MI
PR Machine Works, Inc., Mansfield, OH
Q K Mold & Manufacturing, Inc., Kent, OH
Q M C Technologies, Inc., Depew, NY
Qualfab Machining, Redwood City, CA
Quality Centerless Grinding Corp., Middlefield, CT
Quality Engineering Services, Wallingford, CT
Quality Grinding & Machining, Bridgeport, CT
Quality Machine Engineering, Inc., Santa Rosa, CA
Quality Machine Inc., Plaistow, NH
Quality Machining Technology, Inc., Oakdale, CA
Quality Mold & Die, Inc., Santa Ana, CA
Quality Mold & Engineering, Baroda, MI
Quality Mold Shop, Inc., McMinnville, TN
Quality Precision, Inc., Hayward, CA
Quality Tool Company, Toledo, OH
Quantum Manufacturing, Inc., Burbank, CA
Quartztek Incorporated, Phoenix, AZ
Quick Turn Machine Co. Inc., Windsor Locks, CT
Quick-Way Stampings, Euless, TX
R & D Machine Shop, Dallas, TX
R & D Specialty/Manco, Phoenix, AZ
R & D Tool & Engineering, Lee's Summit, MO
R & G Precision Tool Inc., Thomaston, CT
R & H Manufacturing Inc., Kingston, PA
R & J Tool, Inc., Brookville, OH
R & M Machine Tool, Freeland, MI
R & M Manufacturing Company, Niles, MI
R & M Mold Manufacturing Co., Bloomsbury, NJ
R & R Precision Machine, Inc., Wichita, KS
R & S EDM, Inc., W. Springfield, MA
R & S Machining, Inc., Oakville, MO
R D C Machine, Inc., Santa Clara, CA
R Davis EDM, Anaheim, CA
R E F Machine Company, Inc., Middlefield, CT
R F Cook Manufacturing Co., Stow, OH
R G F Machining Technologies, Canon City, CO
R J S Corporation, Akron, OH
R M I, Van Nuys, CA
R Meschkat Precision Machining, Valencia, CA
R O C Carbon Company, Houston, TX
R S Precision Industries, Inc., Farmingdale, NY
R T R Slotting & Machine Inc., Cuyahoga Falls, OH
R W Machine, Inc., Houston, TX
R. W. Smith Company, Inc., Dallas, TX
Rainbow Tool & Machine Co., Inc., Gadsden, AL
Raloid Corporation, Reisterstown, MD
Ralph Stockton Valve Products, Houston, TX
Ram Tool, Inc., Grafton, WI
Ranger Tool & Die Company, Saginaw, MI
Rapid-Line Inc., Grand Rapids, MI
Rapidac Machine Corporation, Rochester, NY

Ratnik Industries, Inc., Victor, NY
Rawlings Engineering, Macon, GA
Ray Paradis Machine, Inc., Jackson, CA
Re-Del Engineering, Campbell, CA
Realco Diversified, Inc., Meadville, PA
Reardon Machine Co., Inc., St. Joseph, MO
Reata Engineering & Machine, Englewood, CO
Reber Machine & Tool Company, Muncie, IN
Rectack of America, Los Angeles, CA
Reed Instrument Company, Houston, TX
Reed Precision Microstructures, Santa Rosa, CA
Reese Machine Company, Inc., Ashtabula, OH
Reichert Stamping Company, Toledo, OH
Reid Industries, Inc., Roseville, MI
Reitz Tool & Die Company, Inc., Walbridge, OH
Reitz Tool, Inc., Cochranton, PA
Reliable EDM, Inc., Houston, TX
Remarc Manufacturing Inc., Hayward, CA
Remmele Engineering, Inc., New Brighton, MN
Remtex, Inc., Longview, TX
Reny & Company Inc., El Monte, CA
Repairtech International, Inc., Van Nuys, CA
Repko Tool Inc., Meadville, PA
Republic Industries, Louisville, KY
Republic-Lagun, Carson, CA
Research Tool Inc., East Haven, CT
Reuther Mold & Manufacturing Co., Cuyahoga Falls, OH
Revtek, Portland, OR
Reynolds Manufacturing Co., Inc., Rock Island, IL
Rhode Island Centerless, Inc., Johnston, RI
Rhode Island Precision Co., Inc., Providence, RI
Rich Tool & Die Company, Scarborough, ME
Richard Manufacturing Company, Milford, CT
Richard O. Schulz Company, Elmwood Park, IL
Richard Tool & Die Corporation, New Hudson, MI
Richard's Grinding, Inc., Cleveland, OH
Richards Machine Tool Company, Lancaster, NY
Richsal Corporation, Elyria, OH
Rick Sanford Machine Company, San Leandro, CA
Rickman Machine Company, Wichita, KS
Rid-Lom Precision Tool Corp., Rochester, NY
Ridge Machine & Welding Company, Toronto, OH
Riggins Engineering, Inc., Van Nuys, CA
Right Tool & Die, Inc., Toledo, OH
Rima Enterprises, Huntington Beach, CA
Ripley Machine Company, Inc., Akron, OH
Rite-Way Industries Inc., Louisville, KY
Riverview Machine Company, Inc., Holyoke, MA
Riviera Tool Company, Grand Rapids, MI
Robert C. Reetz Company, Inc., Pawtucket, RI
Roberts Aerospace Mfg. & Eng., Gardena, CA
Roberts Tool & Die Company, Chillicothe, MO
Roberts Tool Company, Inc., Northridge, CA
Robrad Tool & Engineering, Mesa, AZ
Rochester Gear, Inc., Rochester, NY
Rochester Manufacturing, Wellington, OH
Rockburl Industries Inc., Rochester, NY
Rockford Process Control, Inc., Rockford, IL
Rockford Tool & Manufacturing, Rockford, IL
Rockford Toolcraft, Inc., Rockford, IL
Rockhill Machining Industries, Barberton, OH
Rockstedt Tool & Die, Brunswick, OH
Rocon Manufacturing Corporation, Rochester, NY
Rogers Associates Machine Tool, Rochester, NY
Rogers Enterprises, Rochester, NY
Romac Electronics, Inc., Plainview, NY
Romold Inc., Rochester, NY
Ron Grob Company, Loveland, CO
Ron Mills and Company, Walnut, CA
Ronal Tool Company, Inc., York, PA
Ronart Industries, Inc., Detroit, MI
Ronlen Industries, Inc., Brunswick, OH
Rons Racing Products, Inc., Tucson, AZ
Rovi Products Incorporated, Simi Valley, CA
Royal Wire Products, Inc., N. Royalton, OH
Royalton Manufacturing, Inc., Cleveland, OH
Royster's Machine Shop, LLC, Henderson, KY
Rozal Industries, Inc., Farmingdale, NY
Rubbermaid, Inc.—Mold Division, Wooster, OH
Ruoff & Sons, Inc., Runnemede, NJ
Russing Machining Corp., Glendale, CA
Ryan Industries Inc., York, PA
RB Machine Co., Inc., Phoenix, AZ
REO Hydro-Pierce Inc., Detroit, MI
RREN Manufacturing & Engineering, Springfield, MA
S & B Jig Grinding, Inc., Loves Park, IL
S & B Tool & Die Co., Inc., Lancaster, PA
S & R CNC Machining, Arleta, CA
S & R Precision Company, LLC, Fremont, CA
S C Manufacturing, Akron, OH
S D S Machine, Inc., Hayward, CA
S G S Tool Company, Munroe Falls, OH
S L P Machine, Inc., Ham Lake, MN
S M K Fabricators, Inc., May, TX
S P M/Anaheim, Anaheim, CA
S P S Technologies, Santa Ana, CA
S. C. Machine, Chatsworth, CA
S.M.G. LLC, Buffalo, NY
Saeilo Manufacturing Industries, Blauvelt, NY
Safety Line, Oakland, CA
Sage Machine & Fabricating, Houston, TX
Sagehill Engineering, Inc., Menlo Park, CA
Saginaw Products Corporation, Saginaw, MI
Salamon Manufacturing Inc., Middletown, CT
Saliba Industries, Inc., Highland, IL
Salomon Smith Barney, Washington, DC
Samax Precision, Inc., Sunnyvale, CA
San Diego Swiss Machining, Inc., Chula Vista, CA
San Val Grinding Company, Burbank, CA
Sanders Tool & Mould Company, Hendersonville, TN
Sandor Tool & Manufacturing Co., Lawrence, MA
Sandy Bay Machine, Rockport, MA
Santin Engineering, Inc., West Peabody, MA
Satran Technical Enterprises, Mayer, AZ
Sattler Machine Products, Inc., Sharon Center, OH
Sawing Services Co., Chatsworth, CA
Sawtech, Lawrence, MA
Schaffer Grinding Company, Inc., Montebello, CA
Schill Corp., Toledo, OH
Schlitter Tool, Warren, MI
Schmald Tool & Die Inc., Burton, MI
Schmiede Corporation, Tullahoma, TN
Schneider & Marquard, Inc., Newton, NJ
Schober's Machine & Engineering, Alhambra, CA
Schoitz Engineering, Inc., Waterloo, IA
Schroeder Tool & Die Corporation, Van Nuys, CA
Schuetz Tool & Die, Inc., Hiawatha, KS
Schulze Tool Company, Independence, MO
Schwab Machine, Inc., Sandusky, OH
Scott County Machine & Tool Co., Scottsburg, IN
Seabury & Smith, Inc., Atlanta, GA
Sebewaing Tool & Engineering Co., Sebewaing, MI
Seemcor Inc., Englewood, NJ
Select Industrial Systems Inc., Fairborn, OH
Select Tool & Die—Tool Div., Dayton, OH
Select Tool & Eng., Inc., Elkhart, IN
SelfLube, Coopersville, MI
Selzer Tool & Die, Inc., Elyria, OH
Sematool Mold & Die Co., Santa Clara, CA
Serco, Covina, CA
Serrano Industries Inc., Bellflower, CA
Service Manufacturing and, Anaheim, CA

Service Tool & Die, Inc., Henderson, KY
Setters Tools, Inc., Piedmont, SC
Sharon Center Mold & Die, Sharon Center, OH
Shaw Industries, Inc., Franklin, PA
Shear Tool, Inc., Saginaw, MI
Sheets Tool & Manufacturing, Inc., Saegertown, PA
Shelby Engineering Company, Inc., Indianapolis, IN
Sherer Manufacturing, Clearwater, FL
Sherlock Machine Company, Clearwater, FL
Sherman Tool & Gage, Erie, PA
Shiloh Industries, Wellington, OH
Shookus Special Tools, Inc., Raymond, NH
Siam Precision, Inc., Phoenix, AZ
Sibley Machine & Foundry Corp., South Bend, IN
Sieger Engineering, Inc., S. San Francisco, CA
Sigma Precision Mfg., Inc., Aston, PA
Signa Molds & Engineering, Sylmar, CA
Signal Machine Company, New Holland, PA
Silicon Valley Mfg., Fremont, CA
Simons & Susslin Manufacturing, San Jose, CA
Sipco, Inc., Meadville, PA
Sirius Enterprises, Inc., Dallas, TX
Sirois Tool Co. Inc., Berlin, CT
Sisson Engineering Corp., Northfield, MA
Six Sigma, Louisville, KY
Ski-Way Machine Products Company, Euclid, OH
Skillcraft Machine Tool Company, West Hartford, CT
Skulsky, Inc., Gardena, CA
Skyfab, Inc., Denton, TX
Skyline Manufacturing Corp., Nashville, TN
Skylon Mold & Machining, Sugar Grove, PA
Skyway Manufacturing Corporation, Phoenix, AZ
Smith-Renaud, Inc., Cheshire, CT
Smith's Machine, Cottondale, AL
Smithfield Manufacturing, Inc., Clarksville, TN
Snyder Systems, Benicia, CA
Solar Tool & Die, Inc., Kansas City, MO
Sonic Machine & Tool, Inc., Tempe, AZ
Sonoma Precision Mfg. Co., Santa Rosa, CA
Sonora Precision Molds, Inc., Mi Wuk Village, CA
South Bay Machining, Santa Clara, CA
South Bend Form Tool Company, South Bend, IN
South Eastern Machining, Inc., Piedmont, SC
Southampton Manufacturing, Inc., Feasterville, PA
Southbridge Tool & Manufacturing, Dudley, MA
Southeastern Technology, Inc., Murfreesboro, TN
Southern Mfg. Technologies Inc., Tampa, FL
Southwest Industrial Services, Ft. Worth, TX
Southwest Manufacturing, Inc., Wichita, KS
Southwest Metalcraft Corporation, Tucson, AZ
Southwest Mold, Inc., Tempe, AZ
Southwest Precision Machining, Inc., North Royalton, OH
Southwest Replacement Parts, Stafford, TX
Space City Machine & Tool Co., Houston, TX
Spalding & Day Tool & Die Co., Louisville, KY
Spark Technologies, Inc., Schenley, PA
Spartak Products Inc., Houston, TX
Spartan Manufacturing Company, Garden Grove, CA
Special Tool & Engineering Corp., Indianapolis, IN
Specialty Machine & Hydraulics, Pleasantville, PA
Specialty Machines, Inc., Dayton, OH
Spectra-Physics Lasers Inc., Oroville, CA
Spenco Machine & Manufacturing, Temecula, CA
Spike Industries, North Lima, OH
Spin Pro Inc., Sunnyvale, CA
Spiral Grinding Company, Culver City, CA
Spirex Southwest, Gainesville, TX
Springfield Manufacturing, LLC, Clover, SC
Springfield Tool & Die, Inc., Greenville, SC
Sprint Tool & Die Inc., Meadville, PA
Spun Metals, Inc., Phoenix, AZ
St. Louis Tool & Mold, Valley Park, MO
Stadco, Los Angeles, CA
Standard Jig Boring Service, Inc., Akron, OH
Standard Machine Inc., Cleveland, OH
Standard Welding & Steel, Medina, OH
Stanek Tool Corporation, New Berlin, WI
Stanley Machining & Tool Corp., Carpentersville, IL
Star Tool & Die, Inc., Elkhart, IN
Star Tool & Engineering, Inc., Redwood City, CA
Starn Tool & Manufacturing Co., Meadville, PA
State Industrial Products, Inc., Phoenix, AZ
Stauble Machine & Tool Company, Louisville, KY
Stedcraft Inc., Torrington, CT
Steiner Fabrication, Phoenix, AZ
Stelted Manufacturing, Inc., Tempe, AZ
Sterling Engineering Corporation, Winsted, CT
Sterling Tool Company, Racine, WI
Stevens Manufacturing Co., Inc., Milford, CT
Stewart Manufacturing Company, Phoenix, AZ
Stieg Grinding Corporation, Rockford, IL
Stillion Industries, Ann Arbor, MI
Stillwater Technologies, Inc., Troy, OH
Stines' Machine, Inc., Vista, CA
Stone Machine & Tool, Inc., North Royalton, OH
Stoney Crest Regrind Service, Bridgeport, MI
Stott Tool & Machine Company, Amityville, NY
Streamline Tooling Systems, Muskegon, MI
Strobel Machine, Inc., Worthington, PA
Studwell Engineering, Inc., Sun Valley, CA
Subsea Ventures Inc., Houston, TX
Suburban Manufacturing Company, Euclid, OH
Summit Machine Company, Scottdale, PA
Summit Precision, Inc., Phoenix, AZ
Summit Tool & Mold Inc., Dayton, OH
Sun E.D.M., Inc., Tempe, AZ
Sun Polishing Corporation, North Royalton, OH
Sun Tool Company, Houston, TX
Sun Valley Tool, Inc., Tempe, AZ
Sunbelt Plastics, Inc., Frisco, TX
Sunrise Tool & Die, Inc., Henderson, KY
Sunset Tool Inc., Saint Joseph, MI
Super Finishers II, Phoenix, AZ
Superior Die Set Corporation, Oak Creek, WI
Superior Die Tool Machine Co., Columbus, OH
Superior Gear Box Company, Stockton, MO
Superior Jig, Inc., Anaheim, CA
Superior Mold Company, Ontario, CA
Superior Mold, Inc., Clearwater, FL
Superior Roll Forming Company, Valley City, OH
Superior Thread Rolling Company Inc., Arleta, CA
Superior Tool & Die Company, Bensalem, PA
Superior Tool & Die Company, Inc., Elkhart, IN
Superior Tool & Manufacturing, Branchburg, NJ
Superior Tool, Inc., Willow Street, PA
Supreme Tool & Die Company, Fenton, MO
Surface Manufacturing, Auburn, CA
Svedala Pumps & Process, Colorado Springs, CO
Swenton Tool & Die Company, Phoenix, NY
Swiss Specialties, Inc., Bohemia, NY
Swissco, Inc., Bell Gardens, CA
Swissline Precision Mfg. Inc., Cumberland, RI
Synergis Technologies Group, Grand Rapids, MI
Synergy Machine, Inc., Kent, WA
Syst-A-Matic Tool & Design, Meadville, PA
Systems 3, Inc., Tempe, AZ
SEPCO–ERIE, Erie, PA

SKS Die Casting and Machining, Alameda, CA
T & S Industrial Machining Corp., Woburn, MA
T C I Precision Metals, Gardena, CA
T J Tool and Mold, Guys Mills, PA
T M Industries, Inc., East Berlin, CT
T M Machine & Tool, Inc., Toledo, OH
T M S Inc., Lincoln, RI
T R Jones Machine Company, Inc., Crystal Lake, IL
T. J. Karg Company, Inc., Akron, OH
T–K & Associates, Inc., La Porte, IN
T–M Manufacturing Corporation, Sunnyvale, CA
Tag Engineering, Inc., Tucson, AZ
Tait Design & Machine Company Inc., Manheim, PA
Talbar, Inc., Meadville, PA
Talcott Machine Products, Inc., Meriden, CT
Talent Tool & Die, Inc., Berea, OH
Tana Corporation, Toledo, OH
Tangent Tool Inc., Fraser, MI
Tanner Oil Tools Inc., Houston, TX
Tapco USA Inc., Loves Park, IL
Target Precision, Meadville, PA
Taurus Tool & Engineering, Inc., Muncie, IN
Tebben Enterprises, Clara City, MN
Tech Industries, Inc., Cleveland, OH
Tech Manufacturing Company, Wright City, MO
Tech Mold, Inc., Tempe, AZ
Tech Ridge, Inc., South Chelmsford, MA
Tech Tool & Mold, Inc., Meadville, PA
Tech Tool and Machine Inc., Toledo, OH
Tech Tool, Inc., Detroit, MI
Tech-Etch, Inc., Plymouth, MA
Tech-Machine, Inc., Colorado Springs, CO
Techmetals, Inc., Dayton, OH
Techni-Cast Corporation, South Gate, CA
Techni-Products, Inc., East Longmeadow, MA
Technics 2000 Inc., Olathe, KS
Technodic, Inc., Providence, RI
Tecomet Thermo Electron, Tempe, AZ
Tedco, Inc., Cranston, RI
Teke Machine Corp., Rochester, NY
Tell Tool, Inc., Westfield, MA
Temco Corporation, Danvers, MA
Tenk Machine & Tool Company, Cleveland, OH
Tenneco Automotive/Monroe Auto, Hartwell, GA
Tennessee Metal Works, Inc., Nashville, TN
Tennessee Tool Corporation, Charlotte, TN
Terrell Manufacturing Inc., Strongsville, OH
Testand Corporation, Pawtucket, RI
Tetco, Inc., Plainville, CT
Teter Tool & Die, Inc., La Porte, IN
Texas Honing, Inc., Pearland, TX
Thaler Machine Company, Dayton, OH
Thayer Aerospace, Wichita, KS
The Bechdon Company, Inc., Upper Marlboro, MD
The Budd Company, Shelbyville, KY
The Chesapeake Machine Co., Baltimore, MD
The Die Works Inc., Hillsboro, MO
The Foster Group, Rochester, NY
The Goforth Corp., Fremont, CA
The Hanson Group, LTD., Ludlow, MA
The Sherman Corporation, Inglewood, CA
The Sullivan Corporation, Hartland, WI
The Timken Company, Canton, OH
The Will-Burt Company, Orrville, OH
Therm, Inc., Ithaca, NY
Thiel Tool & Engineering Co., St. Louis, MO
Thomas Machine Works, Inc., Newburyport, MA
Thompson Gundrilling, Inc., Van Nuys, CA
Thor Tool Corporation, San Leandro, CA
Thornhurst Manufacturing, Inc., Tampa, FL
Three-Way Pattern, Inc., Wichita, KS
Tidewater Machine Company, White Plains, MD
Time Machine & Stamping, Inc., Phoenix, AZ
Timon Tool & Die Co., Toledo, OH
Tipco Punch, Inc., Hamilton, OH
Tipp Machine & Tool, Inc., Tipp City, OH
Tisza Industries, Inc., Niles, MI
Titan, Inc., Sturtevant, WI
Toledo Blank, Inc., Toledo, OH
Tolerance Masters, Inc., Circle Pines, MN
Tomak Precision, Lebanon, OH
TomKen Tool & Engineering, Inc., Muncie, IN
Tool & Die Productions, Erie, PA
Tool Gauge & Machine Works, Inc., Tacoma, WA
Tool Mate Corporation, Cincinnati, OH
Tool Specialties Company, Hazelwood, MO
Tool Specialty Company, Los Angeles, CA
Tool Steel Service of California, Inc., Los Angeles, CA
Tool Tech Corporation, San Jose, CA
Tool Tech, Inc., Springfield, OH
Tool Technology, Inc., Danvers, MA
Tool Technology, Inc., Cookeville, TN
Tool-Matic Company, Inc., City Of Commerce, CA
Toolcomp Tooling & Components, Toledo, OH
Toolcraft of Phoenix, Inc., Glendale, AZ
Toolcraft Products, Inc., Dayton, OH
Toolex, Inc., Houston, TX
Tools Renewal Company, Birmingham, AL
Tools, Inc., Sussex, WI
Top Tool & Die, Inc., Cleveland, OH
Top Tool Company, Minneapolis, MN
Totally Radical Associates, Inc., Placentia, CA
Toth Industries, Inc., Toledo, OH
Toth Technologies, Cherry Hill, NJ
Tower Tool & Engineering, Inc., Machesney Park, IL
Trace-A-Matic Corporation, Brookfield, WI
Tracer Tool & Die Company Inc., Grand Rapids, MI
Trademark Die & Engineering, Comstock Park, MI
Tram Tek Inc., Phoenix, AZ
Trans-World Electric Inc., Port Arthur, TX
Treblig, Inc., Greenville, SC
Trec Industries, Inc., Brooklyn Heights, OH
Tree City Mold & Machine Co., Inc., Kent, OH
Treffers Precision, Inc., Phoenix, AZ
Tresco Tool, Inc., Guys Mills, PA
Tri Craft, Inc., Middleberg Heights, OH
Tri J Machine Company, Inc., Gardena, CA
Tri-City Machine Products, Inc., Peoria, IL
Tri-City Tool & Die, Inc., Bay City, MI
Tri-M-Mold, Inc., Stevensville, MI
Tri-Wire, Inc., Rockford, IL
Triad Plastic Technologies, Reno, NV
Triangle Mold & Machine Co. Inc., Hartville, OH
Triangle Tool Company, Erie, PA
Tricon Machine & Tool, Inc., Rochester, NY
Tricore Mold & Die, Machesney Park, IL
Tridecs Corporation, Hayward, CA
Trident Precision Manufacturing, Webster, NY
Trig Aerospace, Santa Ana, CA
Trim Systems, Inc., Seattle, WA
Trimac Manufacturing, Inc., Santa Clara, CA
Trimetric Specialties, Inc., Newark, CA
Trimline Tool, Inc., Grandville, MI
Trinity Tools, Inc., North Tonawanda, NY
Trio Tool & Die, Inc., Hawthorne, CA
Triple Quality Tool & Die, Inc., Bell, CA
Triple-T Cutting Tools Inc., West Berlin, NJ
Triplett Machine, Inc., Phelps, NY
Triplex Industries, Inc., Rochester, NY
Triumph Precision, Inc., Phoenix, AZ
Trojan Mfg. Co. Inc., Piqua, OH
Trotwood Corporation, Trotwood, OH
Tru Cut, Inc., Sebring, OH
Tru Form Manufacturing Corp., Rochester, NY
Tru Tool, Inc., Sturtevant, WI
True Cut EDM Inc., Garland, TX
True Position, Inc., Chatsworth, CA
True-Tech Corporation, Fremont, CA
Trueline Tool & Machine, Inc., Springfield, OH
Trust Technologies, Willoughby, OH
Trutron Corporation, Troy, MI
Tschida Engineering, Inc., Napa, CA

Tucker Machine Company, North Branford, CT
Tura Machine Company, Folcroft, PA
Turbo Machine & Tool, Inc., Cleveland, OH
Turn-Tech, Inc., Decker Prairie, TX
Turner and Walima Mfg. Co., Inc., Essex, MA
Turner's Machine Shop, Phoenix, AZ
Twin City Plating Company, Minneapolis, MN
Two-M Precision Co., Inc., Willoughby, OH
Tydan Machining, Inc., Denton, TX
Tymar Precision Inc., Santa Clara, CA
TAB Manufacturing Corporation, Plainville, CT
TAE Corporation, Kent, WA
TC Precision Machine Inc., Dayton, OH
TCI Aluminum North, Hayward, CA
TLT-Babcock, Inc., Akron, OH
TMK Manufacturing Inc., Campbell, CA
U C O Tool & Die, Inc., Union City, OH
U F E Incorporated, Stillwater, MN
U M C, Inc., Hamel, MN
U P Machine & Engineering Co., Powers, MI
U S Machine & Tool, Inc., Murfreesboro, TN
Uddeholm, Santa Fe Springs, CA
Ugm, Inc., Santa Clara, CA
Ultra Precision, Inc., Freeport, PA
Ultra Stamping & Assembly, Inc., Rockford, IL
Ultra Tool & Manufacturing, Inc., Menomonee Falls, WI
Ultra-Tech, Inc., Kansas City, KS
Ultramation, Inc., Waco, TX
Ultron, Long Beach, CA
Uneco Manufacturing, Inc., Chicopee, MA
Unigraphics Solutions, Brookfield, WI
Unique Machine Company, Montgomeryville, PA
Unique Tool & Manufacturing, Randleman, NC
Unitech Enterprises, Inc., Rowland Heights, CA
Unitech, Inc., Kansas City, MO
United Centerless Grinding, East Hartford, CT
United Engineering Company, Kernersville, NC
United Machine Co., Inc., Wichita, KS
United Stars Aerospace, Inc., Kent, WA
United States Fittings, Inc., Warrensville Heights, OH
United Tool & Engineering Co., South Beloit, IL
United Tool & Engineering, Inc., Mishawaka, IN
United Tool & Mold Inc., Holland, MI
Universal Custom Process, Inc., Streetsboro, OH
Universal Precision Products Inc., Akron, OH
Universal Tool Company, Dayton, OH
Universal Tools & Manufacturing, Springfield, NJ
Universe Industries, Irvine, CA
Upland Fab, Inc., Upland, CA
USAeroteam, Dayton, OH
UT Technologies, Inc., Los Angeles, CA
V & M Tool Company, Inc., Perkasie, PA
V & S Die & Mold, Inc., Lakewood, OH
V A Machine & Tools, Inc., Broussard, LA
V Ash Machine Company, Cleveland, OH
V I Mfg., Webster, NY
V R C, Inc., Berea, OH
Valley Machine Works, Inc., Phoenix, AZ
Valley Tool & Die, Inc., North Royalton, OH
Valley Tool & Mfg. Inc., Grayslake, IL
Valley Tool Room, Inc., Phoenix, AZ
Vals Tool & Die Corp., Mount Vernon, NY
Value Tool & Engineering, Inc., South Bend, IN
Valv-Trol Company, Stow, OH
Van Engineering, Cincinnati, OH
Van Os Machine Works, Inc., St. Louis, MO
Van Reenen Tool & Die Inc., Rochester, NY
Van-Am Tool & Engineering, Inc., St. Joseph, MO
Vanderveer Industrial Plastics, Placentia, CA
Vanpro, Inc., Cambridge, MN
Vantage Mold & Tool Company, Akron, OH
Vaughn Manufacturing Company, Nashville, TN
Vektek, Inc., Emporia, KS
Venango Machine Products, Inc., Reno, PA
Venture Precision Machining Co., Champaign, IL
Venture Tool, Inc., Erie, PA
Ver-Sa-Til Associates, Inc., Chanhassen, MN
Versa-Tool, Inc., Meadville, PA
VersaTool & Die Machining, Beloit, WI
Vi-Tec Manufacturing Inc., Livermore, CA
Viking Tool & Engineering, Whitehall, MI
Viking Tool & Gage, Inc., Conneaut Lake, PA
Vistek Precision Machine Company, Ivyland, PA
Vitron Manufacturing, Inc., Phoenix, AZ
Vitullo & Associates, Inc., Warren, MI
Vobeda Machine & Tool Company, Racine, WI
Vogform Tool & Die Company, Inc., West Springfield, MA
Vulcan Tool Corporation, Dayton, OH
W + D Machinery Company, Inc., Overland Park, KS
W & H Stampings & Fineblanking, Inc., Hauppauge, NY
W D & J Machine & Engineering Inc., Fullerton, CA
W E C Technologies Corporation, Deer Park, NY
W G Strohwig Tool & Die, Inc., Richfield, WI
W M C Grinding, Inc., Santa Fe Springs, CA
W W G, Inc., Indianapolis, IN
Wagner Engineering, Inc., Gilbert, AZ
Waiteco Machine, Acton, MA
Wajo Tool and Die, Inc., East Hampstead, NH
Walco Tool & Engineering Corp., Lockport, IL
Walker Corporation, Ontario, CA
Walker Tool & Machine Company, Perrysburg, OH
Wallner Tooling/Expac, Inc., Rancho Cucamonga, CA
Waltco Engineering, Inc., Gardena, CA
Walter Tool & Mfg. Inc., Elgin, IL
Walz & Krenzer, Inc., Rochester, NY
Warmelin Precision Products, Hawthorne, CA
Waukesha Cutting Tools, Inc., Waukesha, WI
Waukesha Tool & Stamping Inc., Sussex, WI
Wausau Insurance Companies, Wausau, WI
Wayne Manufacturing, Inc., Boulder, CO
Webco Machine Products, Inc., Valley View, OH
Weco Metal Products, Ontario, NY
Weiss-Aug Co. Inc., East Hanover, NJ
Wejco Instruments Inc., Houston, TX
Weldex, Inc., Warren, MI
Weltek-Swiss, Englewood, CO
Wemco Precision Tool, Inc., Meadville, PA
Wentworth Company, Glastonbury, CT
Werkema Machine Company, Inc., Grand Rapids, MI
Wes Products, Madison Heights, MI
West Hartford Tool & Die Company, Newington, CT
West Milton Precision Machine, Vandalia, OH
West Pharmaceutical Services, Erie, PA
West Tool & Manufacturing, Inc., Cleveland, OH
West Valley Milling, Inc., Chatsworth, CA
West Valley Precision Inc., Santa Clara, CA
Westbrook Manufacturing, Inc., Dayton, OH
Western Machining, Inc., Fullerton, CA
Western Mass. MechTech, Inc., Ware, MA
Western Steel Cutting, Inc., San Jose, CA
Western Tap Manufacturing Co., Buena Park, CA
Westfield Gage Company, Inc., Westfield, MA
Westfield Manufacturing Corp., Westfield, IN
Westfield Tool & Die, Inc., Westfield, MA
Westlake Tool & Die Mfg., Avon, OH
Westtool Inc., Phoenix, AZ

White Machine, Inc., North Royalton, OH
White Machine, Inc., North Kingstown, RI
Whitehead Tool & Design, Inc., Guys Mills, PA
Wiegel Tool Works, Inc., Wood Dale, IL
Wightman Engineering Services, Santa Clara, CA
Wilco Die Tool Machine Company, Maryland Heights, MO
Wilkinson Mfg., Inc., Santa Clara, CA
Willer Tool Corporation, Jackson, WI
William Sopko & Sons Co., Inc., Cleveland, OH
Williams Controls Industries, Portland, OR
Williams Engineering & Manufacturing, Inc., Chatsworth, CA
Williams Machine, Inc., Lake Elsinore, CA
Windsor Tool & Die, Inc., Cleveland, OH
Winter's Grinding Service, Menomonee Falls, WI
Wire Cut Company, Inc., Buena Park, CA
Wire Tech E D M, Inc., Los Alamitos, CA
Wire Tech, LLC, Watertown, CT
Wirecut Technologies, Inc., Indianapolis, IN
Wiretec, Inc., Delmont, PA
WireCut E D M, Inc., Dallas, TX
Wisconsin Engraving Company, New Berlin, WI
Wisconsin Metalworking Machinery, Waukesha, WI
Wisconsin Mold Builders, LLC, Waukesha, WI
Wise Machine Co., Inc., Butler, PA
Wolfe Engineering, Inc., Campbell, CA
Wolverine Bronze Company, Roseville, MI
Wolverine Tool & Engineering, Belmont, MI
Wolverine Tool Company, St. Clair Shores, MI
Woodruff Corporation, Torrance, CA
Wright Brothers Welding & Sheet Metal, Inc., Hollister, CA
Wright Industries, Inc., Nashville, TN
Wright Industries, Inc., Gilbert, AZ
Wright-K Technology, Inc., Saginaw, MI
WADKO Precision, Inc., Houston, TX
WSI Industries, Inc., Long Lake, MN
X L I Corporation, Rochester, NY
Yates Tool, Inc., Medina, OH
Yoder Die Casting Corporation, Dayton, OH
Yorktown Precision Technologies, Yorktown, IN
Youngberg Industries, Inc., Belvidere, IL
Youngers Sons Mf, Viola, KS
Youngstown Plastic Tooling & Machinery, Inc., Youngstown, OH
Z & Z Machine Products, Inc., Racine, WI
Z M D Mold & Die, Inc., Mentor, OH
Zakar, Inc., Brockport, NY
Zip Tool & Die Co., Inc., Cleveland, OH
Zircon Precision Products, Inc., Tempe, AZ
Zuelzke Tool & Engineering, Milwaukee, WI
4 Axis Machining, Inc., Denver, CO
86 Tool Company, Cambridge Springs, PA

[FR Doc. 00–11637 Filed 5–9–00; 8:45 am]
BILLING CODE 3510–DR–U

DEPARTMENT OF COMMERCE

Technology Administration

Office of Technology Policy; National Medal of Technology Nomination Evaluation Committee; Notice of Determination for Closure of Meeting

The National Medal of Technology Nomination Evaluation Committee has scheduled a meeting for May 22, 2000.

The Committee was established to assist the Department in executing its responsibility under 15 U.S.C. 3711. Under the 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 9 a.m. and end at 4 p.m. on May 22, 2000. The meeting will be held in Room 4807 at the U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, D.C. 20230. For further information contact: S.J. Dapkunas, Acting Director National Medal of Technology, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Herbert C. Hoover Building, Room 4226, Washington, D.C. 20230, Phone: 202–482–1424.

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 Acting Director of the National Medal of Technology as indicated above.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, have formally determined, pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended, that this meeting may be properly closed because it is concerned with matters that are within the purview of 5 U.S.C. 522(c)(9)(b). Specifically, it was determined that the meeting may be closed to the public because revealing information about Medal candidates would be likely to significantly frustrate implementation of a proposed agency action. A copy of the determination is available for public inspection in the Central Reference and Records Inspection Facility, Room 6219, Main Commerce.

In particular, 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.

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 S.J. Dapkunas, Acting Director, National Medal of Technology, 1401 Constitution Avenue, N.W., Herbert Hoover Building, Room 4226, Washington, D.C. 20230, (Phone: 202–482–1424).

Kelly H. Carnes,

Assistant Secretary for Technology Policy.

[FR Doc. 00–11643 Filed 5–9–00; 8:45 am]
BILLING CODE 3510–18–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Department of Defense Acquisition University.

ACTION: Board of Visitors meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at the Packard Conference Center, Building 184, Ft. Belvoir, Virginia on Wednesday June 7, 2000 from 0900 until 1500. The purpose of this meeting is to report back to the BoV on continuing items of interest. The agenda will also include a presentation by a FY 1999 DAU External Acquisition Research Program awardee.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Mr. John Michel at 703.845.6756.

Dated: May 4, 2000.

L.M. Bynum,

Alternate, OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 00–11602 Filed 5–9–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

The Joint Staff; National Defense University (NDU), Board of Visitors (BOV); Meeting

AGENCY: National Defense University.

ACTION: Notice of meeting.

SUMMARY: The President, National Defense University has scheduled a meeting of the Board of Visitors.

DATES: The meeting will be held between 1230–1530 on June 23, 2000.

ADDRESSES: The meeting will be held in Room 155B, Marshall Hall, Building 62, Fort Lesley J. McNair, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Director, University Operations, National Defense University Fort Lesley J. McNair, Washington, D.C. 20319–6000. To reserve space, interested persons should phone (202) 685–3937.

SUPPLEMENTARY INFORMATION: The agenda will include present and future educational and research plans for the National Defense University and its components. The meeting is open to the public, but the limited space available for observers will be allocated on a first come, first served basis.

Dated: May 4, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–11603 Filed 5–9–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of Arbitration Panel Decision Under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on March 16,1999, and August 13, 1999, an arbitration panel rendered decisions on both merit and remedy in the matter of *James E. Waldie* v. *Alabama Department of Rehabilitation Services (Docket No. R–S/97–13).* This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d–1(a) upon receipt of a complaint filed by petitioner, James E. Waldie.

FOR FURTHER INFORMATION: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 400 Maryland Avenue, SW., room 3230, Mary E. Switzer Building, Washington DC 20202–2738. Telephone: (202) 205–9317. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–8298.

Individuals with disabilities may obtain this document in an alternate format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)) (the Act), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

This dispute concerns the alleged improper denial by the Alabama Department of Rehabilitation Services, the State licensing agency (SLA), of Mr. James E. Waldie's request to bid on a full food service vending facility at Fort McClellan, Anniston, Alabama. A summary of the facts is as follows: In April 1996, the SLA informed licensed blind vendors of an opportunity to manage a full food service vending facility at Fort McClellan, Anniston, Alabama. Twelve persons bid on the Fort McClellan vending facility including Mr. James E. Waldie. On April 23, 1996, the selection committee, which included members of the Elected Committee of Blind Vendors, met to make the selection for the Fort McClellan vending facility. Following the selection committee's evaluation, they unanimously awarded the Fort McClellan location to another vendor. The decision to award the location to another vendor rather than complainant was based upon the successful vendor receiving the highest total number of points of any applicant, including additional points for seniority.

Mr. Waldie was informed of the SLA's decision to award the bid to another vendor for the Fort McClellan vending facility. Complainant requested that the SLA convene a full evidentiary hearing on this matter, which was held on January 2, 1997.

Following the hearing, the hearing officer affirmed the selection committee's decision to award the Fort McClellan bid to the other vendor, and the SLA adopted the hearing officer's decision as final agency action. It is this decision that complainant sought to have reviewed by a Federal arbitration panel. An arbitration panel heard this matter on November 16, 1998, concerning the merits of the case and on May 26, 1999, regarding the remedy given to Mr. Waldie.

Arbitration Panel Decision

The issue before the arbitration panel was whether the Alabama Department of Rehabilitation Services violated the policies and procedures governing the Business Enterprise Program of Alabama during the selection of a vendor/manager for the Fort McClellan, Anniston, Alabama facility pursuant to the Act (20 U.S.C. 107 *et seq.*) and the implementing regulations (34 CFR part 395).

In ruling on the merits of the case, a majority of the panel determined that the successful bidder should have been disqualified since that vendor did not fulfill the training requirements for managing a full food service operation such as the Fort McClellan vending facility. In reaching that conclusion, the majority of the panel noted that the SLA had sponsored a special 18-week program dedicated solely to cafeteria operations and had stated that specific cafeteria training was a prerequisite for any individual to be selected for a cafeteria facility under the Business Enterprise Program.

The majority of the panel further noted that Mr. Waldie had completed this training while the successful bidder for the Fort McClellan vending facility had never taken this or similar cafeteria training. The majority of the panel concluded that, since the full food service operation at Fort McClellan was the equivalent of a cafeteria, the

successful bidder should have been disqualified for lack of training. Similarly the panel ruled that the successful bidder lacked food preparation experience and, therefore, did not meet the experience requirements for managing a full food service operation.

One panel member dissented.

In ruling on the question of remedy, a majority of the panel determined that Mr. Waldie did not prove under the facts of the case that he was entitled to damages. The panel ruled that had the successful bidder been disqualified, there was another individual with a higher score than Mr. Waldie who would have been chosen as the successful bidder for the Fort McClellan food service operation. The panel noted both the Eleventh Amendment and the Eleventh Circuit Court of Appeals decision in *Georgia Department of Human Resources* v. *Nash* 915 F.2d 1482 (11th Cir. 1990) barring the award of damages.

One panel member dissented.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: May 4, 2000.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 00–11593 Filed 5–9–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Idaho Operations Office; Notice of Availability of Solicitation for Awards of Financial Assistance

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of availability of solicitation—Aluminum Visions of the Future.

SUMMARY: The U.S. Department of Energy (DOE) Idaho Operations Office (ID) is seeking applications for cost-shared research and development of technologies which will reduce energy consumption, reduce environmental impacts and enhance economic competitiveness of the domestic aluminum industry. The research is to address research priorities identified by the aluminum industry in the Aluminum Industry Technology Roadmap and the Inert Anode Roadmap, (available at the following URL: *http://www.oit.doe.gov/aluminum/alindust.shtml).*

DATES: The Standard Form 424, and the technical application (20 page maximum), must be submitted by 3:00 p.m. MST on Wednesday, July 12, 2000.

ADDRESSES: Applications should be submitted to: Elizabeth Dahl, Contract Specialist, Procurement Services Division, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Mail Stop 1221, Idaho Falls, Idaho 83401–1563.

FOR FURTHER INFORMATION CONTACT: Elizabeth Dahl, Contract Specialist at *dahlee@id.doe.gov,* facsimile at (208) 526–5548, or by telephone at (208) 526–7214.

SUPPLEMENTARY INFORMATION: Approximately $3,000,000 in combined fiscal year 2000 and 2001 federal funds is expected to be available to totally fund the first year of selected research efforts. DOE anticipates making four to six awards each with a duration of four years or less. This solicitation is requiring 50% cost share to ensure industrial involvement in each of the proposals and to ensure that the novel, energy efficient processes developed by this R&D program will be fully implemented by industry. There will be no waivers of this cost share requirement. Multi-partner collaborations between industry, university, and National Laboratory participants are encouraged. The issuance date of Solicitation Number DE–PS07–00ID13914 is on or about May 8, 2000. The solicitation is available in its full text via the Internet at the following address: *http://www.id.doe.gov/doeid/PSD/proc-div.html.* The statutory authority for this program is the Federal Non-Nuclear Energy Research and Development Act of 1974 (Public Law 93–577). The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.086.

Issued in Idaho Falls on May 3, 2000.

R.J. Hoyles,

Director, Procurement Services Division.

[FR Doc. 00–11728 Filed 5–9–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Idaho Operations Office, Trespassing On DOE Property: Idaho Operations Office Properties

AGENCY: Idaho Operations Office, Department of Energy.

ACTION: Notice of designation of Idaho operations office properties and facilities as off-limits areas.

SUMMARY: The Department of Energy (DOE) hereby amends and adds to the previously published site descriptions of various DOE and contractor occupied buildings as Off-Limits Areas. The locations are in Idaho Falls, Idaho, and various DOE vehicle/bus parking lots, which are located in Idaho Falls, Blackfoot, Mackay, Rexburg, Rigby, Highway 20 and Shelley New Sweden Road, and Pocatello. In accordance with 10 CFR Part 860, it is a federal crime under 42 U.S.C. 2278a for unauthorized persons to enter into or upon these Idaho Operations Office properties and facilities. If unauthorized entry into or upon these properties is into an area enclosed by a fence, wall, floor, roof or other such standard barrier, conviction for such unauthorized entry may result in a fine of not more than $100,000 or imprisonment for not more than one year or both. If unauthorized entry into or upon the properties is into an area not enclosed by a fence, wall, floor, roof, or other such standard barrier, conviction for such unauthorized entry may result in a fine of not more than $5,000.

EFFECTIVE DATE: May 10, 2000.

FOR FURTHER INFORMATION CONTACT: Jo Ann Williams, Office of General Counsel, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6975, or M.M. McKnight, Office of Chief Counsel, Idaho Operations Office, 850 Energy Drive Place, Idaho Falls, Idaho 83401, (208) 526–0275.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE), successor agency to the Atomic Energy Commission (AEC), is authorized, pursuant to § 229 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2278a), and § 104 of the Energy Reorganization Act of 1974 (42 U.S.C. 5814), as implemented by 10 CFR Part 860, published in the **Federal Register** on September 14, 1993 (58 FR 47984–47985), and § 301 of the Department of Energy Organization Act (42 U.S.C. 7151), to prohibit unauthorized entry and the unauthorized introduction of weapons or dangerous materials into or upon any DOE facility, installation or real property. By notices dated August 5, 1988, (53 FR 29512), January 23, 1987 (52 FR 2580), and November 1, 1983 (48 FR 50390), DOE prohibited unauthorized entry into or upon the Idaho National Engineering Laboratory (now the Idaho National Engineering and Environmental Laboratory, or INEEL), and various DOE and contractor occupied facilities, including the Willow Creek Building and the DOE Headquarters Building. This notice includes DOE Vehicles and Bus Parking Facilities located in Idaho Falls, Arco, on Highway 20, Bonneville County,

Blackfoot, Mackay, Shelley, Rexburg, Rigby, and Pocatello, Idaho.

Since the last published notice on August 5, 1988, DOE has leased new facilities, and terminated its use of other facilities. For example, DOE–ID now occupies two buildings for its Idaho Operations Office Headquarters, known as ID North and ID South. In addition to other facilities listed below, DOE–ID's management and operating contractor currently occupies a relatively new building, the Energy Research Office Building, which heretofore has not been designated an Off-Limits Area.

The property descriptions and names of some facilities and property holdings have also changed, or contained errors when originally published. Today's notice reflects these additions, corrections, and modifications. Accordingly, the DOE prohibits the unauthorized entry and the unauthorized introduction of weapons or dangerous materials, as provided in §§ 860.3 and 860.4 into and upon these Idaho Operations Office sites. The sites referred to above have previously been designated as Off-Limits Areas, and this notice modifies or adds to those Off-Limits Areas. Descriptions of the sites being designated (or redesignated) at this time are as follows:

1. Technical Support Annex

1580 Sawtelle Street, Idaho Falls (EG&G Office TSA): Lot 2, Block 3, Hatch Grandview Subdivision, Division No. 3, to the City of Idaho Falls, County of Bonneville, State of Idaho, according to the recorded plat thereof.

2. Technical Support Building

1520 Sawtelle Street, Idaho Falls (EG&G Office TSB): Lot 1, Block 3, Hatch Grandview Subdivision, Division No. 3, to the City of Idaho Falls, County of Bonneville, State of Idaho, according to the recorded plat thereof.

3. Energy Research Office Building

2525 Fremont Avenue, Idaho Falls (Parking Lot and Office Building): Lots 5 & 7, Block 1, Boyer Addition, Division No. 1 First Amended, to the City of Idaho Falls, County of Bonneville, State of Idaho, according to the recorded plat thereof.

4. ID—North Building

1 Energy Drive, Idaho Falls: [Actual property address is 850 ENERGY DRIVE (Energy Inc.)]: Lot 1, Block 1, Energy Plaza, an addition to the City of Idaho Falls, County of Bonneville, State of Idaho, according to the recorded plat thereof. If the Parking Lot directly across the street to the South from Energy Inc. is also being used, the legal description for that property is: Lot 1, Block 2, Energy Plaza, an addition to the City of Idaho Falls, County of Bonneville, State of Idaho, according to the recorded plat thereof.

5. ID—South Building

785 Doe Place, Idaho Falls [Actual property address is 708 DOE Place (DOE Office)]; Lot 1 Block 1, D.O.E. Addition to the City of Idaho Falls, County of Bonneville, State of Idaho according to the recorded plat thereof.

6. May Street North Building

369 May Street, Idaho Falls (Litco Therman Science): Lots 41 & 42, Block 12, Capitol Hill Addition, to the City of Idaho Falls, County of Bonneville, State of Idaho, according to the recorded plat thereof.

7. May Street South Building

410 May Street, Idaho Falls (DOE): Lots 19, 20, 21 & 22, Capitol Hill Addition, to the City of Idaho Falls, County of Bonneville, State of Idaho, according to the recorded plat thereof.

8. Willow Creek Building

1955 Fremont Avenue Idaho Falls (Willow Creek Building): Lot 1, Block 1, Keefer Office Park Addition, to the City of Idaho Falls, County of Bonneville, State of Idaho, according to the recorded plat thereof.

9. University Place

1776 Science Center Drive, Idaho Falls (University Place): Government Lots 11 and 12, Section 12, Township 2 North, Range 37, East of the Boise Meridian, Bonneville County, Idaho, EXCEPTING THEREFROM: Beginning at a point on the East bank of the Snake River which bears S.31 degrees 12′43″ W. 771.32 feet from the Center of Section 12, Township 2 North, Range 37 East of the Boise Meridian; running thence S.89 degrees 52′ 00″ E. 101.59 feet; thence N.10 degrees 01′ 12″ W. 48.69 feet; thence N.19 degrees 09′04″ W. 34.02 feet; thence N.24 degrees 18′ 12″ E 72.29 feet; thence N.05 degrees 43′ 14″ W. 50.38 feet; thence N.03 degrees 30′22″ E. 77.80 feet; thence S.86 degrees 35′ 11″ E. 28.53 feet; thence N.03 degrees 34′ 41″ E. 113.18 feet; thence N.03 degrees 41′ 10″ W. 111.80 feet; thence N.07 degrees 17′ 24″ W. 126.51 feet; thence N.05 degrees 14′36″ W. 169.74 feet; thence N.11 degrees 21′28″ E. 74.42 feet; thence N.01 degrees 38′49″ W. 118.68 feet; thence N.00 degrees 23′55″ E. 131.89 feet; thence N.34 degrees 04′37″ E 66.30 feet; thence N.06 degrees 03′04″ E. 116.72; thence N.15 degrees 30′06″ W. 47.58 feet; thence N.62 degrees 58′40″ W. 107.67 feet to a point on the East bank of the Snake River; thence the following 14 courses along said East bank: (1) S.25 degrees 12′33″ W. 31.66 feet; (2) S. 15 degrees 30′06″ E. 77.32 feet; (3) S.06 degrees 03′04″ W. 72.73 feet; (4) S.34 degrees 04′37″ W. 71.61 feet; (5) S.00 degrees 23′55″ W. 163.94 feet; (6) S.01 degrees 38′49″ E 109.07 feet; (7) S.11 degrees 21′28″ W. 77.61 feet; (8) S.05 degrees 14′36″ E. 186.12 feet; (9) S.07 degrees 17′24″ E 125.15 feet; (10) S.03 degrees 41′10″ E. 102.31 feet; (11) S.03 degrees 34′41″ W. 162.50 feet; (12) S.24 degrees 18′12″ W. 151.21 feet; (13) S.19 degrees 09′04″ E. 65.88 feet; & (14) S.10 degrees 01′12″ E. 22.80 feet to the Point of Beginning.

10. North Holmes Complex

1570 N. Holmes Avenue, Idaho Falls [Actual property address is 1445 Northgate Mile], Lot 2, Block 1, Fred Meyer-Country Club Mall Subdivision to the City of Idaho Falls, County of Bonneville, State of Idaho, according to the recorded plat thereof.

11. Idaho Falls Bus Lot & Dispatch Building

1345 Chaffin Lane, Idaho Falls [Actual property address is 1345 N. Woodruff Avenue (INEL Bus Station)]: The South 160.41 feet of Lot 8, and all of Lots 9 through 13, Block 1, Chaffin Addition, Division No. 2, to the City of Idaho Falls, County of Bonneville, State of Idaho, according to the recorded plat thereof.

12. North Holmes Laboratory

1405 Northgate Mile, Idaho Falls (EG&G Lab): Beginning at a point that is S.0 degrees 25′00″ W. along the section line 1024.1 feet and S.89 degrees 53′00″ E. 33.72 feet from the Northwest corner of Section 17, Township 2 North, Range 38, East of the Boise Meridian, Bonneville County, Idaho, and being on the East right-of-way line of Lewisville Highway, 40.0 feet from the centerline of said highway; thence S.89 degrees 53′00″ E. 471.0 feet; thence N.0 degrees 13′30″ E. 186.50 feet; thence N.89 degrees 53′00″ W. 471.0 feet to the East right-of-way line of Lewisville Highway; thence S.0 degrees 13′30″ W. 186.50 feet to the Point of Beginning. AND ALSO: Beginning at a point on the East line of Holmes Avenue that is S.0 degrees 25′00″ W. 837.64 feet along the City monumented section line and S.89 degrees 53′00″ E. 33.08 feet from the Northwest corner of Section 17, Township 2 North, Range 38, East of the Boise Meridian, Bonneville County, Idaho, said point of beginning being the Northwest corner of the property described by Instrument No. 739201, as

recorded in the Bonneville County Recorder's Office, and running thence S.89 degrees 53'00" E. 471.0 feet to the Northeast corner of said property; thence N.0 degrees 13'30" E. 1.13 feet; thence N.89 degrees 22'42" W. 260.76 feet; thence S.89 degrees 10'55" W. 210.29 feet to the Point of Beginning.

13. North Yellowstone Laboratory

1988 N. Yellowstone, Idaho Falls [Actual property address is 1980 N. Yellowstone Hwy (EG&G Office)]: Lot 1, Block 1, O'Dell Plaza, Division No. 1, to the City of Idaho Falls, County of Bonneville, State of Idaho, according to the recorded plat thereof.

14. Woodruff Avenue Warehouse

1965 N. Woodruff Avenue, Idaho Falls [Actual property address is 2010 N. Woodruff Avenue (Marshall's Tile & Supply)]: Lot 7, Block 4, Hodson Addition, First Amended, to the County of Bonneville, State of Idaho, according to the recorded plat thereof.

15. Idaho Innovation Center/Bonneville County Technology Center

2300 N. Yellowstone Highway, Idaho Falls (Bonneville County Parcels): Beginning at a point on the Southerly right-of-way line of U.S. Highway No. 191 that is S.0 degrees 16'17" W. 661.51 feet along the section line and N.89 degrees 43'43" W. 541.92 feet from the East Quarter Corner of Section 8, Township 2 North, Range 38, East of the Boise Meridian, Bonneville County, Idaho, said point of beginning being a point on a curve with a radius of 11399.20 and a tangent that bears S.55 degrees 07'29" W.; thence to the left along said curve 278.44 feet through a central angle of 2 degrees 13'44"; thence S.45 degrees 43'51" E. 190.28 feet; thence S.33 degrees 51'01" E. 65.69 feet to a point of curve with a radius of 89.98 feet; thence to the left along said curve 100.39 feet through a central angle of 63 degrees 55'20"; thence N. 61 degrees 35'32" E. 136.25 feet parallel with and 1.6 feet perpendicular from an existing building wall; thence N. 35 degrees 59'23" E. 56.44 feet; thence N.33 degrees 17'20" W. 336.50 feet to the Point of Beginning. AND ALSO: Beginning at a point on the Southerly right-of-way line of U.S. Highway No. 191, that is S.0 degrees 16'17" W. 567.49 feet along the section line and N.89 degrees 43'43" W. 406.29 feet from the East Quarter Corner of Section 8, Township 2 North, Range 38, East of the Boise Meridian, Bonneville County, Idaho, said point of beginning being a point on a curve with a radius of 11399.20 feet and a tangent that bears S.53 degrees 43'31" W.; thence to the left along said curve 165.04 feet through a central angle of 0 degrees 49'46"; thence S.33 degrees 17'20" E. 336.50 feet; thence N.35 degrees 59'23" E. 158.93 feet; thence N.1 degrees 55'02" W. 31.41 feet to the Southeast corner of an existing building; thence N.33 degrees 17'20" W. 256.82 feet along the East wall of said building extended, to the Point of Beginning.

16. Lincoln Road Storage

910 Lincoln Road, Idaho Falls (Schwendiman Wholesale): Beginning a point that is N.89 degrees 55'00" E. 196.2 feet from the Northwest corner of the Northeast Quarter of Section 17, Township 2 North, Range 38, East of the Boise Meridian, Bonneville County Idaho; and running thence N.89 degrees 55'00" E along the section line, 100.0 feet; thence South 536.05 feet to the North line of Bel-Aire Addition to the City of Idaho Falls; thence Westerly along the North line of said addition 100.02 feet; thence North 536.9 feet to the North line of said Section 17 to the Point of Beginning. LESS the South 47 feet thereof. AND ALSO LESS: Beginning at a point that is N.89 degrees 55'00" E 196.2 feet from the Northwest corner of the Northeast Quarter of said Section 17; thence South 28.48 feet; thence S.89 degrees 22'06" E. 100.01 feet; thence North 29.73 feet to the North line of Section 17; thence S.89 degrees 55'00" W. 100.0 feet to the Point of Beginning. AND ALSO LESS that certain property conveyed to the City of Idaho Falls by Right-of-Way Deed recorded as Instrument No. 707336, Deed Records of Bonneville County, Idaho.

17. North Boulevard Annex

2095 N. Boulevard, Idaho Falls [Actual property address is 2251 N. Boulevard (USA)]: Lot 1, Block 1, Marshall Research Park, Division No. 1, to the City of Idaho Falls, County of Bonneville, State of Idaho, according to the recorded plat thereof. AND ALSO, Lots 2 & 3, Marshall Research Park, Division No. 2, to the City of Idaho Falls, County of Bonneville, State of Idaho, according to the recorded plat thereof.

18. Parking Lot Located at US 20 and Shelley New Sweden Road

A parcel of land situated in the NW¼ NW¼, Section 21, Township 2 North, Range 37 East, Boise Meridian, Bonneville County, Idaho, more particularly described as follows: Commencing at the northwest corner of said northwest quarter of the northwest quarter (section corner, CP&F Instrument No. 944377); thence south 88 degrees 30'49" east (of record as EAST), 40.78 feet, along the north boundary of said NW¼ NW¼ and along the southerly right of way of US Hwy-20, to the Point of Beginning; thence continuing south 88 degrees 30'49" east, a distance of 299.80 feet, along said north boundary and said right of way of US Hwy-20; thence south 84 degrees 39'51" east, a distance of 193.06 ft., along said right of way; thence 58.76 feet along the arc of a 25.00 foot radius curve right, said curve having a chord bearing south 17 degrees 19'56" east, and a distance of 46.14 feet; thence south 50 degrees 00'00" west, a distance of 304.50 feet; thence a distance of 351.58 feet along the arc of a 987.11 foot radius curve left, said curve having a chord bearing south 39 degrees 47'47" west, a distance of 349.73 feet; thence a distance of 79.16 feet along the arc of a 30.00 foot radius curve right, said curve having a chord bearing north 74 degrees 49'06" west, a distance of 58.11 feet; thence north 00 degrees 46'14" east (of record as north 00 degrees 16'51" east), a distance of 519.08 feet, parallel with the centerline of the existing Shelley New Sweden Road, to the Point of Beginning. Contains 3.424 acres, more or less.

19. North Bethesda Office Park/ Rockville, Md

Fee Simple Estate as to Parcel 1:

Being part of Lot 16, Higgins Estate, as shown and recorded in Plat Book 70 at Plat 6551 among the Land Records of Montgomery County, Maryland, and

Beginning for the same at a point of the easterly side of Woodglen Drive (as now dedicated 85 feet wide), said point being the southwest corner of said Lot 16, thence with part of said easterly side

(1) North 03 Degrees 53'27" West 398.72 feet to the beginning point from Investex Management Corporation to Montgomery County, Maryland for the widening of Wall Lane and recorded in Liber 6295 at Folio 309 among said land records, thence with the southerly side of said Wall Lane and the 5th and 4th lines reversed, the two following lines;

(2) North 71 Degrees 00'04" East 12.94 feet, thence;

(3) North 88 Degrees 57'56" East 265.00 feet to intersect the common dividing line of said Lot 16 and Lot 15, Higgins Estate, as shown and recorded in Plat Book 69 at Plat 6530 among said land records, thence leaving Wall Lane and with the common lines of Lots 15 and 16 the two following lines;

(4) South 19 Degrees 32'26" East 153.85 feet, thence;

(5) North 89 Degrees 00'49" East 142.19 feet to the westerly side of Wisconsin Avenue (Rockville Pike) Maryland Route No. 355, thence with

said westerly side the six following lanes;

(6) South 19 Degrees 32'26" East 186.69 feet, thence with an arc of a curve to the left whose radius is 22,978.32 feet an arc distance of 18.40 feet and a chord bearing distance of;

(7) South 19 Degrees 33'48" East 18.40 feet, thence;

(8) South 70 Degrees 22'34" West 22.00 feet, thence;

(9) South 19 Degrees 37'26" East 30.00 feet, thence;

(10) North 70 Degrees 22'34" East 22.00 feet, thence with an arc of a curve to the left whose radius is 22,978.32 feet and arc distance of 28.86 feet and a cord bearing and distance of;

(11) South 19 Degrees 41'52" East 28.86 feet to a point in the southeast corner of said Lot 16, thence leaving said westerly side of Wisconsin Avenue wand with the southerly outline of said Lot 16;

(12) 88 Degrees 19'33" West 532.40 feet to the point of beginning, containing 3.87544 acres.

20. Mackay Bus Lot

Lots 22, 23 and 24, Block 10, City of Mackay, Idaho Original Townsite, according to the official plat thereof on file with the Custer County, Idaho, Recorder.

21. Rigby Bus Lot

Land situated in Jefferson County, described below as: Commencing at a point 2 rods North of the Southeast corner of the Southeast quarter of Section Thirteen (13) in Township 4 North Range 38 East Boise Meridian, and running thence West 500 feet, thence North 200 feet, thence East 470 feet, thence North 200 feet, thence East 30 feet; thence South 400 feet to the place of beginning.

22. Blackfoot Bus Lot

A parcel of land situated in Bingham County, Idaho, being a portion of the SW¼ NW¼ of Section 33, Township 2 South, Range 35 East, Boise Meridian, described as follows, to-wit:

Commencing at the Southwest corner of the SW¼ NW¼ of Section 33, Township 2 South, Range 35 East, Boise Meridian; thence South 89 degrees 19'47" East along the South line of said SW¼ NW¼, a distance of 30.0 feet, more or less, to a point in the Easterly right of way line of existing Groveland Road; thence North 0 degrees 23'07" East (shown of record to be North) along said existing Easterly right of way line 429.75 feet to the Real Point of Beginning; thence East 435.6 feet; thence North 220.0 feet; thence West 435.0 feet, more or less, to a point in said existing Easterly right of way line; thence Southerly along said existing Easterly right of way line 220.0 feet, more or less, to the REAL POINT OF BEGINNING.

The area above described contains approximately 2.20 acres.

23. Pocatello Bus Lot & Office Building

A portion of Section 22, Township 6 South, Range 34 East, Boise Meridian, BANNOCK COUNTY, IDAHO described as follows: The South ½ West ½ West ½ Southeast ¼ Southeast ¼, EXCEPT a parcel of land deeded to State of Idaho by Instrument No. 315116 on April 3, 1956, described as follows: Commencing at South west corner of Southeast ¼ Southeast ¼ of said Section 22; thence North along West line of said Southeast ¼ Southeast ¼ 660.0 feet to the True Point of Beginning; thence South 89 degrees 51' East 330.65 feet to the East line of said South ½ West ½ West ½ Southeast ¼ Southeast ¼; thence South 0 degrees 10' 30" West, 477.4 feet; thence North 38 degrees 31'West 525.9 feet, more or less, to a point in West line of said South ½ West ½ West ½ Southeast ¼ Southeast ¼; thence North 0 degrees 10'30" East 64.5 feet to True Point of Beginning.

24. INEEL Research Center (IRC)—

2351 North Boulevard: Lot 1 Block 1 Marshall Research Park, Lot 2 Block 2 Marshall Research Park, Lot 3 Block 2 Marshall Research Park.

25. INEEL Supercomputing Center (ISC)

1155 Foote Drive: Lot 6 Block 2 Hatch Grandview Division No. 3.

26. INEEL Supercomputing Center (ISC) Parking Lot

1155 Foote Drive: Beginning at the Northeast corner of Lot 1A, Block 2, in Division 4 of the Idaho Falls Airport Industrial Park, City of Idaho Falls, Bonneville County; thence proceeding west along the north property line a distance of approximately 180 feet, thence south in a direction parallel to the west property line until intersection with the south property line is reached, thence east along the south property line to the southeast corner, thence north to the point of beginning, containing approximately .83 acres.

27. Jackson Outreach Office, Jackson, Wyoming (310 E. Pearl Street)

The West 50 feet of Lot 1 of Block 3 of the Van Vleck Plat an Addition to the town of Jackson, Teton County, Wyoming, according to that plat recorded April 24, 1929 as Plat No. 116.

28. Idaho National Engineering and Environmental Laboratory

Commence at a point which is the SW. corner of sec. 31, T. 2N., R. 28E.; Thence N. approximately 11 miles to the NW. corner of sec. 7, T. 3N., R. 28E.; Thence E. approximately 1 mile to the NE. corner sec. 7, T. 3N., R, 28E.; Thence N. approximately one-fourth mile; Thence E. approximately one-fourth mile; Thence N. approximately one-fourth mile; Thence E. approximately one-fourth mile; Thence N. approximately one-fourth mile; Thence E. approximately one-half mile; Thence N. approximately one-fourth mile; to the NW. corner sec. 4, T. 3N., R. 28E.; Thence E. approximately one-half mile; Thence N. approximately one-fourth mile; Thence E. approximately one-half mile; Thence N. approximately one-fourth mile; Thence E. approximately one-fourth mile; Thence N. approximately one-fourth mile; Thence E. approximately one-half mile; Thence N. approximately one-fourth mile; Thence E. approximately one-half mile; Thence N. approximately one-fourth mile; Thence E. approximately one-half mile; Thence N. approximately one-fourth mile; Thence E. approximately one-half mile; Thence N. approximately one-fourth mile; Thence E. approximately one-fourth mile; Thence N. approximately one-fourth mile; Thence E. approximately one-fourth mile; Thence N. approximately one-fourth mile; Thence E. approximately one-fourth mile; Thence N. approximately one-fourth mile; Thence E. approximately one-fourth mile; Thence N. approximately one-half mile; Thence E. approximately one-fourth mile; Thence N. approximately one-half mile; Thence E. approximately one-fourth mile; Thence N. approximately one-half mile; Thence E. approximately one-fourth mile; Thence N. approximately one mile; Thence E. approximately one-fourth mile; Thence N. approximately 1¼ miles; Thence E. approximately one-fourth mile; to the NE. corner sec. 32, T. 5N., R. 29E.; Thence N. approximately 1 mile to NW. corner, sec. 28, T. 5N., R. 29E.; Thence E. approximately one-fourth mile; Thence N. approximately 1 mile; Thence E. approximately 3¾ miles to the NE. corner, sec. 24, T. 5N., R. 29E.; Thence N. approximately 1½ miles; Thence E. approximately 2 miles; Thence N. approximately one-half mile to the NW. corner, sec. 9, T. 5N., R. 30E.; Thence

E. approximately 1 mile to the NE. corner, sec. 9, T. 5N., R. 30E.; Thence N. approximately 7 miles to the NW. corner, sec. 3, T. 6N., R. 30E.; Thence E. approximately 2 miles to the NE. corner, sec. 2, T. 6N., R. 30E.; Thence N. approximately 9 miles to NW. corner, sec. 24, T. 8N., R. 30E.; Thence E. approximately 10½ miles; Thence S. approximately 5 miles; Thence E. approximately one-half mile to the NE. corner, sec. 18, T. 7N., R. 33E.; Thence S. approximately one-half mile; Thence E. approximately 1 mile; Thence S. approximately one-half mile to the SE. corner, sec. 17, T. 7N., R. 33E.; Thence E. approximately 1 mile to the NE. corner, sec. 21, T. 7N., R. 33E.; Thence S. approximately 2 miles to the SW. corner, sec. 28, T. 7N., R. 33E.; Thence W. approximately one-half mile; Thence S. approximately one-half mile; Thence W. approximately one-fourth mile; Thence S. approximately 2½ miles; Thence E. approximately three-fourths mile; Thence S. approximately 1 mile; Thence E. approximately 2 miles; Thence N. approximately 1 mile; Thence E. approximately three-fourths mile; Thence S. approximately one-fourth mile; Thence E. approximately one-fourth mile; Thence SE. parallel to Idaho Highway No. 28 approximately 1¼ miles to the SE. corner of sec. 18, T. 6N., R. 34E.; Thence W. approximately 2 miles; Thence S. approximately 1 mile; Thence E. approximately 1 mile; Thence S. approximately 2 miles; Thence E. approximately 1 mile; Thence S. approximately 1 mile; Thence E. approximately 1¾ mile; Thence S. approximately 9½ mile; Thence W. approximately one-fourth mile; Thence S. approximately 4 mile; Thence W. approximately one-half mile; Thence S. approximately one-fourth mile; Thence W. approximately one-fourth mile to the SW. corner, sec. 16, T. 3N., R. 34E.; Thence S. approximately 1 mile to the SE. corner, sec. 20, T. 3N., R. 34E.; Thence W. approximately one-half mile; Thence S. approximately three-fourths mile; Thence W. approximately 2¾ mile; Thence S. approximately one-eighth mile; Thence in a westerly direction approximately 4¾ miles; parallel to U.S. Highway No. 20 to the point of intersection with the W. boundary line of sec. 31, T. 3N., R. 33E.; Thence S. approximately 7 mile to the SE. corner sec. 36, T. 2N., R. 32E.; Thence W. approximately 8¼ mile; Thence N. approximately one-half mile; Thence W. approximately one-fourth mile; Thence S. approximately one-fourth mile; Thence W. approximately one-fourth mile; Thence S. approximately one-fourth mile; Thence W. approximately 1½ miles; Thence N. approximately one-eighth mile; Thence W. approximately one-fourth mile; Thence S. approximately one-eighth mile; Thence W. approximately 16½ miles to the point of beginning at the SW. corner, sec. 31, T. 2N., R. 28E.

Notices stating the pertinent prohibitions of §§ 860.3 and 860.4 and the penalties of 10 CFR 860.5 are being posted at all entrances of the above-referenced areas and at intervals along their perimeters, as provided in 10 CFR 860.6.

Dated at Washington, DC, this 4th day of May, 2000.

Joseph S. Mahaley,

Director, Office of Security Affairs.

[FR Doc. 00–11727 Filed 5–9–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–261–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 4, 2000.

Take notice that on May 1, 2000, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, with a proposed effective date of June 1, 2000.

Fifth Revised Sheet No. 317

Columbia Gulf states that the purpose of this filing is to set forth in its pro forma service agreement, applicable to Rate Schedule FTS–1, FTS–2, ITS–1, and ITS–2, contained in its Tariff an additional type of permissible discount that would allow Columbia Gulf to accept a production and/or reserve commitment in consideration for the granting of a discount.

Columbia Gulf states that copies of its filing have been mailed to all firm and interruptible customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11618 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–71–000]

City of Detroit, Michigan v. The Detroit Edison Company; Notice of Complaint

May 4, 2000.

Take notice that on May 2, 2000, The City of Detroit, Michigan (Detroit) submitted a Complaint pursuant to Sections 206 and 306 of the Federal Power Act against the Detroit Edison Company (DECo). The Complaint alleges that DECo has improperly applied a penalty charge to certain power delivered by DECo to Detroit on July 27, 1999; that the parties' contract does not and should not provide for a penalty charge in the circumstances at issue.

Copies of the filing were served upon the Respondents and the Michigan Public Service Commission.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules and Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before May 22, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet athttp://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers

to the compliant shall also be due on or before May 22, 2000.

David P. Boergers,

Secretary.

[FR Doc. 00–11634 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–287–049]

El Paso Natural Gas Company; Notice of Proposed Changes In FERC Gas Tariff

May 4, 2000.

Take notice that on May 1, 2000, El Paso Natural Gas Company (El Paso) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective April, 1, 2000:

Twenty-Ninth Revised Sheet No. 30
Twenty-Fourth Revised Sheet No. 31
Sixth Revised Sheet No. 31A

El Paso states that the above tariff sheets are being filed to implement five negotiated rate contracts pursuant to the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines issued January 31, 1996 at Docket Nos. RM95–6–000 and RM96–7–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11614 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–159–005]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 4, 2000.

Take notice that on May 1, 2000, El Paso Natural Gas Company (El Paso) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, with an effective date of May 1, 2000.

Third Revised Sheet No. 117
Fifth Revised Sheet No. 118

El Paso states that the tariff sheets are being filed to implement the settlement approved by the Commission at Docket No. CP98–159–003, *et al.* The tendered tariff sheets are proposed to become effective May 1, 2000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11625 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–262–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 4, 2000.

Take notice that on May 1, 2000, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective March 27, 2000.

Fourth Revised Sheet No. 164
Fourth Revised Sheet No. 165
Second Revised Sheet No. 168A
Seventh Revised Sheet No. 169
First Revised Sheet No. 185

FGT states that on February 9, 2000, the Federal Energy Regulatory Commission (Commission) issued its final rule regarding the regulation of short-term interstate natural gas transportation services in Docket Nos. RM 98–10–000 and RM98–12–000 (Order No. 637). In the instant filing, FGT is filing to implement provisions of Order No. 637 regarding the waiver of the rate ceiling for short-term capacity release transactions and the prospective limitations on the availability of the Right-of-First Refusal ("ROFR").

FGT states that Order No. 637 provides for a waiver of the rate ceiling for short-term (less than one year) capacity release transactions until September 30, 2002 and requires pipelines to file tariff revisions within 180 days of the effective date of the rule, *i.e.*, March 27, 2000, to remove tariff provisions which are inconsistent with the removal of the rate ceiling. Accordingly, FGT is filing revised tariff sheets as required. Unless extended by Commission action the tariff provisions removing the price cap submitted herein shall not be effective after September 30, 2002, and FGT shall file revised tariff sheets as required.

FGT also states that it is filing revised tariff sheets implementing portions of Order No. 637 which provide that the Right-of-Refusal be applicable only to contracts at the maximum tariff rate having a term of twelve consecutive months or longer of service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section s 385.214 or 385.211 of the Commission's

Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11619 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–18–004]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

May 4, 2000.

Take notice that on May 1, 2000, Iroquois Gas Transmission System, L.P. tendered for filing Second Revised Sheet No. 6. Iroquois requests that the Commission approve the tariff sheets effective May 1, 2000.

Iroquois states that the revised tariff sheets reflect a negotiated rate between Iroquois and Duke Energy Trading and Marketing, LLC for transportation under Rate Schedule RTS beginning on May 1, 2000 through November 1, 2000.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies and all parties to the proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11631 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–157–002]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 4, 2000.

Take notice that on April 28, 2000, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Original Sheet No. 901, to be effective May 1, 2000.

Kern River states that the purpose of this filing is to implement a negotiated rate transaction between Kern River and Sempra Energy Trading in accordance with Section 23 of Kern River's tariff and in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Kern River states that a copy of this filing has been served upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11616 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Kern River Gas Transmission Company; Notice of Compliance Filing

[Docket No. RP00–157–003]

May 4. 2000.

Take notice that on April 28, 2000, Kern River Gas Transmission Company (Kern River) tendered the following tariff sheets for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, to be effective February 1, 2000.

Second Substitute Original Sheet No. 143
Second Substitute Original Sheet No. 144
Original Sheet No. 145
Original Sheet No. 146
Sheet Nos. 147–199 (Reserved)

Kern River states that the purpose of this filing is comply with the Commission's April 13, 2000 Order in this proceeding, which directed Kern River to revise certain language related to the bid evaluation and award criteria for negotiated rate bids.

Kern River states that it has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/

rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11617 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–215–000]

National Fuel Gas Supply Corporation; Notice of Application

May 4, 2000

Take notice that on April 25, 2000, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP00–215–000 an application, pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations, seeking permission and approval to abandon facilities within Wharton Storage Field in Potter County, Pennsylvania, all as more fully set forth in the application on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

National Fuel states that the WH–90 well is no longer useful due to poor injection performance and poor deliverability and needs to be reconditioned or plugged due to deterioration of the well casing. National Fuel further states that the well line will serve no purpose once the well is plugged and abandoned. Therefore, National Fuel proposes to abandon the facilities at Wharton Storage Field, in Potter County, Pennsylvania. Finally, National Fuel proposes to plug and abandon Well WH–90 and to abandon the associated well line TRW–90.

Any questions regarding this application should be directed to James R. Peterson, General Counsel of National Fuel, 10 Lafayette Square, Buffalo, New York 14203 at (716) 957–7702.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before May 25, 2000, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 3 85.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission Rules require that the protestors provide copies of their protests to the party or person to whom the protests are directed. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion 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 or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the abandonment is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedures herein provide for, unless otherwise advised, it will be unnecessary for National Fuel to appear or to be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–11626 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER97–1523–040, ER97–4234–036 and OA97–470–038]

New York Independent System Operator, Inc.; Notice of Filing

May 4, 2000.

Take notice that on April 18, 2000, the New York Independent System Operator, Inc. (NYISO) filed with the Federal Energy Regulatory Commission (Commission) a revised Addendum A (Attachment A) to its Market Monitoring Plan, with modifications to conform to the Commission's Order in New York Independent System Operator, Inc., *et al.*, 90 FERC ¶ 61,317 (2000).

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 15, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11624 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–263–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 4, 2000.

Take notice that on May 1, 2000, Northern Natural Gas Company (Northern) tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1 the following tariff sheets proposed to be effective June 1, 2000.

Fourth Revised Sheet No. 267
Fifth Revised Sheet No. 268
Third Revised Sheet No. 269
First Revised Sheet No. 269A
Original Sheet No. 269B

Northern states that the purpose of this filing is to revise the tariff provisions relating to the price to resolve monthly imbalances. Specifically, Northern proposes to replace the Monthly Average Index Price with High, Low and Average Weekly System and Field Index Prices. Northern is proposing a pricing mechanism whereby the imbalance is valued based on an average weekly index price that differs for payable and receivable imbalances.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commission.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C.

20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11620 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–264–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 4, 2000.

Take notice that on May 1, 2000, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to become effective June 1, 2000:

Fifth Revised Sheet No. 1
Sixth Revised Sheet No. 2
49 Revised Sheet No. 53
First Revised Sheet No. 56
Sheet No. 57
Fourth Revised Sheet No. 143
Ninth Revised Sheet No. 144
Third Revised Sheet No. 145
First Revised Sheet No. 158
Original Sheet No. 159
Original Sheet No. 160
Original Sheet No. 161
Original Sheet No. 162
Original Sheet No. 163
Original Sheet No. 164
Sheet No. 165
Fourth Revised Sheet No. 302
First Revised Sheet No. 461
Original Sheet No. 462
Sheet No. 463
Sixth Revised Sheet No. 206
Fifth Revised Sheet No. 220
Second Revised Sheet No. 228
Second Revised Sheet No. 251
Fourth Revised Sheet No. 252
Third Revised Sheet No. 261
Sixth Revised Sheet No. 263A
Sixth Revised Sheet No. 265
Third Revised Sheet No. 266
Second Revised Sheet No. 271
Fifth Revised Sheet No. 288
Second Revised Sheet No. 271
Fifth Revised Sheet No. 288
Third Revised Sheet No. 289
Third Revised Sheet No. 290
Fourth Revised Sheet No. 300

Northern is submitting the attached tariff sheets to implement an optional volumetric firm throughput service under new Rate Schedule VFT. This service will be available to new customers and as a conversion option for Northern's current firm customers under Rate Schedules TF and TFX. The rate for VFT service will be a one-part volumetric rate derived from Northern's current firm rates. For current Northern firm customers, VFT service permits a customer to convert all of its long-term (i.e., one year or more) firm transportation entitlement to a one-part, volumetric rate based on the customer's historical load factor. VFT service is also available to new customers desiring long-term capacity on Northern's system and would be based on the customer's projected load factor.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11621 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–265–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 4, 2000.

Take notice that on May 1, 2000, Northern Gas Company (Northern), tendered for filing in its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective June 1, 2000:

Thirteenth Revised Sheet No. 54
Eleventh Revised Sheet No. 61
Eleventh Revised Sheet No. 62
Eleventh Revised Sheet No. 63
Eleventh Revised Sheet No. 64

Northern states that the revised tariff sheets are being filed in accordance with Section 53 of Northern's General Terms and Conditions, which requires Northern to adjust its fuel Unaccounted for (UAF) gas percentages each June 1.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11622 Filed 5–09–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–278–000]

Northern Natural Gas Company; Notice of Application

May 4, 2000.

Take notice that on May 3, 2000, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP00–278–000 an application pursuant to Sections 7(b) and (c) of the Natural Gas Act for permission and approval to abandon and replace certain pipeline facilities located in Iowa, all as more fully set forth in the application on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/htm (call 202–208–2222 for assistance).

Northern proposes to abandon in place approximately 179 feet of 24-inch pipe on its A-Line in Pottawattamie County, Iowa, replacing it with 6-inch pipe and use the 24-inch pipe as casing for the 6-inch pipe. It is stated that the reason for the replacement is that there is a leak on the highway adjacent to the pipeline. It is asserted that the 6-inch line will have sufficient capacity to meet current maximum contract obligations. It is further asserted that the proposed abandonment and replacement will not result in any loss of service to Northern's existing customers. The cost of the proposed replacement is estimated at $78,000.

Any questions regarding the application should be directed to Keith L. Petersen, Director, Certificates and Reporting, at (402) 398–7200, Northern Natural Gas Company, P.O. Box 3330, Omaha, Nebraska 68103–0330.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, a motion to intervene or a protest in accordance 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 a proceeding or to participate as a party in any hearing therein must file a motion 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 ad the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or to be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–11627 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP91–229–028]

Panhandle Eastern Pipe Line Company; Notice of Compliance Filing

May 4, 2000.

Take notice that on May 1, 2000, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets as listed in Appendix A attached to the filing, to be effective June 1, 2000.

Panhandle states that the purpose of this filing is to comply with Ordering Paragraph (A) of the Commission's Order Accepting Settlement and Authorizing Abandonment (Order) issued on August 28, 1992 in Docket No. RP91–229–000, *et al.*, 60 FERC ¶ 61,212 (1992).

Panhandle states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11613 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT00–30–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

May 4, 2000.

Take notice that on May 1, 2000, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet to be effective June 1, 2000:

Third Revised Sheet No. 3B

Panhandle states that the purpose of this filing, made in accordance with the provisions of Section 154.106 of the Commission's Regulations, is to revise the system map to reflect changes in the pipeline facilities and the points at which service is provided.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11628 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–013]

PG&E Gas Transmission, Northwest Corporation; Notice of Proposed Change in FERC Gas Tariff

May 4, 2000.

Take notice that on May 1, 2000, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following tariff sheets with an effective date of May 1, 2000:

Ninth Revised Sheet No. 7
Original Sheet No. 7.01
Original Sheet No. 7C

PG&E GT–NW states that these sheets are being filed to reflect the implementation of three negotiated rate agreements.

PG&E GT–NW further states that a copy of this filing has been served on PG&E GT–NW's jurisdictional customers, and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11632 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–053]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 4, 2000.

Take notice that on April 28, 2000, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective May 1, 2000.

Second Revised Sheet No. 8C
Fourth Revised Sheet No. 8F

REGT states that the purpose of this filing is to reflect a change to an existing negotiated rate contract and the addition of a new negotiated rate contract.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc. fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11630 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–7–003]

Texas Eastern Transmission Corporation; Notice of Compliance Filing

May 4, 2000.

Take notice that on April 28, 2000, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, the tariff sheets listed in Appendix A to the filing, with a proposed effective date of November 29, 1999.

Texas Eastern states that the filing is submitted pursuant to the Commission's Order on Rehearing and Clarification issued on April 14, 2000 (April 14 Order) in Docket Nos. RP00–7–001 and RP00–7–002, reflecting the removal from the Oakford storage rate base of $2,017,296 in cost of transportation of the working gas volumes to storage.

Texas Eastern states that the revised tariff sheets result in decreasing the Oakford storage cost-of-service reduction to the storage cost credit mechanism to $525,146 monthly. In addition, Texas Eastern states that upon approval of the revised tariff sheets filed herein Texas Eastern would propose to effect refunds with interest as required by the April 14 Order by crediting the calculated refund amount including interest to the next regular bill transmitted to each customer.

Texas Eastern states that copies of the filing were mailed to all affected customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/

rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11633 Filed 5–09–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–266–000]

TransColorado Gas Transmission Company; Notice of Tariff Filing

May 4, 2000.

Take notice that on May 1, 2000, TransColorado Gas Transmission Company (TransColorado) tenders for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fourth Revised Sheet No. 247 and First Revised Sheet No. 247A, to be effective June 1, 2000.

TransColorado states that the tariff sheets sets forth TransColorado's Fuel Gas Reimbursement Percentage (FGRP) calculation. The proposed tariff sheets revise the monthly variance calculations to state that the variance-adjustment component of the FGRP will be calculated on an annual basis instead of monthly.

TransColorado stated that a copy of this filing has been served upon its customers, the New Mexico Public Utilities Commission and the Colorado Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www. ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11623 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–24–004]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

May 4, 2000.

Take notice that on April 28, 2000, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets to comply with the Commission's Order issued on April 3, 2000 in Docket Nos. RP00–24–000, RP00–24–001, and RP00–24–002. The enclosed tariff sheets are proposed to be effective April 1, 2000.

Transco states that the purpose of the instant filing is to comply with the Commission's April 3 order in the referenced dockets to resume use of the cash out mechanism in effect on the Transco system prior to December 1, 1999.

Transco states that it is serving copies of the instant filing to its affected customers, State Commissions and other interested parties.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11615 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–76–000, et al.]

Indeck Capital, Inc. and Black Hills Corporation, et al.; Electric Rate and Corporate Regulation Filings

May 3, 2000.

Take notice that the following filings have been made with the Commission:

1. Indeck Capital, Inc. and Black Hills Corporation

[Docket No. EC00–76–000]

Take notice that on April 27, 2000, Indeck Capital, Inc. (Indeck) and Black Hills Corporation (Black Hills), tendered for filing Supplement No. 1 to Exhibit H of the Joint Application of Indeck Capital, Inc. (Indeck) and Black Hills Corporation (Black Hills) (collectively, Applicants) for Approval of the Transfer of Jurisdictional Assets Under Section 203 of the Federal Power Act and Request for Expedited Consideration (hereinafter, the Section 203 Application and Supplement No. 1, respectively). The Section 203 Application was filed on April 10, 2000, and seeks authorization to merge Indeck into Black Hills Energy Capital, Inc., a subsidiary of Black Hills Corporation. Supplement No. 1 supplements Exhibit H to the Application, which contains privileged and redacted copies of the Agreement and Plan of Merger between Indeck and Black Hills (the Merger Agreement). Supplement No. 1 supplements specific provisions of the Merger Agreement and is provided in both privileged and redacted form.

Comment date: June 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. CinCap VII, LLC

[Docket No. EG00–113–000]

Take notice that on April 26, 2000, CinCap VII, LLC (CinCap VII), with its principal office at 1100 Louisiana Street, Suite 4950, Houston, Texas 77002, filed a modification to its application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations, which was previously filed with the Commission on March 6, 2000.

CinCap VII requests that the reference to "gas storage" activities be deleted from its Application.

Comment date: May 24, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. TXU (No. 5) Pty Ltd

[Docket No. EG00–137–000]

Take notice that on April 27, 2000, TXU (No. 5) Pty Ltd (TXU (No. 5) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935 and Part 365 of the Commission's regulations.

TXU No. 5 is an Australian corporation that is an indirect subsidiary of Texas Utilities Company, a Texas corporation which is an exempt holding company under the Public Utility Holding Company Act of 1935, as amended. TXU No. 5 is contemplating the lease of two electric generating facilities located in South Australia. Torrens Island Power Station A and Torrens Island Power Station B are each located on Torrens Island, South Australia.

Comment date: May 24, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. TXU (No. 5) Pty Ltd

[Docket No. EG00–138–000]

Take notice that on April 27, 2000, TXU (No. 5) Pty Ltd (TXU (No. 5) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935 and Part 365 of the Commission's regulations.

TXU No. 5 is an Australian corporation that is an indirect subsidiary of Texas Utilities Company, a Texas corporation which is an exempt holding company under the Public Utility Holding Company Act of 1935, as amended. TXU No. 5 is contemplating the lease of four electric generating facilities located in South Australia. Dry Creek Power Station is located in the suburbs of Adelaide, South Australia. Mintaro Power Station is located in Mintaro, South Australia. Snuggery Power Station is located near Millicent, South Australia. Port Lincoln Power Station is located near Port Lincoln, South Australia.

Comment date: May 24, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Orion Power Operating Services MidWest, Inc.

[Docket No. EG00–139–000]

Take notice that on April 26, 2000, Orion Power Operating Services MidWest, Inc., with its principal office at 2000 Cliff Mine Road, Suite 200, Pittsburgh, PA 15275, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Comment date: May 24, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Dayton Power and Light Company

[Docket Nos. OA96–64–006, OA97–131–001, OA97–132–001, OA97–133–001, OA97–134–001, OA97–138–001, OA97–142–001 and OA97–274–001]

Take notice that on April 28, 2000, The Dayton Power and Light Company (Dayton) tendered for filing its compliance report in the above-captioned dockets, a compliance report in response to the Commission's order in Allegheny Power Service Co., *et al.*, 90 FERC ¶ 61,224 (2000).

Comment date: June 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Public Service Company

[Docket Nos. OA96–122–005]

Take notice that on April 28, 2000, Maine Public Service Company, submitted a status report in compliance with the Commission's February 29, 2000 order in Allegheny Power Service Co. *et al.*, 90 FERC ¶ 61,224 (2000).

Comment date: June 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Company

[Docket No. OA96–153–006]

Take notice that on April 28, 2000 , Arizona Public Service Company (APS) tendered for filing its compliance in response to the Commission's order in Allegheny Power Service Co., *et al.*, 90 FERC ¶ 61,224 (2000).

A copy of this filing has been served on the Arizona Corporation Commission.

Comment date: June 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Carolina Power & Light Company

[Docket No. OA96–198–004]

Take notice that on May 1, 2000, Carolina Power & Light Company tendered for filing with the Federal Energy Regulatory Commission (Commission), a letter in compliance with the Commission's order in Allegheny Power Service Co., *et al.* 90 FERC ¶ 61,224 (2000).

Comment date: June 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Power & Light Company

[Docket Nos. OA97–190–001 and OA97–409–001]

Take notice that on April 27, 2000, Wisconsin Power & Light Company, Wisconsin Public Service Corporation and Madison Gas & Electric Company submitted a compliance filing pursuant to the Commission's February 29, 2000 order in Allegheny Power Service Co., *et al.*, 90 FERC ¶ 61,224 (2000).

Copies of the filing were served on the persons named on the official service lists in these dockets.

Comment date: June 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Minnesota Power & Light Company

[Docket No. OA97–194–002]

Take notice that on April 25, 2000, Minnesota Power & Light Company filed a letter in compliance to the Commission's order in Allegheny Power Service Company, *et al.*, 90 FERC ¶ 61,224.

Comment date: June 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Northeast Utilities Service Company

[Docket Nos. OA97–300–001, OA97–563–001 and OA97–687–001]

Take notice that on April 28, 2000, Northeast Utilities Service Company (NUSCO) tendered for filing a report in compliance with the Commission's order in Allegheny Power Service Co., *et al.*, 90 FERC ¶ 61,224 (2000).

Comment date: June 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Boston Edison Company

[Docket No. OA97–674–001]

Take notice that on May 1, 2000 Boston Edison Company (BECo) filed a report in compliance with the Commission's February 29, 2000 order in Allegheny Power Service Co., *et al.*, 90 FERC ¶ 61,224. BECo states that all contested issues have been resolved in other proceedings and recommends that the Commission accept its filing and then terminate this docket.

Comment date: June 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Pacific Gas and Electric Company

[Docket Nos. ER99–2326–004 and EL99–68–004]

Take notice that on April 27, 2000, Pacific Gas and Electric Company (PG&E), tendered for filing a wholesale transmission refund report in compliance with an Order of the Federal Energy Regulatory Commission, Docket Nos. ER98–2326–002 and EL99–68-000, dated January 31, 2000.

Copies of this filing have been served upon the California Independent System Operator, California Independent System Operator-registered Scheduling Coordinators, Southern California Edison Company, San Diego Gas and Electric Company, and the California Public Utilities Commission.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Ameren Services Company

[Docket No. ER00–1760–001]

Take notice that on April 27, 2000, Ameren Services Company (ASC), tendered for filing an executed Network Integration Transmission Service Agreement and an executed Network Operating Agreement, between ASC and the City of Farmington. ASC asserts that the purpose of the agreements is to permit ASC to provide service over its transmission and distribution facilities to the City of Farmington pursuant to the Ameren Open Access Tariff. The executed agreements supersede an unexecuted Network Service Agreement and an unexecuted Network Operating Agreement previously filed on March 1, 2000.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. New England Power Company

[Docket No. ER00–2195–000]

Take notice that on April 27, 2000, New England Power Company tendered for filing an amendment to its April 13, 2000, filing in above-referenced proceeding, correcting an error contained in its letter of transmittal.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. NEPA Energy LP

[Docket No. ER00–2316–000]

Take notice that on April 26, 2000, NEPA Energy LP, tendered for filing an Application for Order Accepting Rate Schedule for Power Sales at Market-Based Rates and Granting Waivers and Pre-Approvals of Certain Commission Regulations.

Comment date: May 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Mid-Continent Area Power Pool

[Docket No. ER00–2317–000]

Take notice that on April 26, 2000, Mid-Continent Area Power Pool (MAPP), tendered for filing for leave to implement modifications to its line loading relief procedures pending commission review.

Comment date: May 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Allegheny Energy Service Corporation, on Behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER00–2318–000]

Take notice that on April 27, 2000, Allegheny Energy Service Corporation on Behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 78 to add Cinergy Capital & Trading, Inc., to Allegheny Power's Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96–58–000.

The proposed effective date under the Service Agreements is April 26, 2000 or a date ordered by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. PacifiCorp

[Docket No. ER00–2319–000]

Take notice that on April 27, 2000, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, umbrella Transmission Service Agreements with Duke Energy Trading & Marketing under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11 (Tariff) and termination of a Service Agreement with Illinova Power Marketing, Inc. under the Tariff.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. Allegheny Energy Service Corporation, on Behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER00–2321–000]

Take notice that on April 27, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply), tendered for filing Amendment No. 1 to Supplement No. 22 to the Market Rate Tariff to incorporate a Netting Agreement with Duke Energy Trading and Marketing, L.L.C., into the tariff provisions.

Allegheny Energy Supply requests a waiver of notice requirements to make the Amendment effective as of April 10, 2000 or such other date as ordered by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. PJM Interconnection, L.L.C.

[Docket No. ER00–2322–000]

Take notice that on April 27, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing a signature page to the Reliability Assurance Agreement among Load Serving Entities in the PJM Control Area (RAA) for Metromedia Energy, Inc. (Metromedia), and an amended Schedule 17 listing the parties to the RAA.

PJM states that it served a copy of its filing on all parties to the RAA, including Metromedia, and each of the state electric regulatory commissions within the PJM Control Area.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

23. Tampa Electric Company

[Docket No. ER00–2323–000]

Take notice that on April 27, 2000, Tampa Electric Company (Tampa Electric), tendered for filing a consent agreement among Tampa Electric, the City of Fort Meade, Florida (Fort Meade), and the Florida Municipal Power Agency (FMPA) that provides for conditions upon the assignment by Fort Meade to FMPA of a service agreement under Tampa Electric's wholesale requirements tariff.

Tampa Electric proposes that the consent agreement be made effective on February 1, 2000, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on Fort Meade, FMPA, and the Florida Public Service Commission.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

24. Louisiana Generating LLC

[Docket No. ER00–2324–000]

Take notice that on April 27, 2000, Louisiana Generating LLC tendered for filing under its market-based rate tariff 11 long-term service agreements with 11 Louisiana electric cooperatives. Louisiana Generating LLC also filed three assignment contracts with Southwestern Electric Power Company (SMEPA), South Mississippi Electric Power Association (SWEPCO), and the Municipal Energy Agency of Mississippi (MEAM). The underlying long-term power sales contracts between Louisiana Generating LLC and SMEPA, SWEPCO, and MEAM have been accepted for filing by the Commission in Docket No. ER00–1259–000.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

25. Idaho Power Company

[Docket No. ER00–2329–000]

Take notice that on April 27, 2000, Idaho Power Company (IPC) tendered for filing with the Federal Energy Regulatory Commission Service Agreements for Non-Firm Point-to-Point Transmission Service and Firm Point-to-Point Transmission Service between Idaho Power Company and British Columbia Power Exchange Corporation.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

26. California Power Exchange Corporation

[Docket No. ER99–2229–000]

Take notice that on April 27, 2000, the California Power Exchange Corporation (CalPX), on behalf of its CalPX Trading Services Division (CTS), tendered for filing an index of CTS customers through March 31, 2000. This quarterly filing is required by the Commission's May 26, 1999 order in Docket No. ER99–2229–000, authorizing the establishment of a Block-Forward Market. The CalPX states that it has served copies of its filing on the affected customers and on the California Public Utilities Commission.

Comment date: May 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

27. Delmarva Power and Light Company

[Docket No. ER00–2330–000]

Take notice that on April 27, 2000, Delmarva Power and Light Company (Delmarva), tendered for filing proposed tariff sheets for the PJM Interconnection, LLC's Open Access Transmission Tariff (PJM Tariff) to accommodate the State of Maryland's retail access program. The proposed tariff sheets describe the procedures for determining the peak load contributions and hourly load obligations for Delmarva's retail customers located in the Delmarva zone. This information is used in the determination of capacity, transmission, and hourly energy obligations.

Copies of the filing have been served on all the members of the PJM Interconnection, LLC and the Maryland Public Service Commission.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

28. Illinois Power Company

[Docket No. ER00–2331–000]

Take notice that on April 27, 2000, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which MIECO, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 1, 2000.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

29. Southwestern Public Service Company

[Docket No. ER00–2332–000]

Take notice that on April 27, 2000, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), tendered for filing an executed umbrella service agreement under Southwestern's market-based sales tariff with Western Area Power Administration—Colorado River Storage Project. (WAPA–CRSP). This umbrella service agreement provides for Southwestern's sale and WAPA–CRSP's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

30. Horsehead Industries, Inc.

[Docket No. ER00–2333–000]

Take notice that on April 27, 2000, Horsehead Industries, Inc., on behalf of itself and its unincorporated division Zinc Corporation of America, submitted for filing, pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's regulations, a Petition for authorization to make sales of capacity, energy, and certain Ancillary Services, at market-based rates, and to reassign transmission capacity.

Comment date: May 18, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–11612 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Extending Comment Period of Application for Amendment of License

May 4, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Application Type:* Amendment of License.

b. *Project No.:* 2101–068.

c. *Date Filed:* March 6, 2000 and April 20, 2000.

d. *Applicant:* Sacramento Municipal Utility District (SMUD).

e. *Name of Project:* Upper American River Hydroelectric Project (Camino Development).

f. *Location:* The Camino Development is located on the South Fork American River in El Dorado County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant's Contact:* Lon Maier, 6201 S Street, Sacramento, CA, 95817, (916) 732–6566.

i. *FERC Contact:* Any questions on this notice should be addressed to Doan Pham at (202) 219–2851 or e-mail address *doan.pham@ferc.fed.us.*

j. *Deadline for filing comments, motions to intervene, or protests:* May 31, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Please include the Project Number (2101–068) on any comments, protests, or motions filed.

k. *Description of Amendment:* On April 20, 2000, SMUD filed a revised design plan for a deflection wall at the Camino Powerhouse. The original design plan was filed on March 6, 2000. The revised wall is 41 feet longer, and the connection point to the upstream retaining wall is relocated about 20 feet further upstream. The original comment period is extended by 21 days to give all participating parties additional time to review and comment on the revised design.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–11629 Filed 5–9–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6604–6]

Agency Information Collection Activities: Continuing Collection; Comment Request; Detergent Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Detergent Gasoline (EPA ICR Number 1655.04, OMB Control Number 2060–0275, expiration date: 4–30–00). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 10, 2000.

ADDRESSES: Transportation and Regional Programs Division, Office of Transportation and Air Quality, Office of Air and Radiation, Mail Code 6406J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. A paper or electronic copy of the draft ICR may be obtained without charge by contacting the person listed below.

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, (202) 564–9303, fax:(202) 565–2085, *caldwell.jim@epa.gov.*

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those who (1) manufacture gasoline, post-refinery component, or detergent additives, (2) blend detergent additives into gasoline or post-refinery component, or (3) transport or receive a detergent additive, gasoline, or post-refinery component.

Title: Detergent Gasoline: Certification Requirements for Manufacturers of Detergent Additives; Requirements for Transferors and Transferees of Detergent Additives; Requirements for Blenders of Detergents into Gasoline or Post-refinery Component; Requirements for Manufacturers, Transferors, and Transferees of Gasoline or Post-refinery Component (40 CFR 80—Subpart G), EPA ICR Number 1655.04, OMB Control Number 2060–0275, expiration date: 4–30–00.

Abstract: Gasoline combustion results in the formation of engine deposits that contribute to increased emissions. Detergent additives deter deposit formation. The Clean Air Act requires gasoline to contain a detergent additive. The regulations at 40 CFR 80 subpart G specify certification requirements for manufacturers of detergent additives, recordkeeping or reporting requirements for blenders of detergents into gasoline or post-refinery component (any gasoline blending stock or any oxygenate which is blended with gasoline subsequent to the gasoline refining process), and reporting or recordkeeping requirements for manufacturers, transferors, or transferees of detergents, gasoline, or post-refinery component (PRC). These requirements ensure that (1) a detergent is effective before it is certified by EPA, (2) a certified detergent, at the minimum concentration necessary to be effective (known as the lowest additive concentration (LAC), is blended into gasoline, and (3) only gasoline which

contains a certified detergent at its LAC is delivered to the consumer. The EPA maintains a list of certified gasoline detergents, which is publicly available. As of March 2000 there were approximately 225 certified detergents and 16 detergent manufacturers.

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 at 40 CFR Part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement: EPA estimates that the average burden for detergent certification is 60 hours and $3869, and that there will be approximately 50 applications for detergent certification each year for the next three years. Thus, the annual burden is estimated at 3000 hours and $193,450.

Most of the burden is incurred by the blenders of detergent into gasoline or PRC. The regulations require that they generate and maintain records of the amount of detergent blended and the amount of gasoline into which it is blended. These records are known as volumetric additive reconciliation (VAR) records and must demonstrate that the proper amount of a certified detergent has been used. For blenders with automated equipment, the annual burden is estimated at 150 hours and $8,373. There are approximately 1300 blenders which use automated equipment. Thus the annual burden is 195,000 hours and $10.9 million. For blenders with non-automated equipment, the annual burden is estimated at 500 hours and $27,910. It is estimated that there are 50 blenders in this category, for an annual burden of 25,000 hours and $1,395,500.

The other requirements are customary business practices, and thus do not incur additional burden. For example, the regulations require the generation, transfer, and storage of product transfer documents (PTDs) indicating the detergent status of a shipment of gasoline. PTDs containing a variety of information about the gasoline shipment are a standard business practice. Research, racing, and aviation gasolines are exempt.

There are no capital or start-up costs beyond those incurred by industry at the program's inception in 1995. There are no operating and maintenance costs beyond copying and postage. The total annual estimated burden for industry is 223,000 hours and $12.5 million. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: May 3, 2000.

Merrylin Zaw-Mon,

Director, Transportation and Regional Programs Division.

[FR Doc. 00–11675 Filed 5–9–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34203B; FRL–6559–2]

Chlorpyrifos, Revised Pesticide Risk Assessment; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will hold a public meeting to present the revised risk assessments for one organophosphate pesticide, chlorpyrifos, to interested stakeholders. This public meeting, called a "Technical Briefing," will provide an opportunity for stakeholders to learn about the data, information, and methodologies that the Agency used in revising its risk assessments for chlorpyrifos. In addition, representatives of the Department of Agriculture (USDA) will also provide ideas on possible risk management for chlorpyrifos.

DATES: The technical briefing will be held on Thursday, June 8, 2000, from 1 p.m. to 4 p.m.

ADDRESSES: The technical briefing will be held at the Holiday Inn Capitol at the Smithsonian, 550 C St., SW., Washington, DC 20024, (202) 479–4000.

FOR FURTHER INFORMATION CONTACT: By mail: Karen Angulo, Special Review and Registration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. The Agency believes that a wide range of stakeholders will be interested in technical briefings on organophosphate pesticides, including environmental, human health, and agricultural advocates, the chemical industry, pesticide users, and members of the public interested in the use of pesticides on food. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about organophosphate pesticides, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/.

2. *In person.* The Agency has established an official record under docket control number OPP–34203B.

The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

This document announces the Agency's intention to hold a technical briefing for the organophosphate pesticide, chlorpyrifos. The Agency is presenting the revised risk assessments for chlorpyrifos to interested stakeholders. This technical briefing is designed to provide stakeholders with an opportunity to become even more informed about an organophosphate's risk assessment. EPA will describe in detail the revised risk assessments: Including the major points (e.g., contributors to risk estimates); how public comment on the preliminary risk assessment affected the revised risk assessment; and the pesticide use information/data that was used in developing the revised risk assessment. Stakeholders will have an opportunity to ask clarifying questions. In addition, representatives of the USDA will provide ideas on possible risk management.

The technical briefing is part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998 as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate pesticide risk assessment and risk management decisions. EPA and USDA began implementing this pilot process in August 1998 in response to Vice President Gore's directive to increase transparency and opportunities for stakeholder consultation.

The Agency will issue a **Federal Register** notice to provide an opportunity for public viewing of the chlorpyrifos revised risk assessments and related documents in the Public Information and Records Integrity Branch and on the OPP Internet web site that are described in Unit I.B.1, and to provide an opportunity for a 60-day public participation period during which the public may submit risk management and mitigation ideas, and recommendations and proposals for transition.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: May 8, 2000.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 00–11839 Filed 5–8–00; 2:48 pm]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30464A; FRL–6553–8]

Chlorfenapyr; Withdrawal of an Application To Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: American Cyanamid Company has withdrawn its application to register chlorfenapyr (4-bromo-2-(4-chlorophenyl)-1-(ethoxymethyl)-5-(trifluoromethyl)-1H-pyrrole-3-carbonitrile) pesticide products for use on cotton (EPA File Symbols 241–GAT and 241–GAI).

FOR FURTHER INFORMATION CONTACT: Ann Sibold, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–305–6502; fax number: 703–305–6596; e-mail address: sibold.ann@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Does This Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34162. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public

version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is 703–305–5805.

C. What Action Is the Agency Taking?

EPA is announcing that American Cyanamid Company, P.O. Box 400, Princeton, NJ 08543–0400 has withdrawn its application to register a pesticide containing chlorfenapyr for use on cotton as provided for in section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended by the Food Quality Protection Act of 1996 (FQPA). Chlorfenapyr is an active ingredient not included in any previously registered pesticide product. Chlorfenapyr has been proposed for many uses on several pests. This withdrawal notice is applicable to the products PIRATE and ALERT for use on cotton.

EPA issued a notice in the **Federal Register** of December 2, 1998 (63 FR 66534) (FRL–6046–6), which announced American Cyanamid's submission of an application to register a pesticide product (EPA File Symbols 241–GAT and 241–GAI) containing an active ingredient, 4-bromo-2-(4-chlorophenyl)-1-(ethoxymethyl)-5-(trifluoromethyl)-1-pyrrole-3-carbonitrile (chlorfenapyr), not included in any previously registered pesticide product. The application was for an insecticide/miticide for use on cotton.

On January 20, 1999 (64 FR 3091) (FRL–6489–2), EPA published in the **Federal Register** a Notice of Availability of Risk/Benefit Assessments. These assessments were made available for public comment in the docket and at http://www.epa.gov/opprd001/chlorfenapyr/toc.htm. The Agency received approximately 400 public comments in the docket in response to the notice.

In addition, the Office of Pesticide Programs submitted EPA's and American Cyanamid's risk assessments to peer review by the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA") Scientific Advisory Panel ("SAP"). The SAP met twice to review the assessments. The SAP reports are available at:

http://www.epa.gov/oscpmont/sap/1999/july/finlrpt3.pdf

http://www.epa.gov/oscpmont/sap/1999/september/finalrpt.pdf.

The Agency also had extensive discussions with the United States Fish and Wildlife Service (FWS). The comments received by the FWS were taken into consideration in EPA's registration assessment.

On March 13, 2000, Susan H. Wayland, Acting Assistant Administrator for the Office of Prevention, Pesticides and Toxic Substances, signed a decision memorandum for the denial of chlorfenapyr use on cotton. Copies of the decision memorandum are available in the docket. American Cyanamid has since decided to withdraw its application for registration.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 2, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

FR Doc. 00–11677 Filed 5–9–00; 8:45 am

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30495; FRL–6556–6]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30495, must be received on or before June 9, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30495 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Driss Benmhend, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), 19th Floor, CM #2, 1921 Jefferson Highway, Arlington, VA 22202 (703) 308–9525; e-mail: benmhend.driss@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–30495. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any

information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30495 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "opp-docket@epa.gov," or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30495. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want To Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the registration activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received the following application to register a pesticide product containing an active ingredient not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of the application does not imply a decision by the Agency on the application.

A Product Containing an Active Ingredient Not Included in Any Previously Registered Products

72499–R. Applicant: Foliar Nutrient, Inc., c/o Landis International, Inc., P.O. Box 5126, Valdosta, GA 31603–5126. Product name: LEEX–A–PHOS FUNGICIDE. New Active Ingredient: Dipotassium phosphate. The product also contains the already registered active ingredient Dipotassium Phosphonate. Proposed classification: None. To use for the control of certain diseases in woody ornamentals, turfgrasses and non-bearing fruit and nut tree crops.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: May 2, 2000.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 00–11676 Filed 5–9–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00644; FRL–6495–3]

Pesticides; Draft Guidance for Pesticide Registants on Labeling Insect Repellents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Agency is seeking comments on the draft Pesticide Registration (PR) Notice regarding insect repellents labeling restrictions for use on infants and children as well as restrictions on food fragrances and food colors. EPA is concerned that packaging and labeling specifically targeted to children may encourage inappropriate handling and use of such products by children notwithstanding the lower profile presence of label language prohibiting handling or use by children.

DATES: Comments. identified by docket control number OPP–00644, must be received on or before July 10, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00644 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Robyn Rose, Environmental Protection Agency (7511C), 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9581; fax number: (703) 308–7026; e-mail address: rose.robyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who manufacture and/or register products that repel insects from humans, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document or Other Documents?

1. *Electronically.* You may obtain electronic copies of this document and the draft PR Notice from the Office of Pesticide Programs' Home Page at http://www.epa.gov/pesticides. You can also go directly to the listings from the EPA Internet Home Page at http://www.epa.gov. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr.

2. *Fax on Demand.* You may request a faxed copy of the draft Pesticide Registration (PR) Notice entitled "Insect Repellents: Labeling Restrictions for Use on Infants and Children and Restrictions on Food Fragrances and Colors," by using a faxphone to call (202) 401–0527 and selecting item 6123. You may also follow the automated menu.

3. *In person.* The Agency has established an official record for this action under docket control number OPP–00644. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00644 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "opp-docket@epa.gov," or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6, Suite 8, or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00644. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information That I Want To Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Guidance Does This Draft PR Notice Provide?

The draft PR Notice referred to in this notice states EPA's current position on insect repellent claims targeted for use specifically on infants and children. Such products have typically borne statements such as, "Outdoor Protection for Kids" or "* * * for children" or "* * * for kids" or graphics featuring pictures of children. EPA believes that all claims as well as pictures of food or items predominantly associated with infants and children (*e.g.*, toys) may be misleading and the Agency does not intend to approve such claims in future registration applications. Additionally, this draft PR Notice states EPA's current position on insect repellents formulated to contain colors and fragrances predominantly associated with food (*e.g.*, grape, watermelon, or orange). This draft PR Notice outlines the procedure and time frame for registrants of currently registered insect repellents with claims targeted for use specifically on infants and children or containing

food colors or fragrances to make appropriate changes to product labels. EPA believes that the label changes and policy clarification set forth in this draft PR Notice will reduce risks associated with the use of currently registered products and will improve consumer understanding.

B. What Questions/Issues Should You Consider?

Would any combination of allowing child friendly graphics, food fragrances, or food colors increase the potential for children to want to ingest the product? What combinations should or should not be allowed?

1. *Labeling targeted for kids/children.* (a) Should it be acceptable to label pesticides for use on kids or any specific subset of the population?

(b) Do repellents labeled specifically for use on kids or children lead consumers to believe these products were specifically formulated for kids, safer for kids, or less effective for adults?

(c) Should pictures of toys and objects generally associated with children be allowed on insect repellent labels? Do these graphics lead the consumer to believe these products are formulated to be safer or specifically for children?

(d) Should pictures of children without the rest of the family (including adults) be allowed on a label?

(e) Would graphics including an entire family on insect repellent labels and statements such as "For the entire family" help clarify who can use the product?

2. *Products formulated with food fragrances.* (a) Are food fragrances (*e.g.*, grape, cherry, melon) in insect repellents potentially enticing children to ingest the product?

(b) Should the Agency allow any food fragrances in insect repellents applied to human skin?

(1) Should common household scents (e.g., lemon, citrus, coconut) be acceptable?

(2) Should non-food fragrances such as floral fragrances be acceptable?

(c) Could graphic depictions of food items entice children to eat the product? Should such graphics be allowed on an insect repellent label?

(d) What fragrances, if any, should be acceptable in insect repellents applied to human skin?

3. *Products formulated with food colors.* (a) Should insect repellents applied to human skin be allowed to contain colors? If so, what colors should be allowed?

(b) If colors are allowed, should it be allowed to refer to them by the color rather than the food (*e.g.*, purple rather than grape, blue rather than blueberry)?

(c) Will repellents formulated with food colors entice children to eat them?

(d) Some manufacturers believe that areas of exposed skin will be missed when applying insect repellents. Is there a protective benefit to incorporate colors which disappear when applied to the skin?

C. Why Is a PR Notice Guidance and Not a Rule?

The draft PR Notice discussed in this notice is intended to provide guidance to EPA personnel and decision-makers, and to the public. As a guidance document and not a rule, this policy is not binding on either EPA or any outside parties. Although this guidance document provides a starting point for EPA decisions, EPA will depart from this policy where the facts or circumstances warrant. In such cases, EPA will explain why a different course was taken. Similarly, outside parties remain free to assert that this policy is not appropriate for a specific pesticide or that the specific circumstances demonstrate that this policy should be abandoned.

EPA has stated in this notice that it will make available revised guidance after consideration of public comment. Public comment is not being solicited for the purpose of converting this guidance document into a binding rule. EPA will not be codifying this policy in the Code of Federal Regulations. EPA is soliciting public comment so that it can make fully informed decisions regarding the content of this guidance.

The "revised" guidance will not be an unalterable document. Once a "revised" guidance document is issued, EPA will continue to treat it as guidance, not a rule. Accordingly, on a case-by-case basis EPA will decide whether it is appropriate to depart from the guidance or to modify the overall approach in the guidance. In the course of commenting on this guidance document, EPA would welcome comments that specifically address how the guidance document can be structured so that it provides meaningful guidance without imposing binding requirements.

List of Subjects

Environmental protection, Food coloring, Food fragrances, Insect repellents, Labeling, Pesticides and pests.

Dated: April 28, 2000.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 00–11679 Filed 5–9–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00646; FRL–6496–8]

Pesticides; Draft Guidance for Pesticide Registrants on Voluntary Pesticide Resistance Management Labeling Based on Mode/Target Site of Action on the Pest

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA has developed guidance for pesticide registrants on voluntary pesticide resistance management labeling based on mode/target site of action for pesticide products that are intended for general agricultural use. This effort will help reduce the development of pesticide resistance based on mode/target site of action and lead to better environmental protection. These guidelines are the result of a joint effort of the United States, Canada, and Mexico under the North American Free Trade Agreement (NAFTA). The guidance provides consistency in resistance management labeling being considered for approval in any or all of the countries involved in NAFTA. The Agency seeks public comment on a draft Pesticide Registration (PR) notice entitled "Draft Guidance for Pesticide Registrants on Voluntary Pesticide Resistance Management Labeling Based on Mode/Target Site of Action on the Pest." This draft PR notice provides guidance to the registrant concerning schemes of classification of pesticides according to their mode/target site of action, a recommended standard presentation and format for showing group identification symbols on end-use product labels, and labeling resistance management strategies in the use directions.

DATES: Comments, identified by docket control number OPP–00646, must be received on or before July 10, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00646 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Sharlene R. Matten (7511C), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 605–0514; fax number:

(703) 308–7026; e-mail address: matten.sharlene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who are required to register pesticides. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document and the draft PR notice from the Office of Pesticide Programs' Home Page at http://www.epa.gov/pesticides/. You can also go directly to the listings from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *Fax-on-demand.* You may request a faxed copy of the draft PR notice entitled "Draft Guidance for Pesticide Registrants on Voluntary Pesticide Resistance Management Labeling Based on Mode/Target Site of Action on the Pest," by using a faxphone to call (202) 401–0527 and selecting item 6124. You may also follow the automated menu.

3. *In person.* The Agency has established an official record for this action under docket control number OPP–00646. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00646 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "opp-docket@epa.gov," or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6, Suite 8, or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00646. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want To Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Guidance Does This PR Notice Provide?

EPA, Pest Management Regulatory Agency of Canada (PMRA), and Cicoplafest of Mexico are committed to long-term pest resistance management through pesticide resistance management and alternative pest management strategies. Under the auspices of NAFTA, the United States, Canada, and Mexico have joined together to develop and publish guidelines for voluntary pesticide resistance management labeling for implementation in North America. The development of these guidelines is part of the activities of the Risk Reduction Subcommittee of the NAFTA Technical Working Group on Pesticides. A uniform approach across North America will help reduce the development of pesticide resistance and support joint registration decisions by providing

consistency in resistance management labeling being considered for approval in any or all of the NAFTA countries. To implement this NAFTA initiative, the Office of Pesticide Programs (OPP) of EPA has developed a draft PR notice describing the voluntary pesticide resistance management labeling guidelines based on mode/target site of action for agricultural uses of herbicides, fungicides, bactericides, insecticides, and acaricides. Mode/target site of action refers to the biochemical mechanism by which the pesticide acts on the pest and should not be interpreted to imply that these chemicals share a common mechanism for purposes of cumulative human health risk assessment under the Food Quality Protection Act. (See EPA's document "Guidance for Identifying Pesticide Chemicals and Other Substances that Have a Common Mechanism of Toxicity" located at http://www.epa.gov/fedrgstr/EPA-PEST/1999/February/Day-05/6055.pdf).

The draft PR notice describes schemes of classification of pesticides according to their mode/target site of action (Appendices I–III) provides a recommended standard presentation and format for showing group identification symbols on end-use product labels, and provides guidelines for labeling resistance management strategies in the use directions.

B. What Questions/Issues Should You Consider?

The issues you should consider are as follows:

1. Proposed general classification schemes based on mode/target site of action for herbicides, fungicides, and insecticides (Appendices I–III).

2. Classification of pesticides with unknown mode/target site of action.

3. Proposed general resistance management labeling statements.

C. Why is a PR Notice Guidance and Not a Rule?

The draft PR notice discussed in this notice is intended to provide guidance to EPA personnel and decision-makers, and to the public. As a guidance document and not a rule, this policy is not binding on either EPA or any outside parties. Although this guidance document provides a starting point for EPA decisions, EPA will depart from this policy where the facts or circumstances warrant. In such cases, EPA will explain why a different course was taken. Similarly, outside parties remain free to assert that this policy is not appropriate for a specific pesticide or that the specific circumstances demonstrate that this policy should be abandoned.

EPA has stated in this notice that it will make available revised guidance after consideration of public comment. Public comment is not being solicited for the purpose of converting this guidance document into a binding rule. EPA will not be codifying this policy in the Code of Federal Regulations. EPA is soliciting public comment so that it can make fully informed decisions regarding the content of this guidance.

The "revised" guidance will not be an unalterable document. Once a "revised" guidance document is issued, EPA will continue to treat it as guidance, not a rule. Accordingly, on a case-by-case basis EPA will decide whether it is appropriate to depart from the guidance or to modify the overall approach in the guidance. In the course of commenting on this guidance document, EPA would welcome comments that specifically address how the guidance document can be structured so that it provides meaningful guidance without imposing binding requirements.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 18, 2000.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 00–11147 Filed 5–9–00; 8:45 am]

BILLING CODE 6560–50–F

FARM CREDIT ADMINISTRATION

[BM–3–MAY–00–04]

Official Names of Farm Credit System Institutions

AGENCY: Farm Credit Administration.

ACTION: Policy statement.

SUMMARY: The Farm Credit Administration (FCA) Board recently adopted a policy statement amending the FCA's policy on official names of Farm Credit System (FCS or System) institutions. FCA's objective was to ensure that the public can identify a System bank, association, or service corporation as belonging to the FCS and is not misled by the name the institution uses. The new policy expands the methods by which institutions may identify themselves as members of the System and adopts a policy for trade names and names of subsidiaries.

EFFECTIVE DATE: May 3, 2000.

FOR FURTHER INFORMATION CONTACT:

William G. Dunn, Financial Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Beth Salyer, Attorney-Advisor, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: The FCA Board adopted a policy statement amending the FCA's policy on official names of FCS institutions. The policy statement, in its entirety, follows:

Official Names of Farm Credit System Institutions; FCA–PS–78 [BM–03–MAY–00–04]

Effective Date: May 3, 2000.

Effect on Previous Action: Supercedes FCA–PS–63 [NV–96–22] 05/30/96.

Source of Authority: Sections 1.3(b), 2.0(b)(8), 2.10(c), 3.0, 5.17(a)(2)(A), 7.0, 7.6(a), 7.8(a) of the Farm Credit Act of 1971, as amended; 12 CFR part 611.

The Farm Credit Administration (FCA or Agency) Board hereby adopts the following policy statement:

Objective

Our objective is to ensure that the public can identify a Farm Credit System (System) bank, association, or service corporation as belonging to the Farm Credit System and is not misled by the name the institution uses. We also believe that Farm Credit System institutions should have more flexibility in proposing official names for their institutions. Our prior policy required institutions' official names to include either a statutory or regulatory designation, or its corresponding acronym. The new policy expands the methods by which institutions may identify themselves as members of the System and adopts a policy for trade names and names of subsidiaries.

Official Names

The FCA Board will approve an official name for a Farm Credit System bank,[1] association, or service corporation that meets the following two requirements:

- The name includes *appropriate identification* of the institution as a System institution; and
- The name is not *misleading* or inappropriate.

Appropriate identification means the name contains either: (1) The relevant statutory or regulatory designation, or

[1] Farm Credit System bank includes Farm Credit Banks, Banks for Cooperatives, and Agricultural Credit Banks.

its corresponding acronym, or (2) other appropriate identification as a System institution. Relevant statutory and regulatory designations, and their corresponding acronyms, are as follows:

- Agricultural Credit Bank or ACB.
- Bank for Cooperatives or BC.
- Farm Credit Bank or FCB.
- Agricultural Credit Association or ACA.
- Production Credit Association or PCA.
- Federal Land Credit Association or FLCA.
- Federal Land Bank Association or FLBA.

Other *appropriate identification* as a System institution includes the following:

- Farm Credit Services.
- Farm Credit.
- FCS.
- A member of the Farm Credit System.

Misleading names are those that a reasonable person might find confusing. For example, we would not issue a charter to an institution requesting a name that is the same as or similar to that of an existing institution because the public might find this confusing. Merely avoiding identical names is not enough; to minimize confusion, a proposed name must sufficiently distinguish an institution from other institutions. If the Agency had approved a charter for an institution using MyTown, ACA, as its official name, it would not issue a charter for an institution proposing ACA of MyTown or MyTown Farm Credit Services, ACA, as its official name. Nor would we issue a charter with the phrase "farm credit association" as part of the official name, because the inevitable use of the acronym "FCA" would be confused with the name of the Agency. Also, we would not approve a name for an institution that could cause the public to confuse that institution's authorities and services with those of a commercial bank, thrift institution, or credit union. For example, we would not issue a charter to a System institution requesting the term "national bank" in its official name because this could cause confusion regarding the services the institution may offer.

Trade Names

A System institution may use a trade name. The trade name may not be misleading. If an institution uses a trade name, it must use both the official and trade names in all written communications.

Related Issues

If an ACA and its subsidiaries operate under substantially different names, they must clearly identify the parent/subsidiary relationship in all written communications. For example, if MyTown, PCA, is a subsidiary of EveryTown, ACA, the PCA must identify itself as a subsidiary of the parent ACA in its written communications.

Please note that while the FCA cannot reserve names, the Patent and Trademark Office will register names under certain conditions. When applying for a name change or new charter, System institutions should submit a statement indicating whether they have applied for a trademark in that name.

This statement addresses only FCA's policy. Other laws, such as Federal or state trademark laws, may apply. Institutions should ensure that their official and trade names do not infringe the trademarks or service marks of other companies. Institutions may wish to consult legal counsel to determine whether their proposed names could be challenged or protected under state or federal law.

Dated this 3rd day of May, 2000 by order of the Board.

Dated: May 4, 2000.

Nan P. Mitchem,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 00–11686 Filed 5–9–00; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011691–001.

Title: The COSCON/KL/YMUK Mediterranean/U.S. East and Gulf Coast Vessel Sharing Agreement.

Parties:

Cosco Container Lines
Kawasaki Kisen Kaisha, Ltd.
Yangming (U.K.)Ltd.

Synopsis: The proposed modification specifically authorized Cosco to subcharter space it receives from the other two parties to Zim Israel Navigation Company Ltd. The parties request expedited review.

Agreement No.: 011708.

Title: Zim/COSCON Slot Charter Agreement.

Parties:

Zim Israel Navigation Company Ltd.
COSCO Container Lines Co. Ltd.

Synopsis: The proposed Agreement would permit the parties to charter space to one another and enter into related cooperative arrangements in the trade between United States East Coast ports and ports in countries bordering the Mediterranean Sea and inland points via all of the above ports. The parties request expedited review.

By Order of the Federal Maritime Commission.

Dated: May 5, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–11713 Filed 5–9–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

May 2, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 9, 2000. If you anticipate that you will be submitting comments, but find it

difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0368.

Title: Section 97.523, Question Pools.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households.

Number of Respondents: 3.

Estimated Time Per Response: 96 hours.

Frequency of Response: Recordkeeping requirement .

Total Annual Burden: 288 hours.

Total Annual Cost: N/A.

Needs and Uses: The recordkeeping requirement contained in Section 97.523 is necessary to permit question pools used in preparing amateur examinations to be maintained by Volunteer-Examiner Coordinators (VECs). These question pools must be published and made available to the public before the questions are used in an examination. The recordkeeping requirement contained in Section 97.523 is being revised to reflect a change to rule section 97.503(b) which resulted in a reduction in the number of written amateur operator examination elements from five to three as adopted in the Report and Order in WT Docket 98–143.

The information maintained by the VEC's is used to prepare amateur examinations. If this information were not maintained, the amateur examination program would deteriorate and become outdated. These examinations would not adequately measure the qualifications of the applicants.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–11658 Filed 5–9–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

April 28, 2000.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 9, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Implementation of the Satellite Home Viewer Improvement Act of 1999. Enforcement Procedures for Retransmission Consent Violations Conforming to Section 325(e) of the Communications Act of 1934, as amended.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 8.

Estimate Time Per Response: 2 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 192 hours.

Total Annual Costs: $1,296.

Needs and Uses: Congress directed the FCC to adopt regulations that enforce procedures for retransmission consent violations to satellite carriers pursuant to the changes outlined in the Satellite Home Viewer Improvement Act of 1999 (SHVIA). The availability of such information will serve the purpose of informing the public of the method of broadcast signal carriage.

OMB Control Number: 3060–XXXX.

Title: Maritime Mobile Service Identity (MMSI).

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities; Individuals or households.

Number of Respondents: 2,000.

Estimate Time Per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure

Total Annual Burden: 1,000 hours.

Total Annual Costs: None.

Needs and Uses: The information collection is needed to collect, search, and rescue information about each vessel issued a Maritime Mobile Service Identity (MMSI). An MMSI is a unique nine-digit number which functions similar to a "phone number" for contacting a specific vessel. Upon receiving a distress alert containing an MMSI, authorities such as the U.S. Coast Guard may use the MMSI to find out background information about the vessel, *e.g.*, the owner's name, intended route, and other radio equipment on board, and to help determine whether the alert is false. Thus, an accurate MMSI database can help to protect lives and property at sea by reducing the time it takes to locate vessels in distress.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–11659 Filed 5–9–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting Notice

DATE AND TIME: Tuesday, May 16, 2000 at 10:0 a.m.

PLACE: 999 E Street, NW, Washington, DC

STATUS: This meeting will be closed to the Public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, May 18, 2000 at 10:00 a.m.

PLACE: 999 E Street, NW, Washington, DC (Ninth Floor).

STATUS: This Meeting will be open to the Public.

ITEMS TO BE DISCUSSED: Correction and Approval of Minutes.

Draft Advisory Opinion 2000–06—Gerald M. Moan on behalf of the 2000 Convention Committee of the Reform Party U.S.A.

Proposal to initiate a Notice of Proposed Rulemaking on Political Committee Definition (11 C.F.R. 100.5).

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 00–11881 Filed 5–8–00; 3:11 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicant

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

Universal Consolidated Services, Inc., 145–32 157th Street, Suite 228, Jamaica, NY 11434; Officer: Nicholas Kim, Vice President (Qualifying Individual),

Peninsula Cargo, Inc., 11124 Narbel Avenue, Downey, CA 90241; Officers: Modesto M. Pascual, Vice President (Qualifying Individual), Roman Silvestre, President

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Global Freight International, Inc. d/b/a, Interfreight Corporation, P.O. Box 6432, 100 Everett Avenue, Chelsea, MA 02150; Officers: Bernard A. Wilcken, President (Qualifying Individual), Ian C. Wilcken, Secretary

Dated: May 5, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–11714 Filed 5–9–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Reissuance of License;

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by OSRA 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR 515.

License No.	Name/address	Date reissued
3706	Chesapeake Bay Shipping and Warehousing, Inc., 3431 Benson Avenue, Suite E, Baltimore, MD 21227.	May 1, 1999.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 00–11715 Filed 5–9–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 12:00 noon, Monday, May 15, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 5, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–11746 Filed 5–5–00; 4:54 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Public Workshop: Competition Policy in the World of B2B Electronic Marketplaces

AGENCY: Federal Trade Commission.

ACTION: Notice Announcing Workshop.

SUMMARY: The Federal Trade Commission ("FTC" or "Commission") will hold a public workshop on June 29, 2000, to examine issues of competition policy that arise in connection with business-to-business ("B2B") electronic marketplaces.

DATES: The workshop will be held on June 29, 2000, and written presentations may be submitted by that date.

ADDRESSES: The workshop will be held in Room 432 of the Federal Trade Commission Headquarters Building, 600 Pennsylvania Avenue, N.W., Washington, D.C. Any interested person may submit a written presentation that will be considered part of the public record of the workshop. Written presentations should be submitted in both hard copy and electronic form. Six hard copies of each submission should be addressed to Donald S. Clark, Office of the Secretary, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Submissions should be captioned "Comments regarding B2B Electronic Marketplaces." Electronic submissions

may be sent by electronic mail to *b2bmarketplaces@ftc.gov*. Alternatively, electronic submissions may be filed on a 3½ inch computer disk with a label on the disk stating the name of the submitter and the name and version of the word processing program used to create the document.

FOR FURTHER INFORMATION CONTACT: To obtain information about the workshop, please contact Gail Levine, Assistant Director for Policy Planning, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, telephone (202) 326–3193, e-mail *glevine@ftc.gov*.

SUPPLEMENTARY INFORMATION:

Overview

B2B electronic marketplaces are software systems that allow buyers and sellers of similar goods to carry out procurement activities using common, industry-wide computer systems. Recent weeks have brought numerous announcements of plans to develop B2B electronic marketplaces that link competitors with suppliers willing to meet their purchasing needs. One possible model allows firms to place purchase orders using a joint, industry-wide computer system, with competitors potentially able to aggregate their orders.

B2B electronic marketplaces may create significant efficiencies. For example, the marketplaces could reduce transaction costs; generate volume-related scale economies by combining orders from multiple purchasers; improve inventory management; and facilitate bidding by a broad spectrum of potential suppliers. At the same time, the arrangements may raise certain antitrust issues. Forethought in planning may enable B2B electronic marketplaces to achieve their efficiencies without impairing competition.

The FTC plans to convene a workshop on June 29, 2000, that will bring together designers, owners, and operators of B2B electronic marketplaces, and the buyers and sellers who use or wish to use them, in a session designed to accumulate facts about new B2B exchanges and their likely effects on competition. The goal is to enhance understanding of how B2B electronic marketplaces function and the means by which they may generate efficiencies, and to identify any antitrust issues that they raise. A transcript of the discussions will be publicly available. Interested parties are invited to attend or to submit written presentations.

Specific Questions To Be Addressed

The workshop will seek input from designers, owners, and operators of B2B electronic marketplaces; buyers and sellers who use or wish to use them; and antitrust practitioners and others familiar with the competition issues that B2B electronic marketplaces may raise. It will address the following questions, among others:

What Are the Existing and Likely Models for B2B Marketplaces? How Do They Work? What Can They Do?

1. What are the business reasons driving the creation of B2B electronic marketplaces? What new efficiencies can such marketplaces create?

2. What industries have established B2B electronic marketplaces? How are they faring? What characteristics affect the suitability of any given industry for establishing a B2B electronic marketplace? Are B2B electronic marketplaces being established outside the United States?

3. How are prices determined in B2B electronic marketplaces? Through auctions? Other methods? Do methods of determining price vary when products are customized? How are quantities and other competitive terms determined?

4. Who owns such marketplaces—designers, operators, buyers, sellers, and/or others? What are possible ownership structures? What mechanisms are envisioned for their financing? How is membership determined and by whom?

5. How are B2B electronic marketplace rules established? Who establishes the rules? What types of rules are generally necessary? What factors affect which rules are necessary?

6. How and by whom are B2B electronic marketplaces governed and operated? What are alternative models?

7. How are the owners and operators of B2B electronic marketplaces compensated, and for what services are they compensated? Who determines the compensation?

8. What are likely scenarios for how B2B electronic marketplaces will compete with each other? Does it depend on the industry involved? Do buyers or sellers participate in more than one B2B electronic marketplace in a particular industry? Are there situations in which network effects may dictate that a single B2B electronic marketplace dominate a particular industry? Why are some B2B electronic marketplaces consolidating now?

9. In a B2B electronic marketplace, what can participants discover about each other's actions? Who can see transaction or bid prices or quantities? Who receives information about available capacity?

10. Is there advertising in B2B electronic marketplaces? If so, what type of information is conveyed? Who determines what advertising may be placed?

11. Does the design or operation of B2B marketplaces raise issues relating to intellectual property rights?

Buyer Perspectives

1. What business reasons prompt buyers to be interested in purchasing through B2B electronic marketplaces? For example, what savings do buyers anticipate from the use of such marketplaces? How were purchases made before the availability of such marketplaces? Are buyers based outside the United States participating in such marketplaces?

2. What are the sources of the expected savings? Are savings expected to come from reductions in transaction costs? From volume-related scale economies? From inventory reductions? From the ability to do business more readily with distant sellers? From the ability to compare prices more easily? From other sources?

3. What factors affect the desirability of purchasing through a B2B electronic marketplace and the extent of likely electronic marketplace usage? Does it matter whether the product at issue is homogeneous or differentiated?

4. Does it make a difference to buyers who owns or operates the B2B electronic marketplace? If so, why? How do buyers decide in which marketplaces to participate? What factors affect participation decisions?

5. Are there any factors other than price and other competitive terms that will affect buying decisions in B2B electronic marketplaces? For example, how important is a seller's reputation in such a setting?

6. What role do computer programs play in comparing prices or other competitive terms or in authorizing purchases in B2B electronic marketplaces?

7. What information, if any, can buyers receive about each other's purchases? Does complexity of the product affect the answer?

8. What rules do buyers typically want to govern B2B electronic marketplace solicitations? Are there circumstances when buyers wish to limit the number or identity of bidders or otherwise structure auction procedures?

9. Do B2B electronic marketplaces require participants to purchase minimum quantities or minimum

percentages of their needs through the exchange? Are there circumstances when it is likely to make business sense for a buyer to participate solely in one B2B electronic marketplace? What factors are relevant to whether a buyer participates in multiple B2B electronic marketplaces selling similar products?

10. What consequences can be expected to follow from a decision to join, or not to join, a B2B electronic marketplace? Do B2B electronic marketplaces have implications for wholesalers or other middlemen? For long-term contracting?

Seller Perspectives

1. What business reasons prompt sellers to be interested in selling through B2B electronic marketplaces? For example, what savings do sellers expect to gain through such marketplaces? How were sales made before the availability of such marketplaces? Are sellers based outside the United States participating in such marketplaces?

2. What are the sources of the expected savings? Are savings expected to come from reductions in transactions costs? From volume-related scale economies? From inventory reductions? From the ability to do business more readily with distant buyers? From other sources?

3. What factors affect the desirability of transacting business through B2B electronic marketplaces and the extent of likely electronic marketplace usage? Does it matter whether the product at issue is homogeneous or differentiated?

4. Does it make a difference to sellers who owns or operates the B2B electronic marketplace? If so, why? How do sellers decide in which marketplaces to participate? What factors affect participation decisions?

5. Are there any increased costs to sellers of doing business in B2B electronic marketplaces? Are any distribution costs increased? What effects will B2B electronic marketplaces likely have on sellers' profit margins?

6. Do sellers see competitors' prices posted on B2B electronic marketplaces? If so, how do sellers respond? What role do computer programs play?

7. What other information, if any, do B2B electronic marketplaces make available to sellers about competing sellers? For example, can sellers receive information about competitors' available capacity?

8. What rules do sellers typically want to govern B2B electronic marketplace solicitations? Are there circumstances when sellers may wish to limit the number or identity of possible purchasers or otherwise structure auction procedures?

9. Must a minimum level or percentage of sales be made through a B2B electronic marketplace in which a seller participates? Do B2B electronic marketplaces impose any other requirements affecting participants' outside sales?

10. What consequences can be expected to follow from a decision to join, or not to join, a B2B electronic marketplace? Do B2B electronic marketplaces have implications for wholesalers or other middlemen? For long-term contracting?

Public Policy Perspectives

1. What competition issues may be raised by B2B electronic marketplaces? What are likely procompetitive benefits, and what are possible anticompetitive concerns?

2. Under what circumstances are B2B electronic marketplaces likely to increase or diminish competition? What has the experience been so far?

3. How do B2B electronic marketplaces affect entry at the buyer or seller level? How does entry occur in the market for B2B electronic marketplaces?

4. What issues are relevant to structuring and implementing B2B electronic marketplaces so as to both realize efficiencies and avoid competition problems? For example, what mechanisms might be included to prevent inappropriate sharing of competitive, confidential information? Are any of these mechanisms likely to be impractical or undesirable from a business perspective?

5. Does the development of competition within and among B2B electronic marketplaces depend in part on any intellectual property rights relating to the design or operation of such marketplaces?

6. What implications, if any, do B2B electronic marketplaces have for market structure and market concentration?

The Commission welcomes suggestions for other questions that also should be addressed. Proposed questions, identified as such, may be sent by electronic mail to *b2bmarketplaces@ftc.gov*.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–11604 Filed 5–9–00; 8:45 am]

BILLING CODE 6750–01–P

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Notice of Intent To Extend an Information Collection

AGENCY: Harry S. Truman Scholarship Foundation.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Harry S. Truman Scholarship Foundation [Foundation] will publish periodic summaries of proposed projects.

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 the forms of information technology.

DATES: Written comments on this notice must be received by July 10, 2000 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Contact Louis H. Blair, Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, NW, Washington, DC 20006; telephone 202–395–4831; or send e-mail to *lblair@truman.gov*. You also may obtain a copy of the data collection instrument and instructions from Mr. Blair.

SUPPLEMENTARY INFORMATION:

Title of Collection: Truman Scholar Payment Request Form.

OMB Approval Number: 3200–0005.

Expiration Date of Approval: May 31, 1997.

Type of Request: Intent to seek approval to extend an information collection for three years.

Proposed Project: The Foundation has been providing scholarships since 1977 in compliance with PL 93–642. This data collection instrument is used to collect essential information to enable the Truman Scholarship Foundation to determine the amount of financial support to which each Truman Scholar is eligible and then to make the payment. A total response rate of 100% was provided by the 273 Truman

Scholars who received support in FY 1999.

Estimate of Burden: The Foundation estimates that, on average, 0.5 hours per Scholar applying for funds will be required to complete the Payment Request Form, for a total annual burden of 136.5 hours for all applicants.

Respondents: Individuals.

Estimated Number of Responses: 273.

Estimated Total Annual Burden on Respondents: 136.5 hours.

Dated: May 4, 2000.

Louis H . Blair,

Executive Secretary.

[FR Doc. 00–11726 Filed 5–9–00; 8:45 am]

BILLING CODE 6820–AD–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00063]

Interdisciplinary Evaluation of Combination Therapy for Uncomplicated Malaria; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a cooperative agreement program for Interdisciplinary Evaluations of Combination Therapy for Uncomplicated Malaria. CDC is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2010", a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the focus areas of Immunization and Infectious Diseases. The purpose of the program is to evaluate the effectiveness of combination antimalarial therapy at district or multidistrict level in sub-Saharan Africa.

B. Eligible Applicants

Assistance will be provided only to Ifakara Health and Research Development Center (IHRDC), in Ifakara, United Republic of Tanzania. No other applications are solicited.

The United Republic of Tanzania is the only country located in sub-Saharan Africa where large portions of the country are located in areas of active, and intense, transmission of the parasite Plasmodium falciparum. They represent one of only a few countries where drug policy reform is underway because of antimalarial drug resistance and is actively engaged in developing and testing strategies for addressing the problem of antimalarial drug resistance. Antimalarial drug resistance to chloroquine, the traditional first-line treatment for uncomplicated malaria, has intensified to a point where the Ministry of Health has decided to switch to an alternative medicine, sulfadoxine/pyrimethamine (SP), for first-line treatment of malaria. Because of concerns that this strategy will be short lived due to pre-existing levels of drug resistance to SP, the Ministry of Health is keenly interested in understanding potential future options for addressing this pressing public health challenge.

The IHRDC in Ifakara, Tanzania, is a non-government organization that comes under the jurisdiction of the United Republic of Tanzania, Ministry of Health. The Ministry of Health has oversight of the IHRDC and must approve all actions taken on behalf of the United Republic of Tanzania. IHRDC is the only institution in sub-Saharan Africa that is located in an area of very intense malaria transmission, that is located in a country that: Is poised to adopt a national malaria treatment policy of SP while actively engaged in investigating future treatment options; is actively engaged in research activities that are directly related to the objectives listed above; and has the needed experience and capacity. Because of its work in malaria for more than a decade, IHRDC is an internationally respected research institution. Investigators at IHRDC have a detailed understanding of the epidemiologic patterns and geographic distribution of malaria infection and transmission in their area, are actively engaged in using state-of-the-art techniques for evaluating antimalarial drug resistance, and have needed and proven expertise in socio-behavioral research related to malaria. In addition, the IHRDC maintains a demographic surveillance system (DSS) covering approximately 55,000 individuals, allowing for measurement of public health impact of malaria treatment policies, and, through its existing collaborative links to other institutions and projects, has the ability to access comparable data from 2 additional DSS data bases (covering a total population of over 300,000 individuals). The IHRDC is the only organization that has the capacity to carry out large-scale community-based public health interventions, to conduct malaria research, and to correctly diagnose drug resistant malaria infections in its laboratories and field activities. They have the required field experience and demonstrated capacity in areas directly related to all 6 principal objectives of this proposed evaluation: (1) Using state-of-the-art methods of diagnosing antimalarial drug resistance, including in vivo, in vitro, and molecular methods; (2) monitoring for changes in gametocytemia rates; (3) socio-behavioral research related to malaria, malaria drug use practices, and malaria treatment seeking practices; (4) economics of malaria and malaria treatment; (5) research into the process development of public health policy related to malaria; and (6) monitoring for public health impact, including on a population level.

C. Availability of Funds

Approximately $500,000 is available in FY 2000 to fund one award. It is expected that the award will begin on or about August 30, 2000, and will be made for a 12-month budget period within a project period of up to five years. The funding estimate may change.

Continuation awards within an approved project period may be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for conducting the activities under 1. (Recipient Activities) and CDC will be responsible for conducting the activities under 2. (CDC Activities).

1. Recipient Activities

a. Identify an appropriate set of districts for the evaluation of a pilot policy of antimalarial combination therapy, including comparison areas using SP monotherapy for treatment of all cases of uncomplicated malaria.

b. Design a multifaceted evaluation program to determine the effectiveness of antimalarial combination therapy on inhibiting development of drug resistance and decreasing malaria transmission, as well as to elucidate programmatic, behavioral, economic, or policy aspects of combination therapy that could either enhance or limit this effectiveness.

c. Define, collect, and analyze baseline data: Collect baseline data so that the public health impact of the interventions can be evaluated (including impact on mortality rates).

d. Carry out the evaluation activities.

e. Measure the effect of the national treatment policy compared with the pilot policy of combination therapy in terms of (1) inhibiting the development of resistance to SP; (2) interrupting

transmission of the parasite; and (3) describing the behavioral, economic, and policy determinants of the policies.

f. Disseminate research results by appropriate methods such as publication in journals, presentation at meetings, conferences, etc.

g. Develop a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project.

2. CDC Activities

CDC will provide technical assistance in the design and conduct of the research as needed to possibly include:

a. Providing assistance in the evaluation methods and analytic approach.

b. Performing selected laboratory tests, as requested by IHRDC, including analysis of drug resistance conferring mutations in parasite samples by polymerase chain reaction (PCR) or gene sequencing, testing of biologic samples for presence of antimalarial drugs; testing of pharmaceutical samples for quality.

c. Assisting in data collection, data management, analysis of research data, interpretation, and dissemination of research findings.

d. Collaborating in the design of the evaluation.

e. Providing educational and training materials, as appropriate.

f. Assisting in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 10 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

F. Submission and Application Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are in the application kit. On or before June 30, 2000, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

G. Evaluation Criteria

The application will be evaluated against the following criteria by an independent review group appointed by CDC.

1. Background and Need (10 points)

Extent to which applicant's discussion of the background for the proposed project demonstrates a clear understanding of the purpose and objectives of this cooperative agreement program. Extent to which applicant illustrates and justifies the need for the proposed project that is consistent with the purpose and objectives of this program.

2. Capacity (30 points total)

a. Extent to which applicant describes adequate resources and facilities (both technical and administrative) for conducting the project. This includes the capacity to conduct quality laboratory measurements. (15 points)

b. Extent to which applicant documents that professional personnel involved in the project are qualified and have past experience and achievements in research and programs related to that proposed as evidenced by curriculum vitae, publications, etc. (10 points)

c. Extent to which applicant includes letters of support from non-applicant organizations, individuals, etc. Extent to which the letters clearly indicate the author's commitment to participate as described in the operational plan. (5 points)

3. Objectives and Technical Approach (60 points total)

a. Extent to which applicant describes specific objectives of the proposed project which are consistent with the purpose and goals of this program and which are measurable and time-phased. (10 points)

b. Extent to which the applicant identifies appropriate populations for study, with an adequate size to evaluate the program. Extent to which adequate procedures are described for the protection of human subjects. (10 points)

c. Extent to which applicant presents a detailed operational plan for initiating and conducting the project, which clearly and appropriately addresses all recipient activities. Extent to which applicant clearly identifies specific assigned responsibilities for all key professional personnel. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation, (2) the proposed justification when representation is limited or absent, (3) a statement as to whether the design of the study is adequate to measure differences when warranted, and (4) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits. The extent to which applicant describes the existence of or plans to establish partnerships. (30 points)

d. Extent to which applicant provides a detailed and adequate plan for evaluating study results (including laboratory data and data on prescribing practices), as well as plans for evaluating progress toward achieving project objectives. (10 points)

4. Budget (not scored)

Extent to which the proposed budget is reasonable, clearly justifiable, and consistent with the intended use of cooperative agreement funds.

5. Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Annual progress reports,

2. Financial status report, no more than 90 days after the end of the budget period, and

3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the Public Health Service Act, Sections

301(a) [42 U.S.C. 241(a)], 307 [42 U.S.C. 2421], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

If you have any questions after reviewing the contents of all documents, business management technical assistance may be obtained from: Van Malone, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone (770) 488–2764, Email address vxm7@cdc.gov.

For program technical assistance, contact: Peter B. Bloland, DVM, MPVM, Division of Parasitic Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, Mailstop F–22, Atlanta, GA 30333, Telephone (770) 488–7760, Email address: pbloland@cdc.gov.

Dated: May 4, 2000.

Henry S. Cassell III,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–11647 Filed 5–9–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee on Prevention of Intimate Partner Violence and Sexual Violence and the Injury Research Grant Review Committee (IRGRC): Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee and conference call committee meetings.

Name: Subcommittee on Prevention of Intimate Partner Violence and Sexual Violence of the IRGRC.

Times and Dates: 6:30 p.m.–9 p.m., June 4, 2000. 8 a.m–4 p.m., June 5, 2000.

Place: The Westin Atlanta Airport, 4736 Best Road, College Park, Georgia 30337

Status: Open: 6:30 p.m.–7 p.m., June 4, 2000. Closed: 7 p.m.–9 p.m., June 4, 2000, through 4 p.m., June 5, 2000.

Purpose: The Subcommittee advises IRGRC on the technical and scientific merit of injury prevention research grant applications on Prevention of Intimate Partner Violence and Sexual Violence.

Matters To Be Discussed: Agenda items include a description of the Subcommittee's responsibilities and review process, and review of grant applications.

Name: Injury Research Grant Review Committee.

Time and Date: 4:30 p.m.–5:30 p.m., June 5, 2000.

Place: The Westin Atlanta Airport, 4736 Best Road, College Park, Georgia 30337

Status: Open: 4:30 p.m.–4:45 p.m., June 5, 2000. Closed: 4:45 p.m.–5:30 p.m., June 5, 2000.

Purpose: This committee is charged with advising the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the scientific merit and technical feasibility of grant applications received from academic institutions and other public and private profit and nonprofit organizations, including State and local government agencies, to conduct specific injury research that focus on prevention and control and to support injury prevention research centers.

Matters To Be Discussed: Agenda items include the purpose of the meeting and discussion and vote on the report of the Subcommittee on Prevention of Intimate Partner Violence and Sexual Violence.

Beginning at 7 p.m., June 4, through 4 p.m., June 5, the Subcommittee on Prevention of Intimate Partner Violence and Sexual Violence of the IRGRC will meet, and from 4:45–5:30 p.m., June 5, IRGRC will meet to conduct a review of grant applications. These portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Linda L. Dahlberg, Ph.D., Acting Executive Secretary, IRGRC, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway, NE, M/S K60, Atlanta, Georgia 30341–3724, telephone 770/488–4496.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: May 3, 2000.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–11648 Filed 5–9–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 65 FR 4979, dated February 2, 2000) is a amended to reflect the restructuring of the Office of Health and Safety, Office of the Director, Centers for Disease Control and Prevention (CDC).

Section C–B, Organization and Functions, is hereby amended as follows:

Add the following item to the mission statement for the *Office of Health and Safety (CA1):* (7) provides advice and counsel to the CDC Office of the Director on health and safety related matters.

After the functional statement for the *Office of the Director (CA11),* insert the following:

External Activities (CA112). (1) Manages CDC regulatory programs for which the Office of Health and Safety is responsible (i.e., import permit program [42 CFR 71], laboratory registration/ select agent transfer program [42 CFR 72.6], and infectious agents shipping regulation [42 CFR 72]; (2) develops and reviews national safety guidelines including the "CDC/NIH Biosafety in Microbiological and Biomedical Laboratories" and the infectious agent shipping regulations; (3) participates in CDC, HHS, and interagency committees and workgroups considering matters related to laboratory safety including the public health response to bioterrorism; (4) provides consultations and technical assistance to State and local health departments on matters related to laboratory safety; (5) provides consultation and technical assistance to CDC laboratories located outside the US; (6) manages the WHO Collaborating Center for Applied Biosafety and Training at CDC; (7) participates in other domestic and international laboratory safety activities as requested.

Resource Management Activity (CA113). (1) Develops and coordinates budgets for OHS; (2) plans, coordinates, and provides administrative, fiscal and management assistance, including personnel, travel, training, and contract

administration; (3) assists in formulating, developing, negotiating, managing, and administering service contracts; (4) coordinates, manages, and provides review and oversight of acquisition and reimbursable agreement activities; (5) develops and implements OHS administrative policies, procedures, and operations, and prepares special reports and studies; (6) manages OHS centralized computer databases and internal applications; (7) develops and coordinates the implementation of security programs; (8) designs, implements, and evaluates OHS communications strategies including marketing messages, materials, and methods; (9) provides oversight for the Employee Health Services Clinic and the Worksite Health Promotion Programs for employees in the Atlanta area and for the Employee Assistance Program for employees based in Atlanta and remote locations.

Delete in their entirety the titles and functional statements for the *Biosafety Branch (CA14)* and the *Chemical and Physical Hazards Branch (CA12)* and insert the following:

Environmental, Health, and Safety Branch (CA13). (1) Develops and implements occupational health and safety programs for CDC employees, facility visitors, and management, taking the lead for programs in chemical safety, ergonomics, indoor air quality, hazard communication, respiratory protection, personal protective equipment, safety equipment and systems, hearing conservation, physical safety, fire safety, lock out-tag out, confined spaces, electrical safety, emergency response, and others; (2) identifies, develops, and provides for specialized training in environmental, occupational health, and safety for CDC employees and management; (3) develops, implements, and manages the accident/incident prevention program, including conducting investigations and recommending corrective and preventative measures; (4) develops and implements CDC's environmental programs, including hazardous materials and waste management, recycling, pollution prevention, environmental permits, notifications, monitoring, and environmental audits; (5) conducts CDC property and site assessments; (6) reviews, evaluates, and recommends changes to contracts with environmental, health, and safety requirements, and reviews contractors' environmental, health, and safety programs to ensure protection of CDC personnel and property; (7) provides consultation, advice, recommendations, and direct support to CDC employees, supervisors, and management officials in environmental, health, and safety matters to ensure compliance with laws, regulations, rules, and CDC's environmental, health, and safety policies; (8) in cooperation with the CIOs, coordinates, develops, and implements consolidated emergency response plans to comply with Federal and local laws and regulations; (9) develops, coordinates, and implements fire safety program and emergency evacuation plans; (10) reviews plans and specifications of new construction and renovations and recommends changes and additions to ensure protection of CDC's employees and property, and compliance with environmental, occupational health, and safety laws, regulations, and codes; (11) develops and implements programs for identifying and abating asbestos, lead, and other hazardous materials at all CDC-owned facilities.

Laboratory Safety Branch (CA15). (1) Develops and implements programs for biosafety and radiation protection in all domestic CDC scientific and diagnostic laboratory programs and animal care and use facilities; (2) manages the laboratory safety program for biological, chemical, radiological, and other hazards, and—through advice and counsel to line management—ensures compliance with all Occupational Safety and Health Administration, Nuclear Regulatory Commission, and other Federal, State and local regulations and guidelines; (3) in coordination with program safety committees, conducts a comprehensive annual safety survey of all laboratory, animal and associated support work areas; (4) provides consultation and direct support to CDC laboratory and animal workers, supervisors, and management officials on working safely with biological, chemical, and radiological agents; (5) conducts risk assessments and hazard evaluations of biological, radiological, and chemical hazards; (6) advises CIOs on containment levels, work practices, immunizations, and selection and use of safety and monitoring equipment; (7) manages radiological waste program; (8) provides consultation and direct support for the decontamination of laboratory wastes, equipment, and laboratory facilities; (9) develops and manages a comprehensive safety program for the BSL–4 Maximum Containment Laboratory, smallpox repository, and other specialized containment operations; (10) provides safety training programs for biological, chemical, radiological, and other laboratory hazards; (11) provides a comprehensive incident emergency response, investigation and notification program for biological, radiological, and chemical spills and exposures; (12) manages a pathogen registration program to ensure compliance with Federal, State, and local requirements; (13) serves as a national and international resource on biological safety and laboratory safety.

Dated: April 27, 2000.

Jeffrey P. Koplan,

Director.

[FR Doc. 00–11733 Filed 5–9–00; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. TE–25131

Applicant: Dr. Lawrence E. Stevens, Flagstaff, Arizona.

Applicant requests authorization for scientific research and recovery purposes to collect in the wild and conduct activities with the Kanab ambersnail (*Oxyloma haydeni kanabensis*) in Arizona.

Permit No. TE–25594

Applicant: Clay Nelson, Flagstaff, Arizona.

Applicant requests authorization to conduct scientific research for recovery purposes for the Kanab ambersnail (*Oxyloma haydeni kanabensis*) at Northern Arizona University and Glen Canyon Dam, Coconino County, Arizona.

Permit No. TE–26436

Applicant: George Veni, San Antonio, Texas.

Applicant requests authorization for scientific research and recovery purposes to collect the following endangered or threatened in Texas:

Peck's Cave amphipod (*Stygobromus pecki*)

Coffin Cave Mold beetle (*Batrisodes texanus*)

Kretschmarr Cave Mold beetle (*Texamaurops reddelli*)

Tooth Cave ground beetle (*Rhadine persephone*)

Tooth Cave Pseudoscorpion (*Tartarocreagris texana*)
Bee Creek Cave harvestman (*Texella reddelli*)
Bone Cave harvestman (*Texella reyesi*)
Tooth Cave spider (*Neoleptoneta myopica*)
Texas blind salamander (*Typhlomolge rathbuni*)
Mexican long-nosed bat (*Leptonycteris nivalis*)
Barton Springs salamander (*Eurycea sosorum*)

The following species will not be collected but potentially impacted.

San Marcos salamander (*Eurycea nana*)
Fountain darter (*Etheostoma fonticola*)
Big Bend gambusia (*Gambusia gaigei*)
Clear Creek gambusia (*Gambusia heterochir*)
Pecos gambusia (*Gambusia nobilis*)
San Marcos gambusia (*Gambusia georgei*)
Comanche Springs pupfish (*Cyprinodon elegans*)
Leon Springs pupfish (*Cyprinodon bovinus*)
Comal Springs dryopid beetle (*Stygoparnus comalensis*)
Comal Springs riffle beetle (*Heterelmis comalensis*)
Texas wild rice (*Zizania texana*)

Permit No. TE–829995

Applicant: Dallas Zoo/Dallas Aquarium, Dallas, Texas.

Applicant requests authorization to monitor the reproductive success of the interior least tern (*Sterna antillarum athalassos*) in Dallas County, Texas.

Permit No. TE–839505

Applicant: Aaron D. Flesch, Tucson, Arizona.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the southwestern willow flycatcher (*Empidonax traillii extimus*) in Arizona and New Mexico.

Permit No. TE—814933

Applicant: Texas Parks and Wildlife Department, Austin, Texas.

Applicant requests authorization for scientific research and recovery purposes to collect and conduct activities for the Devil's River minnow (*Dionda diaboli*) in Texas.

Permit No. TE–26700

Applicant: John A. Kugler, Sonoita, Arizona.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys and collect Gila trout (*Oncorhynchus gilae*) in Santa Cruz, Cochise, Graham, Pima, Maricopa, and Yuma Counties, Arizona.

Permit No. TE–26690

Applicant: Dynamac Corporation, Corvallis, Oregon.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the Colorado pikeminnow (*Ptychocheilus lucius*), humpback chub (*Gila cypha*), and razorback sucker (*Xyrauchen texanus*) along the Verde River in Arizona.

Permit No. TE–26711

Applicant: Coconino National Forest, Flagstaff, Arizona.

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the southwestern willow flycatcher (*Empidonax traillii extimus*), bald eagle (*Haliaeetus leucocephalus*), Yuma clapper rail (*Rallus longirostris yumanensis*), black-footed ferret (*Mustela nigripes*), Colorado pikeminnow (*Ptychocheilus lucius*), razorback sucker (*Xyrauchen texanus*), and Gila topminnow (*Poeciliopsis occidentalis occidentalis*) in Arizona, Yavapai, and Coconino Counties, Arizona.

DATES: Written comments on these permit applications must be received on or before June 9, 2000.

ADDRESS: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: The U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. Documents and other information submitted with these applications 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 within 30 days of the date of publication of this notice, to the address above.

Bryan Arroyo,

Programmatic Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 00–11649 Filed 5–9–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Federal Geographic Data Committee (FGDC); Public Review of the Digital Cartographic Standard for Geologic Map Symbolization

ACTION: Notice; Request for comments.

SUMMARY: The FGDC is conducting a public review of the proposed Digital Cartographic Standard for Geologic Map Symbolization. The purpose of this public review is to provide data users and producers an opportunity to comment on this standard in order to ensure that it meets their needs.

Participants in the public review are encouraged to provide comments that address specific issues/changes/additions that may result in revisions to the proposed standard. After formal FGDC endorsement of the standard, the standard and a summary analysis of the changes will be made available to the public.

DATES: The public review period begins on May 19, 2000. Comments must be received by September 15, 2000.

FOR FURTHER INFORMATION CONTACT: The electronic version of the draft standard, in Portable Document Format (PDF), may be downloaded from vb <http://ncgmp.usgs.gov/fgdc_gds/mapsymb>.

Request for printed copies of the standard should be addressed to Matilde Moss, at <mmoss@usgs.gov> or at U.S. Geological Survey, 918 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192. Note: there are a limited number of printed copies available, and so reviewers are encouraged to use the electronic version.

Reviewer's comments may be sent to the FGDC via e-mail, to <mapsymbol@geology.usgs.gov>. Review comments also may be sent by regular mail to: Map Symbol Review, c/o David R. Soller, U.S. Geological Survey, 908 National Center, Reston, VA 20192. Reviewers are strongly urged to use the review comment template—it may be downloaded from <http://ncgmp.usgs.gov/fgdc_gds/mapsymb>.

SUPPLEMENTARY INFORMATION: Following is from the Introduction to the Digital Cartographic Standard for Geologic Map Symbolization, submitted by the FGDC Geologic Data Subcommittee.

Introduction

Objective

This new draft standard is intended to provide to the Nation's producers and users of geologic map information a single, modern standard for the digital

cartographic representation of geologic features. The objective in developing this national standard for geologic map symbols, colors, and patterns is to aid in the production of geologic maps and related products, as well as to help provide maps and products that have a consistent appearance.

Scope

This new draft standard contains descriptions, examples, cartographic specifications, and notes on usage for a wide variety of symbols that may be used on typical digital geologic maps or related products such as cross sections. The standard is scale-independent, meaning that the symbols are appropriate for use with geologic mapping compiled or published at any scale. It is designed for use by anyone who either produces or uses digital geologic map information.

Applicability

This new draft standard applies to any geologic map information published by the Federal Government, whether released as hard-copy (in either offset-print or plot-on-demand format) or electronically (as either Portable Document Format (PDF) files or for computer-monitor display only). Non-Federal agencies and private companies that produce geologic map information are urged to adopt this standard as well.

Related Standards

This new draft standard will supersede any existing U.S. Geological Survey (USGS) formal or informal cartographic standards for geologic map information. During preparation of this new draft standard, its relation to other standards or standards-development activities was assessed, and no significant conflicts were found.

Standards Development Procedures

In 1995, a proposed standard was informally released by the USGS (U.S. geological Survey, 1995a, 1995b). In 1996, this proposed standard was formally reviewed by geologists and cartographers in the USGS, the Association of American State Geologists (AASG), which represents the state geological surveys, and the Federal Geographic Data Committee's (FGDC) Geologic Data Subcommittee (GDS), which is composed mostly of representatives from Federal agencies that produce or use geologic map information. That review indicated the need for some revision to the proposed standard prior to its consideration by the FGDC for adoption as a Federal standard.

In 1996, plans were outlined to create a revised and updated Federal standard, and the standards-development group was formed. A proposal to develop the revised standard was submitted by the FGDC's GDS (*see* http://ncgmp.usgs.gov/fgdc_gds/mapsymbprop.html), and the FGDC accepted that proposal in 1997. Later that year, the standards-development group produced a preliminary, beta version of the draft standard, which was circulated among selected USGS and state geological survey personnel for review. Comments were incorporated and, in 1999, the revised draft standard (Working Draft) was submitted to the FGDC's GDS for consideration. Upon review and subsequent approval by the GDS, the Working draft was submitted to the FGDC Standards Working Group, which approved the document for public review, pending adoption of minor changes. The changes were made, and this new draft standard document (Public Review Draft) is now available to the public for review and comment.

Upon completion of the 120-day public review period, comments to the Public Review Draft will be considered, and any necessary revisions will be made. The revised draft standard document then will be submitted to the FGDC for formal approval as the Federal standard for geologic map symbolization.

Because this new standard is intended for use with digital applications, an electronic implementation of the Public Review Draft has been prepared in PostScript format. This implementation has been informally released as a USGS Open-File Report (USGS, 1999). This PostScript implementation will enable reviewers to directly apply the standard to geologic maps or illustrations prepared in desktop illustration and (or) publishing software. As the formally approved standard evolves, the PostScript implementation will be updated as well. Additionally, partial work on an ArcInfo (v.7x) implementation has been completed, and this implementation may also be informally released as a USGS Open-File Report in the future. Information regarding updates to these and other implementation efforts will be posted on FGDC's GDS website (http://ncgmp.usg.gov/ fgdc_gds).

The Public Review Draft document is available in both printed and PDF formats. For information on the review mechanism and the deadline for submittal of review comments, as well as on how to obtain copies of the Public Review Draft, please see FGDC's GDS website (http:// ncgmp.usgs. gov/ fgdc _gds). Questions or comments may be addressed by e-mail to <mapsymbol@geology.usgs.gov> or, if preferred, by regular mail to Map Symbol Review, c/o David R. Soller, National Geologic Map Database project, U.S. Geological Survey, 908 National Center, Reston, Virginia, 20192.

Maintenance Authority

On behalf of the FGDC, the USGS will maintain the Federal standard; the responsibility for coordinating Federal geologic mapping information is stipulated by Office of Management and Budget Circular A–16 (see http://www.whitehouse.gov/omb/circulars/a016/a016.html). The Geologic Mapping Act of 1992 (and subsequent reauthorizations) stipulates a requirement for standards development under the auspices of the National Geologic Map Database (NGMDB). Under this authority, the NGMDB project will function on behalf of the USGS as coordinator of this maintenance activity (see http://ncgmp.usgs. gov/ngmdbproject/standards/general.html). Maintenance will be conducted in cooperation primarily with the AASG, which is the USGS's partner in the Geologic Mapping Act.

To assist in its maintenance efforts, the NMGDB project will coordinate a standing committee that, as needed, will review comments and suggestions for revisions, additions, and deletions to the standard. Committee membership will be drawn from, among others, the NGMDB project, the USGS scientific staff and Publications Groups, the AASG, and the academic community. This standards-maintenance mechanism will be tested by forming the committee before completion of the FGDC public review period, so that the committee might both help the GDS evaluate the comments received and assist in preparing the final version to be submitted for formal approval by the FGDC.

Dated: May 4, 2000.

P. Patrick Leahy,

Chief Geologist, U.S. Geological Survey.

[FR Doc. 00–11654 Filed 5–9–00; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; F–14874–K]

Notice for Publication; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue

conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to NANA Regional Corporation, Inc., for the village of Kiana. The lands involved are in the vicinity of Kiana, Alaska.

Serial No. and land description	Acreage
Kateel River Meridian, Alaska	
F–14874–K: T. 19 N., R. 6 W., Secs. 21, 22, 23, 27 & 28	3,200.00
F–14874–K: T. 20 N., R. 9 W., Secs. 4 to 8, inclusive	3,030.66
F–14874–K: T. 17 N., R. 8 W., Secs. 5 & 6	1,162.15
Aggregating	7,392.81

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Arctic Sounder Newspaper. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 (907) 271–5960.

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until June 9, 2000 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Nora A. Benson,

Land Law Examiner, ANCSA Team Branch of 962 Adjudication.

[FR Doc. 00–11650 Filed 5–9–00; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Managment

[CA–5101ER A173; CACA–41878]

Proposed Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM) has proposed a plan amendment to the California Desert Conservation Area Plan (1980) to partially exempt a proposed fiber optic cable right-of-way from designated utility corridors.

DATES: Written scoping comments must be received no later than June 13, 2000.

ADDRESSES: Written scoping comments should be addressed to the District Manager, El Paso Fiber Optic Cable, California Desert, 6221 Box Springs Blvd., Riverside, California 92507.

FOR FURTHER INFORMATION CONTACT: James L. Williams (909) 697–5390.

SUPPLEMENTARY INFORMATION: El Paso Energy Communication Co. has proposed to construct a buried fiber optic cable from Texas, through New Mexico, Arizona and terminating in Los Angles, California. The cable is inside a six inch conduit and is proposed to be place within or alongside existing roads and highways in a one foot wide 42 inch deep trench. The California portion begins at the City of Blythe and proceeds northwest along the Midland Road to its intersection with State Highway 62 where it proceeds west along side the highway to east of the City of Twentynine Palms where proceeds westerly on roads to State Highway 247. The fiber optic cable then continues west along State Highway 47, then State Highway 18, then State Highway 138 and then State Highway 14 into Los Angeles. The proposed right-of-way is a permanent 10 feet with a temporary 15 feet for construction purpose. The proposed right-of-way is not within a designated California Desert Plan (1980) utility corridor and, therefore, does not conform to the Desert Plan. A plan amendment is required to exempt it from the Desert Plan utility corridors.

Dated: May 3, 2000.

Douglas Romoli,

Acting District Manager.

[FR Doc. 00–11543 Filed 5–9–00; 8:45 am]

BILLING CODE 4310–40–U

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of a Draft Supplement to the Final Environmental Impact Statement for Completion of the Natchez Trace Parkway, Tennessee, Alabama, Mississippi (1978)

SUMMARY: In accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969 (Public Law 91–190, as amended), this notice announces the availability of the Draft Supplement (DSEIS) to the Final Environmental Impact Statement for Natchez Trace Parkway which was published in 1978. This supplement is for the construction of Section 3P13 of the Natchez Trace Parkway through Ridgeland, Mississippi. The DSEIS evaluates the environmental consequences associated with the proposed action and the other alternatives on local traffic and transportation routes, cultural resources, wetlands, visual quality, visitor experience, economics and land use, and impact on nearby residents, among other topics.

DATES: This DSEIS will be on public review for 60 days following the date of Environmental Protection Agency's (EPA) publication of their notice of the DSEIS in the **Federal Register.** A public meeting will be scheduled no less than 30 days from publication of EPA's notice but during the 60 day review period. Time and place of the public meeting will be scheduled at a later date and will be publicized in area newspapers. Those listed on the Natchez Trace Parkway's database who have shown interest in the proposed project will be notified personally by letter from the Parkway Superintendent.

ADDRESSES: Public reading copies of the Natchez Trace Parkway's Section 3P13 DSEIS will be available for public review at the following locations:

1. Natchez Trace Parkway Headquarters, 2680 Natchez Trace Parkway, Tupelo, Mississippi 38804, (662) 680–4004
2. Jackson/Hinds Library System, Eudora Welty Library, 300 North State Street, Jackson, Mississippi 39201, (601) 968–5809 (This is the Headquarters or main library in Jackson.)

FOR FURTHER INFORMATION CONTACT: For copies of the DSEIS or additional information, please contact: Wendell A. Simpson, Superintendent, Natchez Trace Parkway, 2680 Natchez Trace Parkway, Tupelo, Mississippi 38804, Telephone: (662) 680–4004.

SUPPLEMENTARY INFORMATION: The Natchez Trace Parkway was established in 1938 to commemorate the Old Natchez Trace, a primitive network of trails that stretched from Natchez, Mississippi, to Nashville, Tennessee. Designed to follow the alignment of the historic trace as closely as the requirements of modern road construction allows, the Natchez Trace Parkway will upon completion, extend diagonally from Natchez to Nashville, a distance of approximately 444 miles.

The completion of a continuous parkway motor road between Natchez and Nashville by the National Park Service has been underway for more than 60 years. A decision on and construction of this short segment of the

parkway motor road, combined with other completed, in-progress, and planned NPS construction projects between I–20 and I–55 would permit the opening of the parkway motor road to through visitor vehicular use without the need for a detour through the greater metropolitan area of Jackson, Mississippi. The parkway's 1987 General Management Plan ranks the completion of the parkway motor road as one of its prominent management objectives.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address form the rulemaking record which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: April 28, 2000.

W. Thomas Brown,

Regional Director, Southeast Region.

[FR Doc. 00–11653 Filed 5–9–00 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare an Environmental Impact Statement for the General Management Plan Amendment, Dry Tortugas National Park, Florida

SUMMARY: Notice is hereby given that in accordance with the Environmental Policy Act of 1969, the National Park Service has begun preparation of an Environmental Impact Statement on the General Management Plan Amendment for Dry Tortugas National Park. The statement will assess potential environmental impacts associated with various types and levels of visitor use and resources management within the park. Specific issues to be addressed include appropriate levels and types of visitor use at various park sites, protection of near pristine resources such as coral reefs and seagrass beds, protection of submerged cultural resources, and management of commercial services to provide transportation, assistance in educating visitors and providing them with experience in keeping with the purpose of the park. The amendment and statement will build on the 1983 Master Plan for the area, and will conform to Director's Order—2, the planning guidance for National Park Service units that became effective May 27, 1998.

Dry Tortugas National Park boundaries encompass a cluster of seven coral reef and sand islands, shoals and water surrounding the island, and Fort Jefferson, the park's central cultural feature. Proclaimed as Fort Jefferson National Monument in 1935, the area was from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

SUPPLEMENTARY INFORMATION: The Draft and Final General Management Plan Amendment and Environmental Impact Statement will be made available to all known interested parties and appropriate agencies. Full public participation by federal, state, and local agencies as well as other concerned organizations and private citizens is invited throughout the preparation process of this document.

The responsible official for this environmental impact statement is Jerry Belson, Regional Director, Southeast Region, National Park Service, Atlanta Federal Center, 1924 Building, 100 Alabama Street, SW, Atlanta, Georgia 30303.

Dated: April 2, 2000.

Daniel W. Brown,

Regional Director, Southeast Region.

[FR Doc. 00–11652 Filed 5–9–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 29, 2000. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240. Written comments should be submitted by May 25, 2000.

Carol D. Shull,

Keeper of the National Register.

CALIFORNIA

San Francisco County

San Francisco—Oakland Bay Bridge, I–80, San Francisco, 00000525

GEORGIA

Ben Hill County

Dorminy—Massee House, 516 W. Central Ave., Fitzgerald, 00000529

Calhoun County

Edison Commercial Historic District, Hartford St./GA 37 and Turner St./GA 216, Edison, 00000528

Morgan County

Apalachee School, 5060 Lower Apalachee Rd., Apalachee, 00000527

Newton County

North Covington Historic District, N. Emory and Odum Sts. and Georgia (CSX) Railroad, Covington, 00000526

INDIANA

Scott County

Scott County Home, 1050 S. Main St., Scottsburg, 00000530

IOWA

Lee County

McConn, Daniel, Barn, 2095 IA 61, Fort Madison, 00000531

Sac County

Chief Black Hawk Statue, Crescent Park Dr., Lake View, 00000532

KANSAS

Morris County

Carlson, Oscar, House, KS 2, Burdick, 00000533

MASSACHUSETTS

Hampshire County

Amherst West Cemetery, Triangle St., Amherst, 00000534

MICHIGAN

Muskegon County

Navigation Structures at White Lake Harbor, South End of Lau Rd., Whitehall, 00000535

MINNESOTA

Hennepin County

East Lake Branch Library, 2916 E. Lake St., Minneapolis, 00000542
Franklin Branch Library, 1314 W. Franklin Ave., Minneapolis, 00000545
Linden Hills Branch Library, 2900 W. 43rd St., Minneapolis, 00000540

Roosevelt Branch Library, 4026 28th Ave. S, Minneapolis, 00000543
Summer Branch Library, 611 Emerson Ave. N, Minneapolis, 00000539
Thirty-sixth Street Branch Library, 347 E. 36th St., Minneapolis, 00000541
Walker Branch Library, 2901 Hennepin Ave. S, Minneapolis, 00000544

MISSOURI

Cole County

Ruthven, John B. and Elizabeth, House, 406 Cherry St., Jefferson City, 00000537

Jackson County

Simpson-Yeomans-Country Side Historic District (Boundary Increase), General vicinity of W. 51 Terrace, Wornall Rd., W. F7 W 57th St., Kansas City, 00000538

NEW MEXICO

San Miguel County

Rowe Pueblo, Address Restricted, Rowe, 00000547

NEW YORK

Westchester County

South Presbyterian Church, 343 Broadway, Dobbs Ferry, 00000548

NORTH CAROLINA

Johnston County

North Smithfield Historic District, Roughly bounded by Market, Front, North, and Seventh Sts., Smithfield, 00000550

Wake County

Carpenter Historic District, (Wake County MPS), Along Capenter-Morrisville Rd., E of CSX Railroad Tracks and W of Davis Dr., Cary, 00000549

RHODE ISLAND

Kent County

Rice City Historic District (Boundary Increase), 2172 Plainfield Pike, Coventry, 00000551

Washington County

Tottell House, 1747 Mooresfield Rd., South Kingstown, 00000552

SOUTH CAROLINA

Aiken County

Salley Historic District, Bounded by Pine, Ferguson, Poplar, and Aldrich Sts., Salley, 00000554

Spartanburg County

Church of the Advent, 141 Advent St., Spartanburg, 00000553

TEXAS

Brazos County

La Salle Hotel, (Bryan MRA) 120 S. Main St., Bryan, 00000555

VIRGINIA

Halifax County

Carlbrook, VA 663, jct. VA 684, Halifax, 00000556

Richmond Independent city

Carver Industrial Historic District, Marshall, Lombardy, Clay, and Harrison Sts., Richmond, 00000559

Winchester Independent city

Douglas School, 598 N. Kent St., Winchester, 00000558

Wythe County

Wythe County Poorhouse Farm, VA 2, Peppers Ferry Rd., Wytheville, 00000557

[FR Doc. 00–11594 Filed 5–9–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council's Delta Drinking Water Council Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council's (BDAC) Delta Drinking Water council will meet on May 31, 2000 to discuss several issues including the CALFED Drinking Water Improvement Strategy and projects related to the Strategy. This meeting is open to the public. Interested persons may make oral statements to the Delta Drinking Water Council or may file written statements for consideration.

DATES: The Bay-Delta Advisory Council's Delta Drinking Water Council meeting will be held from 1 p.m. to 3:30 p.m. on Wednesday, may 31, 2000.

ADDRESSES: This meeting will be held at the Resources Building, 1416 Ninth Street, Room 1206, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Judy Health, CALFED Bay-Delta Program, at (916) 653–2994. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One are of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA). The BDAC provides advice to CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Delta Drinking Water Council to advise the CALFED Program and the CALFED Policy Group through BDAC on necessary adaptions to the Program's Drinking Water Quality Improvement Strategy to achieve CALFED's drinking water objectives.

Minutes of the meeting will be maintained by the Program, 1416 Ninth Street, Suite 1155, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday, within 30 days following the meeting.

Dated: May 4, 2000.

Lester A. Snow,

Regional Director, Mid-Pacific Region.

[FR Doc. 00–11651 Filed 5–9–00; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collection of information for noncoal reclamation, 30 CFR Part 769.

DATES: Comments on the proposed information collection must be received by July 10, 2000, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210—SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that increased members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies information collection that OSM will be submitting to OMB for extension. This collection is contained in 30 CFR Part 769, Petition process for designation of Federal lands as unsuitable for all or certain types of surface coal mining operations and for termination of previous designations.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for each information collection activity.

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 number for this collection of information is 1029–0098.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: Petition process for designation of Federal lands as unsuitable for all or certain types of surface coal mining operations and for termination of previous designations—30 CFR Part 769.

OMB Control Number: 1029–0098.

Summary: This Part establishes the minimum procedures and standards foe designating Federal lands unsuitable for certain types of surface mining operations and for terminating designations pursuant to a petition. The information requested will aid the regulatory authority in the decision making process to approve or disapprove a request.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: People who may be adversely affected by surface mining of Federal lands.

Total Annual Responses: 1.

Total Annual Burden Hours: 130.

Dated: May 5, 2000.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 00–11661 Filed 5–9–00; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: The U.S. International Trade Commission (USITC) has submitted the following information collection requirements to the Office of Management and Budget (OMB) requesting emergency processing for review and clearance under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The Commission has requested OMB approval of this submission by COB May 22, 2000. Effective Date: May 2, 2000.

Purpose of Information Collection

The forms are for use by the Commission in connection with investigation No. 332–413, The Economic Impact of U.S. Sanctions with Respect to Cuba, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation was requested by the U.S. House Committee on Ways and Means. The Commission expects to deliver the results of its investigation to the Committee by February 15, 2001.

Summary of Proposal

(1) *Number of forms submitted:* One.

(2) *Title of form:* Telephone Survey—The Economic Impact of U.S. Sanctions with Respect to Cuba.

(3) *Type of request:* New.

(4) *Frequency of use:* telephone survey, single data gathering, scheduled for 2000.

(5) *Description of respondents:* Representative selection of U.S. companies and organizations that have been impacted by the imposition of U.S. sanctions on Cuba.

(6) *Estimated total number of respondents:* 200.

(7) *Estimated total number of hours to complete the forms:* 100.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

FOR FURTHER INFORMATION CONTACT: Copies of the forms and supporting documents may be obtained from Jonathan R. Coleman, Office of Industries, USITC (202–205–3465). Comments about the proposals should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10102 (Docket Library), Washington, DC 20503, ATTENTION: Docket Librarian. All comments should be specific, indicating which part of the survey is objectionable, describing the concern in detail, and including specific suggested revisions or language changes. Copies of any comments should be provided to Robert Rogowsky, Director, Office of Operations, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, who is the Commission's designated Senior Official under the Paperwork Reduction Act.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TTD terminal (telephone no. 202–205–1810).

General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

Issued: May 5, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–11732 Filed 5–9–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–859 (Final)]

Circular Seamless Stainless Steel Hollow Products From Japan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–859 (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 Japan of circular seamless stainless steel hollow products. [1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: April 28, 2000.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202–205–3184), 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 this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of circular seamless stainless steel hollow products from Japan 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 investigation was requested in a petition filed on October 26, 1999, by Altx, Inc., Watervliet, NY; American Extruded Products Corp., Beaver Falls, PA; DMV Stainless USA, Inc., Houston, TX; Salem Tube, Inc., Greenville, PA; Sandvik, Steel Co., Scranton, PA; International Extruded Products LLC d/b/a Wyman-Gordon Energy Products—IXP Buffalo, Buffalo, NY; and United Steelworkers of America, AFL–CIO/CLC, Pittsburgh, PA.

Participation in the Investigation 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 this investigation 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 investigation 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 investigation.

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 this investigation available to authorized applicants under the APO issued in the investigation, 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 investigation. A party granted access to BPI in the preliminary phase of the investigation 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 this investigation will be placed in the nonpublic record on June 29, 2000, 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 this investigation beginning at 9:30 a.m. on July 12, 2000, 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 July 5, 2000. 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 July 7, 2000, 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.

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[1] For purposes of this investigation, Commerce has defined the subject merchandise as "pipes, tubes, redraw hollows, and hollow bars, of circular cross-section, containing 10.5 percent or more by weight chromium, regardless of production process, outside diameter, wall thickness, length, industry specification (domestic, foreign or proprietary), grade or intended use. Common specifications for the subject circular seamless stainless steel hollow products include, but are not limited to, ASTM–A–213, ASTM–A–268, ASTM–A–269, ASTM–A–270, ASTM–A–271, ASTM–A–312, ASTM–A–376, ASTM–A–498, ASTM–A–511, ASTM–A–632, ASTM–A–731, ASTM–A–771, ASTM–A–789, ASTM–A–790, ASTM–A–826 and their proprietary or foreign equivalents."

Excluded from the scope of the investigation are: (1) finished oil country tubular goods ("OCTG") certified to American Petroleum Institute standards 5CT or 5D or to a proprietary OCTG specification; (2) OCTG coupling stock with "mother-child traceability"; (3) line pipe marked, produced, warranted, or certified only to API or proprietary line pipe specifications and used in a pipeline application; and (4) hollow drill bars and rods. Additional explanation of scope exclusions is presented in Commerce's preliminary notice of sales at LTFV (65 FR 25306, May 1, 2000).

The products subject to this investigation are covered by statistical reporting numbers 7304.10.5020; 7304.10.5050; 7304.10.5080; 7304.41.3005; 7304.41.3015; 7304.41.3045; 7304.41.6005; 7304.41.6015; 7304.41.6045; 7304.49.0005; 7304.49.0015; 7304.49.0045; and 7304.49.0060; of the Harmonized Tariff Schedule of the United States (HTS). The statistical reporting numbers are provided for convenience; the written description of the subject products is controlling.

Written Submissions

Each party who is an interested party shall submit 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 July 6, 2000. 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 July 19, 2000; 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 investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 19, 2000. On August 10, 2000, 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 August 14, 2000, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. 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 investigation must be served on all other parties to the investigation (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: This investigation is 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: May 4, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–11731 Filed 5–9–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–414]

In the Matter of Certain Semiconductor Memory Devices and Products Containing Same; Notice of Commission Determination To Extend the Target Date for Completion of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend the target date for completion of the above-captioned investigation by 45 days, or until Monday, June 26, 2000.

FOR FURTHER INFORMATION CONTACT: Clara Kuehn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205–3012. 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).

SUPPLEMENTARY INFORMATION: The Commission ordered the institution of this investigation on September 18, 1998, based on a complaint filed on behalf of Micron Technology, Inc., 8000 South Federal Way, Boise, Idaho 83707–0006 ("complainant"). The notice of investigation was published in the **Federal Register** on September 25, 1998. 63 FR 51372 (1998).

The presiding administrative law judge (ALJ) issued his final initial determination (ID) on November 29, 1999, concluding that there was no violation of section 337. He found that: (a) Complainant failed to establish the requisite domestic industry showing for any of the three patents at issue; (b) all asserted claims of the patents are invalid; (c) none of the asserted claims of the patents are infringed; and (d) all of the patents are unenforceable for inequitable conduct. On February 1, 2000, the Commission determined to review the final ID in its entirety and two procedural issues. The notice of the Commission decision to review the final ID was published in the **Federal Register** on February 7, 2000. 65 FR 5890 (2000). On February 15, 2000, respondents, complainant, and the Commission investigation attorney (IA) filed written submissions on the issues under review. Responsive submissions were filed on February 22, 2000.

On April 4, 2000, complainant Micron and respondents Mosel Vitelic, Inc. and Mosel Vitelic Corp. (collectively "Mosel") filed a joint motion to terminate the investigation by settlement and vacate the ID. The IA filed a response to the joint motion on April 14, 2000. The joint motion is currently pending before the Commission. The Commission determined that, given the pending joint motion, the target date for completion of the investigation should be extended until Monday, June 26, 2000. The previous target date for completion of this investigation was May 11, 2000.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 201.14, 210.6, and 210.51(a) of the Commission's Rules of Practice and Procedure (19 CFR 201.14, 210.6, and 210.51(a)).

Copies of the public version of all 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.

By order of the Commission.

Issued: May 4, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–11730 Filed 5–9–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 15, 2000 at 2 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–841 (Final)(Certain Non-Frozen Concentrated Apple Juice from China)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on May 22, 2000.)
5. Inv. No. 731–TA–429 (Review) (Mechanical Transfer Presses from Japan)—briefing and vote. (The Commission will transmit its

determination to the Secretary of Commerce on May 26, 2000.)

6. Outstanding action jackets: (1) Document No. GC–00–020: Administrative matters.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: May 5, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–11755 Filed 5–8–00; 10:10 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 17, 2000 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–677 (Review)(Coumarin from China)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on May 30, 2000.).
5. Outstanding action jackets: (1) Document No. GC–00–020: Administrative matters.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: May 5, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–11756 Filed 5–8–00; 10:10 am]

BILLING CODE 7020–02–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before June 26, 2000. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposiuon. If NARA staff has prepared an appraisal memorandum for the schedule, it too, includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Natural Resources Conservation Service (N1–114–98–1, 3 items, 1 temporary item). Copies of a magazine published by the Soil Conservation Service, 1935 through 1975. Copies of this publication are already in the National Archives. This schedule also provides for the permanent retention of records relating

to surveys conducted during the 1930s and 1940s.

2. Department of the Army, Agency-wide (N1–AU–98–10, 2 items, 2 temporary items). Records relating to access to privacy communications systems messages. Included are requests, approvals, disapprovals, documents stemming from investigative or judicial proceedings, and electronic copies of documents created using electronic mail and word processing. This schedule reduces the retention period for recordkeeping copies of these documents, which were previously approved for disposal.

3. Department of the Army, Agency-wide (N1–AU–99–8, 4 items, 4 temporary items). Records relating to the transfer of technology between designated Army laboratories and non-Federal collaborators, including copies of cooperative research and development agreements, patent license agreements, and related policy documents. This schedule also includes a database of agreements, working files, and electronic copies of documents created using electronic mail and word processing.

4. Department of the Army, Agency-wide (N1–AU–00–8, 2 items, 2 temporary items). Documents relating to the administration of insurance programs and retirement plans for employees paid from nonappropriated funds. This schedule authorizes the agency to change the format of records from microform to electronic image and also increases the retention period for recordkeeping copies, which were previously approved for disposal.

5. Department of Defense, Defense Intelligence Agency (N1–373–00–1, 21 items, 20 temporary items). Records of the agency's Missile and Space Intelligence Center (MSIC), including intelligence reference collections, files relating to management of threat simulator development, intelligence production management files, equipment tracking receipts, project development files, and ballistic missile performance databases. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are records related to the non-proliferation of ballistic missiles. Finished intelligence produced by MSIC was previously approved for permanent retention.

6. Department of Defense, National Imagery and Mapping Agency (N1–537–00–2, 110 items, 110 temporary items). Paper and electronic records relating to human resources, including electronic copies of documents created using electronic mail and word processing. Records relate to such subjects as overall human resources policies and programs, pay and allowances, recruitment and hiring of staff, diversity and equal employment opportunity programs, assignments and promotions, labor relations, awards, benefits, and injury compensation.

7. Department of Defense, National Reconnaissance Office (N1–525–00–1, 13 items, 13 temporary items). Records, including electronic copies of documents created using electronic mail and word processing, that relate to operational management matters (excluding records that pertain to reconnaissance systems), community service programs, personnel security cases, awards and decorations, and employee assistance programs. This schedule authorizes the agency to apply disposition instructions to records regardless of media.

8. Department of Energy, Agency-wide (N1–434–98–9, 7 items, 7 temporary items). Records relating to accountable officers' account files, including monthly memorandum reports, correspondence on auditing matters, and audit files, which were previously approved for disposal. Also included are electronic copies of documents created using electronic mail and word processing.

9. Department of Justice, Executive Office for U.S. Attorneys (N1–118–99–2, 6 items, 5 temporary items). Records relating to evaluations of the performance of U.S. Attorneys Offices. Included are such records as work papers, correspondence relating to issues identified during the evaluation process, reports and U.S. Attorneys' responses, and electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of final reports forwarded to the Office of the Inspector General for further action are proposed for permanent retention.

10. Department of Justice, Federal Bureau of Investigation (N1–65–00–2, 1 item, 1 temporary item). Criminal fingerprint cards and related records for individuals with multiple arrests born prior to January 1, 1929. This schedule reduces the retention period for these records, which were previously approved for disposal.

11. Department of Labor, Office of Workers' Compensation Programs (N1–217–00–1, 7 items, 7 temporary items). Case files relating to Federal employees who sustain injuries or illnesses in the course of their employment. Included are reports, claims, payment records, and claim determinations or rulings as well as electronic copies of documents created using electronic mail and word processing. This schedule reduces the retention period for case files, which were previously approved for disposal, in both paper and electronic format. It also authorizes the agency to destroy paper case records after they have been input into the electronic system.

12. Department of the Navy, Agency-wide (N1-NU–98–2, 130 items, 112 temporary items). Records of the Naval Criminal Investigative Service and other Navy law enforcement activities. Included are records relating to counterintelligence sources, security briefings of personnel prior to travel, operations security surveys, polygraph programs, the issuance of credentials and passes, the custody and control of evidence gathered in criminal investigations, and forensic lab activities. Also included are electronic copies of documents created using electronic mail and word processing. This schedule also changes descriptions, retention periods, and retirement instructions for previously scheduled series and authorizes the agency to maintain records in media other than paper.

13. Department of the Treasury, United States Mint (N1–104–99–1, 20 items, 17 temporary items). Copies of audit records accumulated by offices not responsible for their compilation or for monitoring, financial statements, contract audits, and auditing general correspondence files. This schedule also modifies descriptions, retention periods, or retirement instructions for several series of previously scheduled audit-related records and also includes electronic copies of documents created using electronic mail and word processing. Records proposed for permanent retention include recordkeeping copies of annual gold audit records accumulated by compiling and monitoring offices and audits conducted on programs related to agency products, such as coins and medals.

14. Department of the Treasury, United States Mint (N1-104–99–2, 18 items, 15 temporary items). Financial planning and analysis records. Included are such records as financial statements and reports documenting the allocation of funds, congressional budget hearing records, and financial planning and analyses general correspondence files. Also included are electronic copies of documents created using electronic mail and word processing. This schedule also modifies the descriptions and retirement instructions for such records as budget submissions to the Department of the Treasury and budget work papers, which were previously approved for disposal. Final versions of

annual budget submissions, cost production analyses reports for Mint products, and selected cost analysis benchmark studies are proposed for permanent retention.

15. Environmental Protection Agency, Agency-wide (N1–412–99–1, 8 items, 5 temporary items). Software and image files for the Superfund Document Management System. This imaging system serves as an index to the documents contained in the agency's permanent Superfund Site Files. Records proposed for permanent retention include an electronic index for the Superfund Site Files, electronic annotations regarding the content and context of the Superfund documents, and supporting documentation for the index and annotations records.

16. Federal Energy Regulatory Commission, Agency-wide (N1–138–00–5, 3 items, 3 temporary items). Correspondence providing informal staff advice, interpretations, and advisory opinions which do not represent the official views of the Commission and do not set precedent for future cases. Also included are electronic copies of records created using electronic mail and word processing.

17. Federal Energy Regulatory Commission, Office of Markets, Tariffs and Rates (N1–138–00–6, 6 items, 6 temporary items). Reports and submissions, discontinued prior to 1996, pertaining to such matters as gas storage, interstate pipelines, gas procurement, gas sale and resale, and refunds made by natural gas producers. These reports, which were previously approved for disposal, are proposed for immediate destruction.

18. Nuclear Regulatory Commission (N1–431–99–8, 2 items, 2 temporary items). Older records dating from the 1970s and 1980s. Records consist of draft Energy Department reports sent to the agency for review that do not include any annotations or comments and agency copies of Commission on Three Mile Island depositions and related Senate hearings, which are duplicates of Commission records already in the National Archives.

19. Social Security Administration, (N1–47–00–2, 2 items, 1 temporary item). Duplicate copies of issuances used for reference, including congressional committee prints, hearings and testimony, textbooks, and non-government conference proceedings. Records were accumulated by the Social Security Board and Federal Security Agency during the period 1936–1986. Proposed for permanent retention are annual reports of the Social Security Board and Federal Security Agency as well as official publications of the Department of Health, Education, and Welfare related to public assistance programs.

Dated: May 1, 2000.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 00–11596 Filed 5–9–00; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Opera section (Creativity, & Organizational Capacity categories), to the National Council on the Arts will be held from June 26–27, 2000 in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C., 20506. A portion of this meeting, from 3:00 p.m. to 4:15 p.m. on June 27th, will be open to the public for policy discussion.

The remaining portions of this meeting, from 9:00 a.m. to 5:45 p.m. on June 26th and from 9:00 a.m. to 3:00 p.m. and 4:15 p.m. to 5:30 p.m. on June 27th, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 12, 1999, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, D.C. 20506, or call 202/682–5691.

Dated: May 4, 2000.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 00–11685 Filed 5–9–00; 8:45 am]

BILLING CODE 7537–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting; Twenty-Second Annual Meeting of the Board of Directors

TIME AND DATE: 2:30 P.M., Monday, May 22, 2000.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW, Suite 800, Board Room, Washington, DC 20005.

STATUS: Open/Closed.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary (202) 220–2372.

Agenda

I. Call to Order
II. Approval of Minutes:
  March 22, 2000 Regular Meeting
III. Committee Reports
IV. Election of Officers
V. Board Appointments
VI. Resolution of Appreciation
VII. Proposed Pension Plan Amendments
VIII. Treasurer's Report
IX. Executive Director's Quarterly Management Report
X. Personnel Issues
XI. Adjourn

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 00–11883 Filed 5–8–00; 3:49 pm]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–272]

Public Service Electric and Gas Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–

70 issued to Public Service Electric and Gas Company (PSE&G), the licensee, for operation of the Salem Nuclear Generating Station, Unit No. 1 (Salem Unit No. 1), located in Salem County, New Jersey.

By application dated May 3, 2000, the licensee proposed a license amendment that would modify Technical Specification (TS) 3.1.3.2.1, and TS Surveillance Requirements 4.1.3.1.1 and 4.1.3.4. A note would be added to these sections stating that, during Cycle 14, the position of Rod 1SB2 will be determined indirectly by the movable incore detectors within 8 hours following its movement until the repair of the indication system for this rod. In addition, the note would indicate that, during reactor startup, the fully withdrawn position of Rod 1SB2 will be determined by current traces or other equivalent means, and subsequently verified by the movable incore detectors prior to entry into Mode 1. The note would be effective during the remainder of Cycle 14, or until repair of the indication system is completed. The indication system for Rod 1SB2 became inoperable on April 28, 2000. The position indication system indicates that the rod is fully inserted; however, the licensee has confirmed that the rod is in the fully withdrawn position based on flux mapping information from the movable incore detectors. Troubleshooting has resulted in a determination that the position indication system cannot be repaired with the reactor in Modes 1–4. With one analog rod position indicator inoperable, the TS currently requires that either (1) the position of the non-indicating rod be determined indirectly by the movable incore detectors once per 8 hours and within 1 hour of any motion that exceeds 24 steps, or (2) thermal power be reduced to less than 50% within 8 hours. The licensee is currently implementing option (1).

The licensee has also requested that the license amendment be reviewed and approved on an exigent basis in accordance with 10 CFR 50.91(a)(6). In its application, PSE&G stated that the position indication system cannot be repaired with the reactor at power and that the possibility exists that repairs cannot be made until the plant is shutdown. Personnel safety and concerns over occupational exposure to radiation dose prevent the safe completion of repairs while operating at power. The licensee also stated that the failure was unexpected and has resulted in a significant burden to plant operations personnel as well as the movable incore detectors. PSE&G is concerned that operation of the Unit 1 flux mapping system, by as much as 120 times per month to comply with compensatory actions required by TS, may have detrimental effects, such as increased wear and tear, on the incore system. Since the incore system was not designed to operate in this manner, an increased risk of significant equipment malfunction may further challenge the licensee's ability to perform other TS surveillances for which the incore system is normally used.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change reduces the frequency of verifying the position of one non-indicating rod using the movable incore detectors and allows a different means of verifying rod position during reactor startup. The inoperability of the normal position indicating system does not affect the probability of a rod drop, a rod misalignment, or any other analyzed accident.

The inoperability of the rod position indicator eliminates one means of detecting a rod drop or rod misalignment. Failure to detect a misaligned rod could affect the initial conditions of the accident analysis and thereby affect the consequences. Based upon the other means available for detecting rod drops and misalignment (*e.g.*, the urgent failure alarm), the increase in the likelihood of an undetected rod drop or misalignment is considered to be negligible. As a result, the initial conditions of the accident analysis are preserved and the consequences of previously analyzed accidents are unaffected.

Therefore, the change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The change will not introduce any new accident initiators. The change only allows an extension to the previously approved frequency for verifying rod position for one non-indicating rod and allows a different means of verifying rod position during reactor startup.

Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change reduces the frequency of verifying the position of one non-indicating rod using the movable incore detectors and allows a different means of verifying rod position during reactor startup. The inoperability of the rod position indicator eliminates one means of detecting a rod drop or rod misalignment. Failure to detect a misaligned rod could affect the initial conditions of the accident analysis and thereby affect the associated margins of safety. Based upon the other means available for detecting rod drops and misalignment (e.g., the urgent failure alarm), the increase in the likelihood of an undetected rod drop or misalignment is considered to be negligible. As a result, the initial conditions of the accident analysis are preserved and the margins of safety are unaffected.

Therefore, the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 24, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 3, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 4th day of May 2000.

For the Nuclear Regulatory Commission.

Robert J. Fretz,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–11665 Filed 5–9–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No: 040–8794]

Finding of No Significant Impact Related to Approval of Decommissioning Plan for the Molycorp, Inc. Facility York, Pennsylvania, License No. SMB–1408

The U.S. Nuclear Regulatory Commission (NRC) is considering issuing an amendment to Source Materials License No. SMB–1408, held by Molycorp, Inc. (Molycorp or licensee), to authorize decommissioning of its facility in York, Pennsylvania. The objective of the decommissioning is to remediate the areas contaminated with thorium, uranium, and their daughter products, to allow the NRC to release Molycorp's York property for unrestricted use and to terminate the NRC radioactive materials license.

Environmental Assessment Summary

Proposed Action

In connection with the decontamination and decommissioning of its York facility, the licensee proposed the following activities: Decontamination and removal of buildings and other above-grade structures, with the exception of an office building and a warehouse, removal of concrete slabs and associated drains and sumps, excavation of the contaminated material exceeding the Site Decommissioning Management Plan (SDMP) Action Plan unrestricted use criteria (46 FR 52061), restoration of excavated areas with clean overburden, and transportation of the radioactively contaminated materials to an NRC approved interim storage or disposal facility. Further details are provided in the Environmental Assessment (EA).

Based on the NRC staff evaluation of the Molycorp's final Decommissioning Plan (DP), it was determined that the proposed decommissioning can be accomplished in compliance with the NRC public and occupational dose limits, effluent release limits, and residual radioactive material limits. In addition, the approval of the proposed action (*i.e.,* decommissioning of Molycorp's, York, Pennsylvania, facility in accordance with the commitments in the NRC license SMB–1408 and the final DP) will not result in a significant adverse impact on the environment.

Need for Proposed Action

The proposed action is necessary to remove the radioactive material attributable to licensed operations at the site to levels that permit unrestricted use of the site and termination of the radioactive source materials license SMB–1408.

Environmental Impacts of the Proposed Action

NRC staff reviewed the levels of contamination, the proposed remediation and decommissioning methods, and the radiological release criteria that will be used during the remediation and decommissioning. The radiological criteria are specified so that decommissioning activities will meet the 10 CFR part 20 radiation protection requirements. Worker and public doses will be limited so that exposures will not exceed Part 20 requirements and are as low as is reasonably achievable (ALARA).

The licensee will perform remediation in accordance with NRC's Action Plan to ensure timely cleanup of SDMP sites (57 FR 13385) and transportation of the excavated materials to an NRC approved interim storage or disposal facility.

The information for the York DP includes additional analyses of worker exposures from normal operations and an assessment of the potential for accidents. Because of the limited nature of activities planned for the York facility, potential worker exposures will most likely result from inhalation of airborne dust and shine from direct radiation. Potential public exposures are limited to inhalation of contaminated airborne dusts.

Information provided by the licensee indicates that past activities resulted in no measurable internal or external dose to any workers. The past activities included radiological characterization and building decontamination similar to the proposed activities. Therefore, radiation doses to workers from these activities are expected to be well within the limits of Part 20. Separate dose calculations to assess the impacts indicated that the excavator at the York site will receive an estimated maximum annual dose of 10.6 millirem (mrem) (predominantly from external exposure). The Part 20 annual worker dose limit is 5 rem (5000 mrem). As the estimated dose is well below the limit, no adverse impacts are expected based on the exposure calculations.

NRC staff analyzed the radiological impacts to the public from the planned decommissioning activities. Potential radiological impacts to the public from the decommissioning operations at the York facility are limited to similar release mechanisms pertaining to worker exposures (decontamination and excavation dusts), but require transport over greater distances to reach potential receptors. Therefore, much lower concentrations and doses are expected for members of the public in comparison to workers. The licensee estimated the public exposure at the York site boundary due to excavation to be about 0.059 mrem/yr. This dose is well below the NRC public dose limit (Part 20) of 100 mrem/yr, providing confidence that the potential for adverse environmental impacts is low. The licensee has included in its DP, further groundwater sampling and characterization to reduce uncertainty in current estimates and to assure that mitigative measures are not warranted. Therefore, NRC staff concludes that the licensee has provided adequate plans to ensure that potential radiological impacts to members of the public from the proposed decommissioning activities will not exceed NRC limits and are unlikely to result in adverse environmental impacts.

NRC staff also assessed the radiological impacts from transportation of contaminated soil and other wastes from the York site to an NRC approved interim storage or disposal facility. The most significant exposure pathway for the truck driver was estimated to be from direct exposure. The total radiation dose to the truck driver was estimated to be from direct exposure. The total radiation dose to the truck driver was estimated at 5.42 mrem for all shipments and 3.33 mrem during transport only (for comparison, the Part 20 occupational dose limit is 5000 mrem/yr). Other scenarios, such as transporting the wastes to another storage facility (example: Envirocare waste facility in Clive, Utah), were also considered and the resulting dose to the worker was found to be well below the NRC occupational dose limit. Also, the public dose from transport would be far less than that for the driver. NRC staff reviewed the calculations and found the doses and intakes are well within Part 20 limits.

NRC staff evaluated the radiological impacts from potential accidents. The information in the York facility DP states that potential site accident scenarios are unlikely to lead to doses that exceed 1 percent of the Part 20 dose limits. Potential accident scenarios considered include fire and loading or transfer mishaps. Considering the low potential for fire or explosion in existing building structures, the low quantities of material used during transfer operations, and the lack of highly concentrated radioactive materials at the site, NRC staff concludes that accidental releases of radioactive materials in quantities that could affect public health and safety are unlikely. The licensee has a procedure in place for emergency

response and notifications that provides additional safety assurance and, therefore, NRC staff concludes that the licensee has adequately addressed the potential for radiological accidents.

NRC staff also considered nonradiological impacts, such as transportation accidents, air quality and noise, chemicals and hazardous materials, and concluded that such impacts are negligible and will not result in adverse impacts. NRC staff also concludes that there are no environmental justice issues associated with the decommissioning of the York site, because there are no disproportionately high minority or low-income populations near the site. The licensee contacted the Pennsylvania Field Office of the U.S. Fish and Wildlife Service and determined that there are no endangered species on the York site.

Alternatives to the Proposed Action

The following alternatives, and the associated impacts and conclusions are described in the EA.

—No Action

—Cleanup for Unrestricted Use and Shipment to an Approved Disposal Site;

—On-Site Storage at the York site; and,

—On-Site Disposal at the York site.

Conclusions

Based on NRC staff evaluation of the final DP for the York site, it was determined that the proposed decommissioning can be accomplished in compliance with NRC's public and occupational dose limits, effluent release limits, and residual radioactive material limits. In addition, the approval of the proposed decommissioning of the York site will not result in a significant adverse impact on the public health and the environment.

NRC staff concludes that there are no reasonably available alternatives to the licensee's preferred action that are obviously superior.

Agencies and Individuals Consulted

NRC staff consulted with the Pennsylvania Department of Environmental Protection (PADEP) in the preparation of this EA. PADEP provided comments and questions on the draft EA. Appropriate comments and responses to the questions were incorporated into the final EA.

Finding of No Significant Impact

Based upon the EA, the Commission concludes that the proposed action will not have a significant impact on the quality of the human environment. Accordingly, the Commission has determined not to prepare an Environmental Impact Statement for the proposed action.

Additional Information

For further details with respect to the proposed action, see: (1) Molycorp's license amendment application dated August 14, 1995, and Molycorp's supplemental information and responses to NRC comments dated November 24, 1999; and (2) the complete EA. These documents are available for public inspection at web site http://www.nrc.gov/NRC/ADAMS/index.html.

Dated at Rockville, Maryland, this 3rd day of May 2000.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Chief, Decammissianing Branch, Divisian af Waste Management, Office af Nuclear Material Safety and Safeguards.

[FR Doc. 00–11663 Filed 5–9–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Public Workshop To Discuss the Technical Basis Document for Dose Modeling To Support Decommissioning

AGENCY: Nuclear Regulatory Commission.

ACTION: Workshop.

SUMMARY: This notice announces a public workshop to discuss a Technical Basis Document for dose modeling to support the decommissioning of nuclear facilities. The purpose of this workshop is to provide a forum for the Nuclear Regulatory Commission (NRC) staff, the nuclear industry, other regulatory agencies, and interested stakeholders to discuss the Technical Basis Document developed by the NRC to support the decommissioning of nuclear facilities.

DATES: June 7 and 8, 2000.

SUPPLEMENTARY INFORMATION: On October 21, 1998, (63 FR 56237) NRC announced that it was sponsoring a series of public workshops to support that staff's development of a Standard Review Plan (SRP) and other guidance for the decommissioning of nuclear facilities. NRC staff held a series of workshops on dose modeling, surveys, demonstrating ALARA, and restricted use/alternate criteria on December 1–2, 1998, January 21–22, 1999, March 18–19, 1999, June 16–17, 1999, August 18–19, 1999 and February 17–18, 2000. In addition, as draft SRP modules were completed, they were posted on the NRC website, for review and comment by interested individuals.

ADDRESSES: An agenda for the workshop will be posted on the NRC's website at: http://www.nrc.gov/NMSS/DWM/DECOM/decomm.htm. The workshop will be held at the NRC Headquarters, in the Auditorium of Two White Flint North Building, 11545 Rockville Pike, Rockville, Maryland. NRC staff strongly encourages interested stakeholders to attend and participate in this workshop, as it will offer a unique opportunity to provide the staff with insights, perspectives, and information that stakeholders feel is important for the NRC staff to consider as it finalizes the Technical Basis Document.

FOR FURTHER INFORMATION CONTACT: Dominick A. Orlando, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards (DWM/NMSS), at (301) 415–6749, or Rateb (Boby) Abu-Eid, High-Level Waste and Performance Assessment Branch, DWM/NMSS, at (301) 415–5811.

Dated at Rockville, Maryland this 3rd day of May, 2000.

For the Nuclear Regulatory Commission.

Robert A. Nelson,

Acting Chief, Decammissianing Branch, Divisian af Waste Management, Office af Nuclear Material Safety and Safeguards.

[FR Doc. 00–11664 Filed 5–9–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24441; 812–11842]

Warburg, Pincus Balanced Fund, Inc., et al.; Notice of Application

May 4, 2000.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order under section 17(d) of the Investment Company Act of 1940 ("Act") and rule 17d–1 under the Act.

APPLICANTS: Warburg, Pincus Balanced Fund, Inc., Warburg, Pincus Capital Appreciation Fund, Warburg, Pincus Cash Reserve Fund, Inc., Warburg, Pincus Central & Eastern Europe Fund, Inc., Warburg, Pincus Emerging Growth Fund, Inc., Warburg, Pincus Emerging Markets II Fund, Inc., Warburg, Pincus European Equity Fund, Inc., Warburg, Pincus Fixed Income Fund, Warburg, Pincus Focus Fund, Inc., Warburg, Pincus Global Fixed Income Fund, Inc., Warburg, Pincus Global Post-Venture Capital Fund, Inc., Warburg, Pincus,

Global Telecommunications Fund, Inc., Warburg, Pincus Growth & Income Fund, Inc., Warburg, Pincus Health Sciences Fund, Inc., Warburg, Pincus High Yield Fund, Inc., Warburg, Pincus Institutional Fund, Inc., Warburg, Pincus Intermediate Maturity Government Fund, Inc., Warburg, Pincus International Equity Fund, Inc., Warburg, Pincus International Growth Fund, Inc., Warburg, Pincus International Small Company Fund, Inc., Warburg, Pincus Japan Growth Fund, Inc., Warburg, Pincus Japan Small Company Fund, Inc., Warburg, Pincus Long Short Market Neutral Fund, Inc., Warburg, Pincus Major Foreign Markets Fund, Inc., Warburg, Pincus Municipal Bond Fund, Inc., Warburg, Pincus New York Intermediate Municipal Fund, Warburg, Pincus New York Tax Exempt Fund, Inc., Warburg, Pincus Small Company Growth Fund, Inc., Warburg, Pincus Small Company Value Fund, Inc., Warburg, Pincus Strategic Global Fixed Income Fund, Inc., Warburg, Pincus Trust, Warburg, Pincus Trust II, Warburg, Pincus U.S. Core Equity Fund, Inc., Warburg, Pincus U.S. Core Fixed Income Fund, Inc., Warburg, Pincus WorldPerks Money Market Fund, Inc., Warburg Pincus WorldPerks Tax Free Money Market Fund, Inc. (collectively, the "Warburg Pincus Funds") all existing and future series thereof, and Credit Suisse Asset Management, LLC ("CSAM").

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered management investment companies to deposit their uninvested cash balances in one or more joint accounts to be used to enter into repurchase agreements.

FILING DATE: The application was filed on November 4, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 25, 2000, 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, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, Warburg Pincus Funds, 466 Lexington Avenue, New York, New York 10017; CSAM, One Citicorp Center, 153 East 53rd Street, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Sara P. Crovitz,Seniro Counsel, at (202) 942–0667, or Michael W. Mundt, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0101, (202) 942–8090.

Applicants' Representations

1. The Warburg Pincus Funds are open-end management investment companies registered under the Act. CSAM, a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act"), serves as the investment adviser to the Warburg Pincus Funds.[1] Applicants request that any relief granted pursuant to the application also apply to any other registered management investment company that now or in the future is advised or subadvised by CSAM (together with Warburg Pincus Funds, the "Funds").[2]

2. At the end of each trading day, applicants expect that some or all of the Funds will have uninvested cash balances in their respective custodian banks that would not otherwise be invested in portfolio securities. All of the Funds currently are authorized to invest at least a portion of their uninvested cash balances in short-term repurchase agreements.

3. Applicants propose to deposit some or all of the uninvested cash balances of the Funds remaining at the end of each trading day into one or more joint accounts ("Joint Accounts").[3] The daily balance of the Joint Accounts would be invested in short-term repurchase agreements ("Repurchase Agreements"), provided that: (a) the maximum maturity for Repurchase Agreements purchased through the Joint Accounts will not exceed 30 days; and (b) the Repurchase Agreements are "collateralized fully" as defined in Rule 2a–7 under the Act. A Fund would invest through a Joint Account only in Repurchase Agreements that are consistent with the Fund's investment objectives, policies and restrictions. A Fund's decision to use the Joint Accounts will be based on the same factors as a Fund's decision to make any other short-term liquid investment.

4. CSAM will not participate as an investor in the Joint Accounts and will collect no additional fee for its management of the Joint Accounts. CSAM will be responsible for investing amounts in the Joint Accounts, establishing accounting and control procedures, and ensuring fair and equitable treatment of the participating Funds.

5. Any Repurchase Agreements entered into through the Joint Accounts will comply with the standards and guidelines set forth in any existing and future positions of the Commission or its staff regarding repurchase agreement transactions. The Funds will not enter into "hold-in-custody" repurchase agreements (*i.e.*, repurchase agreements where the counterparty or one of its affiliated persons may have possession of, or control over, the collateral subject to the agreement).

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in any joint enterprise or arrangement in which that investment company is a participant, unless the Commission has issued an order authorizing the arrangement. In passing on these applications, the Commission considers whether the participation of the registered investment company in the proposed joint arrangement is consistent with the provisions, policies and purposes of the Act and the extent to which participation is on a basis different from or less advantageous than that of other participants.

2. Section 2(a)(3) of the Act defines an "affiliated person" of another person to

[1] CSAM includes, in addition to the company itself, any other entity controlling, controlled by, or under common control with CSAM that acts in the future as an investment adviser for the Funds (as defined below).

[2] Each Fund that currently intends to rely on the requested order is named as an applicant. Any Fund that relies on the requested order in the future will do so only in compliance with the terms and conditions of the application. The requested relief would apply to Funds subadvised by CSAM to the extent that CSAM manages the uninvested cash of those Funds.

[3] Certain Funds currently invest in Joint Accounts in reliance on a previous order. *Warburg, Pincus Balanced Fund, et al.*, Investment Company Act Release Nos. 22683 (May 27, 1997) (notice) and 22724 (June 23, 1997) (order). The requested order would supersede the previous order.

include any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that each Fund may be considered an "affiliated person" of each other Fund if CSAM, as investment adviser, is deemed to control each Fund. Applicants state that each Fund, by participating in the Joint Accounts, and CSAM, by managing the Joint Accounts, could be deemed to be "joint participants" in a "transaction" within the meaning of section 17(d) of the Act. In addition, applicants state that each Joint Account could be deemed to be a "joint enterprise or other joint arrangement" within the meaning of rule 17d–1.

3. Applicants submit that the proposed Joint Accounts meet the criteria of rule 17b–1 for issuance of an order. Applicants assert that no Fund will be in a less favorable position as a result of the Joint Accounts. Applicants state that each Fund's liability on any Repurchase Agreement will be limited to its interest in the investment. Applicants also assert that the proposed operation of the Joint Accounts will not result in any conflicts of interest among any of the Funds and CSAM.

4. Applicants state that the operation of the Joint Accounts could result in certain benefits to the Funds. Applicants state that the Funds may earn a higher rate of return on investments through the Joint Accounts relative to the returns they could earn individually. Under most market conditions, applicants assert, it is possible to negotiate a rate of return on larger investments that is higher than the rate of return available on smaller investments. In addition, applicants state that the enhanced purchasing power available through Joint Accounts may increase the number of dealers willing to enter into Repurchase Agreements with smaller Funds and may reduce the possibility that the Funds' cash balances remain uninvested. Applicants state that the Joint Accounts may result in certain administrative efficiencies and may lessen the potential for error by reducing the number of trade tickets and cash wires that must be processed by the sellers of Repurchase Agreements and by the Funds' custodians and accountants.

Applicants' Conditions

Applicants will comply with the following as conditions to any order granted by the Commission in connection with this application:

1. The Joint Accounts will consist of one or more separate cash accounts established at a custodian bank. A Joint Account may be established at more than one custodian bank and more than one Joint Account may be established at any custodian bank. A Fund may transfer a portion of its daily cash balances to more than one Joint Account. After the calculation of its daily cash balance and at the direction of CSAM, each Fund will transfer into one or more Joint Accounts the cash it intends to invest through the Joint Accounts. Each Fund whose regular custodian is a custodian other than the bank at which a proposed Joint Account will be maintained and that wishes to participate in the Joint Account will appoint the latter bank as a sub-custodian for the limited purposes of: (a) Receiving and disbursing cash; (b) holding any Repurchase Agreements; and (c) holding collateral received from a transaction effected through the Joint Account. All Funds that appoint such sub-custodians will have taken all necessary actions to authorize such bank as their legal custodian, including all actions required under the Act.

2. The Joint Accounts will not be distinguishable from any other accounts maintained by the Funds at their custodians except that monies from the Funds will be deposited in the Joint Accounts on a commingled basis. The Joint Accounts will not have a separate existence and will not have any indicia of a separate legal entity. The Joint Accounts will only be used to aggregate individual transactions necessary for the management of each Fund's daily uninvested cash balance.

3. Cash in the Joint Accounts will be invested in one or more Repurchase Agreements provided that: (a) The maximum maturity for Repurchase Agreements purchased through the Joint Accounts will not exceed 30 days; and (b) the Repurchase Agreements are "collateralized fully" as defined in Rule 2a–7 under the Act and satisfy the uniform standards set by the Funds for such investments. The securities subject to the Repurchase Agreements will be transferred to a Joint Account, and they will not be held by the Fund's repurchase counterparty or by an affiliated person of that counterparty.

4. Each Fund will participate in a Joint Account on the same basis as every other Fund in conformity with its respective investment objective or objectives, policies and restrictions. Any further Funds that participate in a Joint Account will be required to do so on the same terms and conditions as the existing Funds.

5. Each Fund, through its investment adviser and/or custodian, will maintain records (in conformity with Section 31 of the Act and the rules thereunder) documenting for any given day its aggregate investment in a Joint Account and its pro rata share of each Repurchase Agreement made through such Joint Account.

6. All assets held by a Joint Account will be valued on an amortized cost basis to extent permitted by applicable Commission releases, rules, letters or orders.

7. Each Fund valuing its net assets based on amortized cost in reliance upon rule 2a–7 under the Act will use the average maturity of the instrument(s) in the Joint Accounts in which such Fund has an interest (determined on a dollar-weighted basis) for the purpose of computing its average portfolio maturity with respect to the portion of its assets held in a Joint Account on that day.

8. Not every Fund participating in the Joint Accounts will necessarily have its cash invested in every Repurchase Agreement. However, to the extent a Fund's cash is applied to a particular Repurchase Agreement, the Fund will participate in and own its proportionate share of such Repurchase Agreement, and any income earned or accrued thereon, based upon the percentage of such investment purchased with amounts contributed by such Fund.

9. To ensure that there will be no opportunity for one Fund to use any part of a balance of a Joint Account credited to another Fund, no Fund will be allowed to create a negative balance in any Joint Account for any reason. Each Fund will be permitted to draw down its entire balance at any time. Each Fund's decision to invest in a Joint Account will be solely at its option, and no Fund will be obligated either to invest in the Joint Accounts or to maintain any minimum balance in the Joint Accounts. In addition, each Fund will retain the sole rights of ownership of any of its assets, including interest payable on such assets, invested in the Joint Accounts.

10. CSAM will administer, manage and invest the cash balance in the Joint Accounts in accordance with and as part of its duties under the existing or any future investment advisory contracts with each Fund. CSAM will not collect any additional or separate fee for advising or managing any Joint Account.

11. The administration of the Joint Accounts will be within the fidelity bond coverage maintained for the Funds as required by section 17(g) of the Act and rule 17g–1 thereunder.

12. The boards of directors or trustees of the Funds participating in the Joint Accounts will adopt procedures pursuant to which the Joint Accounts

will operate and which will be reasonably designed to provide that the requirements set forth in the application are met. The directors or trustees will make and approve such changes that they deem necessary to ensure that such procedures are followed. In addition, the directors or trustees will determine, no less frequently than annually, that the Joint Accounts have been operated in accordance with the proposed procedures, and will permit a Fund to continue to participate therein only if it determines that there is a reasonable likelihood that the Fund and its shareholders will benefit from the Fund's continued participation.

13. Investments held in a Joint Account generally will not be sold prior to maturity except: (a) If CSAM believes that the investment no longer presents minimal credit risk; (b) if, as a result of a credit downgrading or otherwise, the investment no longer satisfies the investment criteria of all Funds participating in the investment; or (c) if the counterparty defaults. A Fund may, however, sell its fractional portion of an investment in a Joint Account prior to the maturity of the investment in such Joint Account if the cost of such transaction will be borne solely by the selling Fund and the transaction will not adversely affect the other Funds participating in that Joint Account. In no case will an early termination by less than all participating Funds be permitted if it will reduce the principal amount or yield received by other Funds participating in a particular Joint Account or otherwise adversely affect the other participating Funds. Each Fund participating in such Joint Account will be deemed to have consented to such sale and partition of the investment in such Joint Account.

14. Repurchase Agreements held through a Joint Account with a remaining maturity of more than seven days, as calculated pursuant to rule 2a–7 under the Act, will be considered illiquid and will be subject to the restriction that a Fund may not invest more than 10%, in the case of a money market fund, or 15%, in the case of a non-money market fund (or such other percentages as set forth by the Commission from time to time) if its net assets in illiquid securities, and any similar restriction set forth in the Fund's investment restrictions and policies, if CSAM cannot sell the instrument, or the Fund's fractional interest in such instrument, pursuant to the preceding condition.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–11681 Filed 5–9–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24440; File No. 812–12000]

New York Life Insurance and Annuity Corporation, et al., Notice of Application

May 3, 2000.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an order under Section 6(c) of the Investment Company Act of 1940 ("1940 Act"), as amended granting exemptions from the provisions of Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder to permit the recapture of credits applied to premium payments made under certain deferred variable annuity policies and certificates.

SUMMARY OF APPLICATION: Applicants seek an order under Section 6(c) of the 1940 Act, to permit, under specified circumstances, the recapture of credits applied to premium payments made under: (i) Certain deferred variable annuity policies and certificates that NYLIAC will issue through SA III (the policies and certificates, including certain certificate data pages and endorsements, are referred to as "Mainstay Policies" or "LifeStages Policies," collectively, the "SA III Policies"), and (ii) policies and certificates, including certain certificate data pages and endorsements, the NYLIAC may issue in the future through SA III or any Future Account (collectively, the "Accounts") which policies and certificates, including certain certificate data pages and endorsements, are substantially similar to the SA III Policies in all material respects (the "Future Policies" together with the SA III Policies, "Policies"). Applicants also request that the order being sought extend to any National Association of Securities Dealers, Inc. ("NASD") member broker-dealer controlling or controlled by, or under common control with NYLIAC, whether existing or created in the future, that serves as a distributor or principal underwriter of the Policies offered through the Accounts (collectively, "NYLIAC Broker-Dealers").

APPLICANTS: New York Life Insurance and Annuity Corporation ("NYLIAC") and its NYLIAC Variable Annuity Separate Account—III ("SA III"), any other separate accounts of NYLIAC ("Future Accounts") that support in the future variable annuity policies and certificates that are substantially similar in all material respects to the SA III policies, and NYLife Distributors, Inc. ("NYLIFE Distributors") (collectively referred to herein as "Applicants").

FILING DATES: The Application was filed with the Commission on February 24, 2000, and amended and restated on May 3, 2000.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m., on May 26, 2000, 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, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549–0609. Applicants, c/o Linda M. Reimer, Esq., New York Life Insurance and Annuity Corporation, 51 Madison Avenue, New York, New York 10010.

FOR FURTHER INFORMATION CONTACT: Ronald A. Holinsky, Attorney, or Susan M. Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. NYLIAC is a stock life insurance company organized under the laws of the State of Delaware. NYLIAC is licensed to sell life, accident and health insurance and annuities in the District of Columbia and all states. NYLIAC serves as depositor for SA III, which was established in 1994 pursuant to authority granted under a resolution of NYLIAC's Board of Directors. NYLIAC

also serves as depositor for several existing Future Accounts, one or more of which may support obligations under Future Policies. NYLIAC may establish additional Future Accounts for which it will serve as depositor.

2. NYLIFE Distributors is the principal underwriter of SA III. NYLIFE Distributors is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934, as amended, and is a member of the NASD. The SA III Policies are distributed by NYLIFE Distributors and sold by registered representatives of NYLIFE Securities, Inc., and registered representatives of unaffiliated broker-dealers that have entered into selling agreements with NYLIAC and NYLIFE Distributors. The SA III Policies also are distributed and sold by banking and financial institutions that have entered into selling agreements with NYLIAC or NYLIFE Distributors. NYLIFE Securities, Inc. and NYLIFE Distributors are wholly-owned subsidiaries of NYLIFE, LLC, which is a wholly-owned subsidiary of New York Life Insurance Company. NYLIFE Distributors may enter into similar arrangements for Future Policies. NYLIFE Distributors may act as principal underwriter for Future Accounts and distributor for Future Policies. A successor entity also may act as principal underwriter for any of the Accounts and distributor for any of the Policies.

3. SA III is a segregated asset account of NYLIAC. SA III is registered with the Commission as a unit investment trust under the 1940 Act. SA III will fund the variable benefits available under the SA III Policies. Units of interest in SA III under the SA III Policies it funds will be registered under the Securities Act of 1933 ("1933 Act"). NYLIAC may issue Future Policies through SA III or through Future Accounts. That portion of assets of SA III that is equal to the reserves and other SA III Policy liabilities with respect to SA III is not chargeable with liabilities arising out of any other business of NYLIAC. Any income, gains or losses, realized or unrealized, from assets allocated to SA III are, in accordance with the SA III Policies, credited to or charged against SA III, without regard to other income, gains or losses of NYLIAC. The same will be true of any Future Account.

4. Future Policies funded by SA III or any Future Accounts will be substantially similar to the SA III Policies in all material respects. Certain anticipated differences between SA III Policies and Future Policies are summarized below. SA III Policies will be sold by registered representatives of NYLIFE Securities, Inc., and unaffiliated broker-dealers that have entered into selling agreements with NYLIAC or NYLIFE Distributors. SA III Policies also will be sold by banking and financial institutions that have entered into selling agreements with NYLIAC and NYLIFE Distributors. NYLIAC may issue SA III Policies as individual or group flexible premium tax deffered variable annuity policies. NYLIAC may issue SA III Policies in connection with retirement plans that qualify for favorable federal income tax treatment under Sections 403, 408, or 457 of the Internal Revenue Code of 1986, as amended ("Code"). NYLIAC also may issue SA III Policies on a non-tax qualified basis. SA III Policies may be used for other purposes in the future, or offered only as qualified policies or non-qualified policies.

5. The minimum initial and subsequent premium payment for a non-qualified policy is $5,000 for Mainstay Policies and $2,000 for LifeStages Policies. The minimum initial and subsequent premium for a qualified policy is $2,000 for both the Mainstay and LifeStages Policies. The maximum aggregate premium payments without prior approval of NYLIAC is $1,000,000. The maximum age of any annuitant as of issue date is 80. NYLIAC does not accept subsequent premium payments after the annuity date unless otherwise agreed to

6. An owner call allocate premium payments or account value to one or more investment division of SA III, each of which will invest in a corresponding portfolio of a mutual fund. In addition, SA III Policies will permit premium payments to be allocated to fixed interest options funded through the fixed account ("Fixed Account") which provides a guarantee of the premium payment allocated thereto and interest for specified periods. Policy owners may receive annuity payments after annuitization on a fixed basis.

7. SA III currently consists of 26 investment divisions, all of which will be available under the SA III Policies. However, a policy owner may not allocate money to more than 18 variable investment divisions at any given time. Each investment division will invest in shares of a corresponding portfolio of an open-end, diversified series management investment company registered under the 1940 Act and whose shares are offered under the 1933 Act (each a "Fund" and collectively, "Funds"). The Funds currently available under the SA III Policies are managed by various entities affiliated and unaffiliated with NYLIAC. The investment divisions and the fixed interest options will comprise the initial "Allocation Alternatives" under the SA III Policies.

8. NYLIAC, at a later date, may determine to create additional investment divisions of SA III to invest in any additional portfolios of the Funds, or other portfolios or investments as may now or in the future be available. Similarly, investment divisions of SA III may be combined or eliminated from time to time. Future Policies may offer Funds managed by the same as well as other investment advisers.

9. SA III Policies provide for various withdrawal options, annuity benefits and payout annuity option; transfer privileges among Allocation Alternatives; dollar cost averaging; death benefits; and other features. Mainstay Policies have the following charges: (i) A surrender charge as a percentage of premium payments declining from 8% in years one, two, three and four to 0% in year nine and thereafter, with a specified free withdrawal amount; and (ii) separate account annual expenses at the annual rate of 1.6% assessed against the net assets of each investment division. Also, each year during the accumulation phase and on full surrender, an annual policy service charge of $30 is deducted proportionately from each Allocation Alternative. The annual maintenance fee will be waived if the Policy owner's account value is $100,000 or greater on the date this fee is due. The Funds each impose investment management fees and charges for other expenses. LifeStages Policies have the same charges as listed above except that under LifeStages Policies, the surrender charge as a percentage of premium payments declines from 8% in years one, two and three to 0% in year nine and thereafter.

10. Mainstay Policies have the following death benefit. If the policyholder or annuitant dies prior to the annuity commencement date, the designated beneficiary will receive, upon the receipt of proof of death, the greatest of: (1) The accumulation value, less any outstanding loan balance, less Credits (as defined below) applied within the 12 months immediately preceding death; (ii) the sum of all premium payments made, less any outstanding loan balance, partial withdrawals, and surrender charges on those partial withdrawals; or (iii) the reset value plus any additional premium payments made since the most recent reset anniversary, less any outstanding loan balance, proportional withdrawals made since the most recent reset anniversary, any surrender charges applicable to such proportional

withdrawals, and Credits applied within the 12 months immediately preceding death.

11. NYLIAC will apply a premium credit ("Credit") to the account of an SA III Policy owner whenever the owner makes a premium payment. The amount of the Credit will equal a percentage ("Credit Rate") of the premium payment according to the premium credit schedule then in effect. The Credit Rate applicable to a premium payment will depend on the total amount of premiums received under a Policy ("Total Accumulated Premiums"). In addition, if NYLIAC receives more than one premium payment within 180 days of the policy date (as defined in the Policy), NYLIAC will adjust the Credits applied to such payments using the Credit Rate applicable to the later payment(s) made during that period. NYLIAC will apply any additional Credit amounts resulting from such adjustments as of the date it receives the later premium payment(s).

NYLIAC proposes to use the following premium credit schedule for initial premium payments under the SA III Policies:

Total accumulated premiums at least	But less than—	Credit rate[1]
Minimum	$50,000	3.0
$50,000	100,000	3.25
100,000	500,000	4.5
500,000	1,000,000	4.5
1,000,000	2,500,000	4.5
2,500,000	5,000,000	5.0
5,000,000	Unlimited	5.0

[1] Credit rate as a percentage of premium payment.

NYLIAC may apply Credits for subsequent premium payments under SA III Policies using the same or a different credit schedule. In addition, NYLIAC may apply Credits for initial and subsequent premium payments under Future Policies using the same or a different premium credit schedule. The Credit Rate under future premium credit schedules will range between 2.0% to 6.0%. NYLIAC will notify Policy owners of any change in the premium credit schedule prior to implementing such change. NYLIAC currently does not expect to change the premium credit schedule more often than five times a year. Any change in the premium credit schedule will apply to all premium payments received after the schedule becomes effective.

12. NYLIAC will determine the premium breakpoint and credit percentages of future premium credit schedules based on several factors, including product expense levels, policy experience, and competitive position. NYLIAC expects to incur certain expenses, such as those related to policy issue, maintenance and servicing, that will affect the profitability of the policy. As premiums paid under a policy increase, these expenses should have less of an unfavorable impact on profitability. NYLIAC generally expects to be able to afford to apply larger Credits on larger policies. Accordingly, depending on future expense levels, NYLIAC may change future premium amount breakpoints or credit percentages to maintain a consistent level of profitability. In addition, NYLIAC expects different size policies to reflect different persistency or mortality experience that will affect the profitability of the policies. Poor persistency or high mortality experience will adversely affect profitability. NYLIAC generally expects to be able to afford to apply a larger Credit on policies with higher persistency or lower mortality experience. Accordingly, depending on whether future persistency or mortality experience is favorable or unfavorable, NYLIAC may change future premium amount breakpoints or credit percentages to maintain a consistent level of profitability. Finally, NYLIAC will monitor changes in the marketplace for policies with credit or similar features, and may change future premium amount breakpoints or credit percentages to maintain a competitive position in the marketplace.

13. NYLIAC will allocate Credits among the Allocation Alternatives in the same proportion as the corresponding premium payments are allocated by the owner. NYLIAC will fund Credits from its general account assets. The Credits are vested when applied, except under the following circumstances: (i) NYLIAC will recapture all Credits if the owner returns a SA III Policy to NYLIAC for a refund during the 10-day (or longer, if required) "free-look" period; and (ii) the amount of any death benefit will not include any Credit applied to an owner's account within 12 months of the date of death.

14. Applicants seek exemption pursuant to Section 6(c) of the 1940 Act from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the 1940 Act, and Rule 22c–1 thereunder, to the extent deemed necessary to permit NYLIAC to issue policies that provide for Credits upon the receipt of premium payments, and to recapture Credits in the following instances: (i) If the Policy owner returns the Policy to NYLIAC for a refund during the 10-day (or longer, if required) "free-look" period; and (ii) the amount of any death benefit will not include any Credit applied to an owner's account within 12 months of the date of death.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from the provisions of the 1940 Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consist with the provisions of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicants request that the Commission, pursuant to Section 6(c) of the 1940 Act grant the exemptions requested below with respect to SA III Policies, and any Future Policies funded by SA III or Future Accounts, that are issued by NYLIAC and underwritten or distributed by NYLIFE Distributors or any other NYLIAC Broker-Dealers. Applicants undertake that Future Policies funded by SA III or any Future Account will be substantially similar in all material respects to the SA III Policies. Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicants represent that it is not administratively feasible to track the Credit amount in the Accounts after the Credit is applied. Accordingly, the asset-based charges applicable to the Accounts will be assessed against the entire amounts held in the respective Accounts, including the Credit amount, during the period when the owner's interest in the Credit is not completely vested. As a result, during such periods, the aggregate asset-based charges assessed against an owner's annuity account value will be higher than those that would be charged if the owner's annuity account value did not include the Credit.

3. Subsection (i) of Section 27 of the 1940 Act provides that Section 27 does not apply to any registered separate account funding variable insurance policies, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of that subsection. Paragraph (2) provides that it shall be unlawful for such a separate account or sponsoring insurance company to sell a policy funded by the registered separate account unless "(A) such contract is a redeemable security." Section 2(a)(32) of the 1940 Act defines "redeemable

security" as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his or her proportionate shares of the issuer's current net assets, or the cash equivalent thereof.

4. Applicants submit that the Credit recapture provisions summarized herein would not deprive a Policy owner of his or her proportionate share of the issuer's current net assets. An owner's interest in the amount of the Credit applied to his or her annuity account value upon receipt of an initial premium payment is not vested until the applicable free-look period has expired without return of the Policy. Similarly, an owner's interest in the amount of any Credits applied upon receipt of premium payments made during the 12 months prior to the date of death also is not vested. Until or unless the amount of any Credit is vested, NYLIAC retains the right and interest in the Credit amount, although not in any earnings attributable to that amount. Thus, Applicants argue that, when NYLIAC recaptures any Credit, it is simply retrieving its own assets, and because an owner's interest in the Credit is not vested, the owner has not been deprived of a proportionate share of the applicable Account's assets.

5. In addition, with respect to Credit recaptures upon the exercise of the free-look privilege, Applicants state that it would be patently unfair to allow an owner exercising that privilege to retain a Credit amount under a Policy that has been returned for a refund after a period of only a few days. Applicants state that if NYLIAC could not recapture the Credit, individuals could purchase a Policy with no intention of retaining it, and simply return it for a quick profit.

6. Furthermore, Applicants state that the recapture of Credits relating to premium payments made within 12 months of death is designed to provide NYLIAC with a measure of protection against "anti-selection." Applicants state that the risk here is that, rather than spreading premium payments over a number of years, an owner will make very large payments shortly before death, thereby leaving NYLIAC less time to recover the cost of the Credits applied, to its financial detriment. NYLIAC intends to recover the costs of the Credits applied through a portion of the early surrender charge and the separate account charge imposed under the Policies. NYLIAC may use any excess to recover distribution costs relating to the Policy and as a source of profit. The amounts recaptured equal the Credits provided by NYLIAC from its own general account assets, and any gain would remain as part of the Policy's value.

7. Applicants represent that the Credit will be attractive to and in the interest of investors because it will permit owners to put an amount greater than their premium payments to work for them in the selected Allocation Alternatives. Also, owners will retain any earnings attributable to the Credit and, unless any of the contingencies summarized above apply, the principal amount of the Credit.

8. Applicants submit that the provisions for recapture of any Credits under the SA III Policies do not, and any such Future Policy provisions will not, violate Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act. Nevertheless, to avoid any uncertainties, Applicants request an exemption from Sections 2(a)(32) and 27(i)(2)(A), to the extent deemed necessary, to permit the recapture of any Credit under the circumstances described herein with respect to SA III Policies and any Future Policies, without the loss of the relief from Section 27 provided by Section 27(i).

9. Section 22(c) of the 1940 Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company, whether or not members of any securities association, to the same extent, covering the same subject matter, and for the accomplishment of the same ends as are prescribed in Section 22(a) of the 1940 Act in respect of the rules which may be made by a registered securities association governing its members. Rule 22c–1 thereunder prohibits a registered investment company issuing a redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

10. Arguably, NYLIAC's recapture of the Credit might be viewed as resulting in the redemption of redeemable securities for a price other than one based on the current net asset value of the Accounts. Applicants contend, however, that the recapture of the Credit is not violative of Section 22(c) and Rule 22c–1. Applicants argue that the recapture of the Credit does not involve either of the evils that Rule 22c–1 was intended to eliminate or reduce as far as reasonable practicable, namely: (i) The dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or their redemption or repurchase at a price above it, and (ii) other unfair results, including speculative trading practices. To effect a recapture of the Credit, NYLIAC will redeem interests in an owner's annuity account at a price determined on the basis of the current net asset value of the respective Accounts. The amount recaptured will equal the amount of the Credit that NYLIAC paid out of its general account assets. Although owners will be entitled to retain any investment gain attributable to the Credit, the amount of such gain will be determined on the basis of the current net asset value of the respective Accounts. Thus, Applicants assert that no dilution will occur upon the recapture of a Credit. Applicants also submit that the second harm that Rule 22c–1 was designed to address, namely, speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Credit. However, to avoid any uncertainty as to full compliance with the 1940 Act, Applicants request an exemption from the provisions of Section 22(c) and Rule 22c–1 to the extent deemed necessary to permit them to recapture the Credit under the SA III Policies and Future Policies.

Conclusion

Applicants submit, based on the grounds summarized above, that their exemptive request meets the standards set out in Section 6(c) of the 1940 Act, namely, that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act, and that, therefore, the Commission should grant the requested order.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–11606 Filed 5–9–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42755; File No. 4–434]

RIN 3235–AH92

Options Price Reporting Authority

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to national market system plan.

SUMMARY: The Securities and Exchange Commission ("SEC" or "Commission") is proposing amendments to the Options Price Reporting Authority ("OPRA") Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA Plan"). The proposed amendments set forth two alternatives to establish a formula to allocate the message capacity of the OPRA system among the participant exchanges. The allocation formula is intended as a short-term solution to OPRA capacity shortages.

DATES: Comments should be submitted by June 9, 2000.

ADDRESSES: All comments should be submitted in triplicate and addressed to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Comments also may be submitted electronically at the following E-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. 4–434; this file number should be included on the subject line if E-mail is used. Comment letters will be available for inspection and copying in the public reference room at the same address. Electronically submitted comment letters will be posted on the Commission's Internet web site (*http://www.sec.gov*).

FOR FURTHER INFORMATION CONTACT: Deborah Flynn, Senior Special Counsel, at (202) 942–0075, Kelly Riley, Attorney, at (202) 942–0752, John Roeser, Attorney, at (202) 942–0762, Terri Evans, Special Counsel, at (202) 942–4162, and Heather Traeger, Attorney, at (202) 942–0763, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: The Commission is proposing amendments to the OPRA Plan [1] to allocate among the options exchanges OPRA's peak period message handling capacity. An allocation formula is needed because of OPRA's inability to increase its systems capacity within the short-term. Without sufficient capacity, options market data are delayed and, therefore, stale, which reduces market transparency and hampers efficient price discovery. When this occurs, the only market participants with up-to-date quote and trade information are those physically on the floor of a particular exchange. Those participants then have an informational advantage that is inconsistent with the goal of a fair and open market for all investors.

Consolidated options data offer enormous benefits to investors and the markets. The Commission is working with the OPRA participants to increase the capacity of the consolidated data systems and to empower the markets to individually ensure adequate data capacity in the future. In the meantime, an objective capacity allocation formula is essential to ensure that scarce OPRA systems capacity is allocated among the options exchanges on a fair and reasonable basis and that delays in the dissemination of options market data to the public are minimized.

An equitable allocation of capacity should ensure that all broker-dealers and investors have available to them accurate and timely information with respect to quotations for and transactions in options and would help to avoid delays and queues in the dissemination of options market information. The OPRA Plan participants have been unable to formulate an objective capacity allocation model. The Commission, therefore, is proposing these amendments to the OPRA Plan on its own initiative, pursuant to Section 11A under the Securities Exchange Act of 1934 ("Act") [2] and Rule 11Aa3–2 thereunder,[3] and is seeking comment from interested persons.

[1] 1 OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3–2 thereunder. *See* Securities Exchange Act Release No. 17638 (March 18, 1981).

The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The five exchanges that agreed to the OPRA Plan are the American Stock Exchange ("Amex"); the Chicago Board Options Exchange ("CBOE"); the New York Stock Exchange ("NYSE"); the Pacific Exchange ("PCX"); and the Philadelphia Stock Exchange ("Phlx").

[2] 15 U.S.C. 78k–1.

[3] Rule 11Aa3–2 establishes procedures for initiating or approving amendments to national market system plans such as the OPRA Plan. Paragraph (b)(2) of Rule 11Aa3–2 permits the Commission to propose amendments to an effective national market system plan. Further, Paragraph (c)(2) of Rule 11Aa3–2 requires that promulgation of an amendment to an effective national market system plan initiated by the Commission be by rule. *See* 17 CFR 240.11Aa3–2(c)(2).

I. Background

In 1981, the Commission approved the OPRA Plan as a national market system plan, pursuant to Sections 11A(a)(2) and 11A(a)(3)(B) of the Act.[4] The OPRA Plan governs the process by which options market data are collected from participant exchanges, consolidated, and disseminated.[5] Consolidated data help ensure that broker-dealers, markets, and investors have the best prices available for an option, from all markets trading that option class. It assists customers in setting the terms of their orders and in monitoring how well their brokers execute their orders. Consolidated data also assist brokers and markets in providing the best execution possible for an order.

Current OPRA participants include: Amex, CBOE, PCX, Phlx, and NYSE.[6] A policy committee composed of representatives from each participant exchange implements and, subject to Commission approval, amends the policies and procedures set forth in the OPRA Plan. This committee selected the Securities Industry Automation Corporation ("SIAC") as the facility for gathering the last sale and quote information from each of the participant exchanges and consolidating and disseminating it to approved vendors. All of the transactions executed on, and price quotations for options generated by, each options exchange are communicated to the public by OPRA through the facilities of its exclusive processor, SIAC. The messages are sent to OPRA and distributed to market data vendors on a consolidated basis for use by options market participants, including retail investors, broker-dealers, and the exchanges themselves.

A. Systems Capacity

Each trade that is executed on an options exchange, as well as each price change quoted on an options exchange, is reported to OPRA as a "message." The options markets generate messages for a substantial number of products. Currently, there are approximately 3,300 equity securities and indexes underlying listed options products, and

[4] 15 U.S.C. 78k–1(a)(2) and (3)(B); *see also* Securities Exchange Act Release No. 17638 (March 18, 1981), as amended; *see, e.g.*, Securities Exchange Act Release No. 40767 (December 9, 1998), 63 FR 69354 (December 16, 1998).

[5] OPRA was granted registration as a securities information processor by the Commission in 1976. *See* Securities Exchange Act Release No. 12035 (January 22, 1976), 41 FR 4372.

[6] The NYSE sold its options business to the CBOE in 1997. Nevertheless, the NYSE remains a participant of OPRA. The International Securities Exchange is seeking to become an OPRA participant.

more than 140,000 individual options series.[7] Trade and quote data are generated continuously during the hours that markets are open for each options product listed on each options exchange.

Quote message traffic represents the vast majority of the options message traffic generated.[8] Generally, quotes are generated automatically for individual options series based on changes in the underlying stock price or index value. In other words, every time a price changes for a particular equity security, the quotes for all of the options on that security or an index in which that security is represented are automatically updated on each exchange that trades those options. This enormous amount of quote message traffic is burdening the OPRA system, which threatens to compromise the reliability of options market data disseminated to market participants, including retail investors.

The number of messages generated by the exchanges on a daily basis has been growing exponentially. In January 1999, OPRA reported an average of only about 17 million messages per day. By January 2000, OPRA reported an average of 40 million messages per day. And, on April 4, 2000, OPRA reported 74.3 million messages.[9]

A more significant gauge of the level of options market data is messages per second. Messages per second, or "MPS," is just that—the number of messages (*i.e.*, options trade and quote data) reported to OPRA by the options exchanges during any given second of a trading day. The increases in this gauge have been nothing less than staggering. Between January 1998 and January 1999, OPRA reported an increase in one and five minute peaks from approximately 600 messages per second to approximately 1,400 messages per second. By January 2000, OPRA's reported one and five minute peaks reached approximately 2,900 messages per second. Currently, the exchanges are hitting OPRA's current systems capacity of 3,540 messages per second on an almost daily basis.

In the past, OPRA had generally been able to handle the peak messages per second generated by the exchanges. In January 1998, OPRA had systems capacity to handle 600 messages per second, with plans to upgrade its systems to handle more messages per second. In January 1999, OPRA had capacity to handle 1,900 messages per second and thus, was not in immediate danger of a system overload based on the peak messages per second reported. In January 2000, however, OPRA systems only had capacity to handle approximately 3,000 messages per second, which was dangerously close to being met.[10]

The significant increase in message traffic may be attributed to increased volume on the exchanges, increased volatility in the underlying equity securities, and increased multiple trading of previously exclusively-traded options products across the options exchanges. Dramatic growth in options quote message traffic is expected to continue in the near future as a new exchange enters the market,[11] products begin to trade in decimals rather than fractions, and quotes are disseminated with size.[12] The combination of these factors could result in a peak MPS rate as high as 38,000 MPS by the end of 2001, a ten-fold increase over existing capacity.

B. OPRA's Capacity Initiatives

As options message traffic has increased exponentially over the last few years, OPRA has directed SIAC to implement technological updates to accommodate the additional message traffic. Over the last year, however, it has become increasingly apparent that the message traffic expected to be generated by the options exchanges cannot be accommodated by the planned enhancements to the OPRA system.

In response to the systems capacity problems, OPRA, SIAC, as well as the options exchanges and their members, have worked to develop strategies to mitigate quote message traffic. In 1999, SIAC, at the request of the Commission, retained Stanford Research Institute ("SRI") to conduct a study and to recommend possible strategies aimed at mitigating the amount of options quote message traffic.[13] As part of this study, the options exchanges (including ISE), SIAC, OPRA, and the Securities Industry Association ("SIA") met over a period of six months to attempt to develop quote reduction and mitigation strategies.

A number of alternatives to reduce options message traffic were considered and SRI's findings were presented to Commission staff on December 14, 1999. To date, the options exchanges have, individually, implemented a number of internal mitigation strategies. The Commission expects the options exchanges to continue to consider other mitigation strategies that could be implemented as both long-term and short-term solutions. Nonetheless, quote traffic has continued to strain OPRA capacity.

II. Discussion

A. Purpose of the Proposed OPRA Plan Amendment

As discussed above, the Commission is greatly concerned about the lack of available OPRA systems capacity to accommodate the current and anticipated levels of options message traffic generated by the options exchanges. The Commission is concerned about the ability of OPRA to disseminate options market data on a real-time basis during times of high message traffic or high volatility in the equity markets. During these times, when systems capacity is stretched to the limit, OPRA data feeds may begin to queue, leading to the dissemination of stale market data to market participants. The Commission is concerned that without access to current market information, investors and other market participants will be unable to make informed options trading decisions.

To address mounting capacity problems, novel ways of obtaining adequate capacity to support the industry's continued growth will need to be identified, evaluated, and implemented. The Commission recognizes that wholesale changes to the manner in which capacity is obtained will not occur overnight. Therefore, the options markets must continue to work within the existing capacity infrastructure for the short-term.

The options exchanges have responded to this capacity crisis by agreeing to allocate existing OPRA systems capacity among themselves

[7] A series is a class of options, either all puts or all calls, on the same underlying security that have the same exercise price and maturity date.

[8] For example, in February 2000, the average number of quotes per day was 37.5 million and the average number of trades per day was 183,000.

[9] As discussed below, this tremendous increase in message traffic may be attributed, in part, to the increase in multiple listing of previously exclusively-traded option classes that began in August 1999.

[10] For example, on January 5, 2000, SIAC reported a one-minute peak of 2,970 MPS and on January 25, 2000, SIAC reported a five-minute peak of 2,868 MPS.

[11] The International Securities Exchange ("ISE") was registered as a national securities exchange for options trading on February 24, 2000. *See* Securities Exchange Act Release No. 42455, 65 FR 11387 (March 2, 2000).

[12] Currently, unlike quotes for equity securities, options price quotes currently are disseminated without size. Options quotes are expected to be disseminated with size in January 2001.

[13] On September 8, 1999, the Commission ordered the options exchanges to participate in the SRI quote mitigation study and to act jointly to develop quote mitigation strategies. Commission staff attended all meetings of this group. *See* Securities Exchange Act Release No. 41843 (September 8, 1999), 64 FR 50126 (September 15, 1999).

during peak periods,[14] while continuing to work on other short-term mitigation strategies, including delisting classes with little or no open interest and developing a cabinet for inactive options classes.[15] To date, the options markets have reluctantly agreed, on three occasions, to allocate the existing OPRA capacity among themselves during peak periods through temporary amendments to the OPRA Plan.[16] The capacity allocation used by the exchanges has been based loosely on the historical peaks experienced by each options market, and determined through negotiations among the markets. Despite repeated urgings by Commission staff, the options exchanges have been unable to formulate an equitable, more objective capacity allocation model, which would include incentives for the exchanges to reduce the excessive quoting of existing listings or to add new listings only with a sound business rationale. The Commission notes that each exchange has represented that the total messages per second allocated to it are insufficient to address its capacity needs. The Commission is concerned that the exchanges may be unable or unwilling to continue to allocate scarce OPRA capacity among themselves in the near future. The Commission believes the queuing that would undoubtedly result is unacceptable because all market participants would be subjected to unreliable market data, including stale quotes.

[14] During peak periods when capacity caps are imposed on the exchanges, the Commission believes that it is unacceptable for any options exchange to generate message traffic in excess of the level allocated to it pursuant to an approved OPRA Plan amendment. An exchange that transmits message traffic through inbound OPRA lines in excess of its allocation will cause queuing in the OPRA system, and consequently, will result in the dissemination of unreliable market data to all market participants, including retail investors. The options markets should take whatever steps are necessary to prevent delays in their quotes stream processed by OPRA. If an options exchange inadvertently generates and transmits to OPRA message traffic in excess of its allocation, the Commission expects that the exchange will notify the public that it has exceeded its established allocation and as a result, its disseminated quotes are likely to be unreliable.

[15] A cabinet would effectively inactivate those options classes placed in the "cabinet," so that the options exchanges would provide quotes to market participants only upon specific request, rather than disseminating continuous, two-sided quotations.

[16] 16 *See* Securities Exchange Act Release Nos. 42328 (January 11, 2000), 65 FR 2988 (January 19, 2000) (order approving File No. SR–OPRA–00–01); 42362 (January 28, 2000), 65 FR 5919 (February 7, 2000) (order approving File No. SR–OPRA–00–02); and 42493 (March 3, 2000), 65 FR 12597 (March 9, 2000) (order approving File No. SR–OPRA–00–03).

B. Two Alternative Proposed Capacity Allocation Models

The Commission is proposing to amend the OPRA Plan to establish a capacity allocation formula to be used in the short-term to allocate OPRA systems capacity among the options exchanges during peak periods. The Commission is proposing the following two alternative allocation models.

1. Alternative A

The first proposed capacity allocation model would allocate capacity during peak periods based on the average quotation volume of options classes listed on each exchange that have sufficient trading volume to meet a minimum threshold.[17] The proposed formula rewards quoting efficiency and restricts the allocation of capacity to an exchange in a particular options class in which the exchange's trading volume does not exceed certain thresholds. The Commission proposes that, on a quarterly basis,[18] OPRA would perform the required allocation calculation itself or contract with its processor or another third party to do so. The information necessary to calculate allocations pursuant to the proposed formula is based on quote and transaction data reported routinely to OPRA by the options exchanges pursuant to the OPRA Plan. OPRA would notify the options exchanges and the Commission of the specific allocations for peak periods that would be in place beginning one month after the calculation is made.

a. Included Classes

A critical element of the first Commission proposal is the concept that an exchange only receives a portion of the available capacity for those option classes in which the exchange's trading reaches some minimal threshold ("Included Classes").[19] The Commission is proposing that an options class be considered an Included Class for an exchange if during the three-month period, that exchange trades an average of: (i) 15 trades per day, if the class is multiply-listed, or (ii) 30 trades per day, if the class is exclusively-listed. Thus, an options exchange would receive capacity credit only for those options classes in which it exceeds these minimum levels of trading activity.

The Commission understands, however, that there are a number of ways to define the term Included Class. For this reason, the Commission is also seeking comment on several variations of the proposed definition. Specifically, the Commission seeks comment on whether the proposed 15/30 threshold levels are appropriate, or whether these thresholds should be lower or higher. For example, should an exchange only have to have an average one trade per day in a multiply-listed class for that class to be an Included Class? The Commission also seeks comment on the threshold for considering an exclusively traded options class as an Included Class. Specifically, should the minimum be on average 15 trades per day, or 45 trades per day, or another amount, rather than 30 trades per day as proposed? In addition, the Commission would like commenters' views on whether the exchanges should have the same average daily trading requirements for multiply-listed classes and exclusively-listed classes to be considered Included Classes. If commenters believe that multiply-listed and exclusively-listed options should be subject to the same minimum trading volume standard, the Commission seeks comment on what that standard should be. Finally, the Commission seeks comment on whether another measure, such as an exchange's average quarterly ratio of quotes-to-contract volume in an options class would be more appropriate to use for determining which classes are Included Classes for an exchange.

To permit new entrants a fair opportunity to compete with existing exchanges, the Commission is also proposing that all options classes listed by a new options market be considered Included Classes for 9 months. Only after the new exchange has been operating for nine months would the minimum threshold levels be applied in determining which options classes are Included Classes for purposes of the allocation of capacity.

The Commission recognizes the highly competitive environment in which the options exchanges operate. As such, the Commission is carefully considering whether the proposed

[17] The Commission proposes to include in the allocation formula a requirement that the trading volume of an option class meet certain minimum thresholds on an exchange before that options class will be counted for purposes of that exchange's allocation. As discussed below, this minimum threshold requirement is intended to limit any potential incentive for an exchange to add new products solely to obtain an additional allocation of capacity, without seriously committing to compete for order flow in those classes.

[18] The Commission proposes that the calculation be made on a quarterly basis to take into consideration the potential effect of the expiration cycle on the average quoting frequency and trading volume in individual option classes. The calculations would be based on quoting and trading activity during a calendar quarter (*e.g.*, January, February, and March) and the allocations would be effective beginning the second month following the end of the calendar quarter (*e.g.*, May 1).

[19] Proposed OPRA Plan Section III (m).

capacity allocation model should include any special protections for new listings.[20] As the Commission strongly encourages competition both within and among the various options exchanges, a short-term "safe harbor" was contemplated for new listings (*e.g.*, three to six months), during which time the listing exchange would get credit towards its allocation for the new listing, even if it obtained little or no order flow in the particular class. The Commission's desire to provide a safe harbor for new listings was balanced against its concern about the potential that exchanges could abuse it by adding new listings merely to obtain a larger share of capacity and then, at the end of the established safe-harbor period, immediately delist those classes and add new listings. To limit this potential, the Commission proposes to include in the formula for capacity allocation only those options classes that meet the minimum trading levels. The Commission emphasizes that its proposal does not in any way limit the ability of the options exchanges to list new option classes. Instead, the proposed limits on what options classes are considered Included Classes, relate only to the extent to which a particular exchange would receive an allocation credit of capacity for a new listing.

b. Capacity Credit for Multiply and Exclusively Listed Options Classes

For each options class that is listed on more than one exchange, an exchange for which such class is an Included Class would be allocated capacity based on the average quoting frequency during the first half-hour of the trading day after the opening rotation across all exchanges for which such class is an Included Class. By allocating capacity based on the average level of quoting across the exchanges trading a particular option class, the Commission intends to encourage quoting efficiency in multiply-traded classes. For options classes listed on only one exchange, an exchange would be allocated capacity based on the average quote traffic generated within the first half-hour of trading after the opening rotation, if the exchange's trading volume was sufficient for that class to be an Included Class.[21] The Commission seeks comment as to the propriety of determining the average quoting frequency of multiply-traded and exclusively-traded options classes based on the quoting activity occurring during the first half-hour after the opening rotation.

2. Alternative B

As an alternative to allocating capacity based on the average quoting frequency of those options classes in which an exchange has sufficient volume to meet certain minimum thresholds, the Commission is proposing to allocate capacity using a modified equal share method. Specifically, under the proposed equal share method, capacity would be allocated equally among all the options exchanges with adjustments based on the market's ratio of quotes to contract volume. The more efficient the market (*i.e.*, the fewer quotes to contracts), the greater the allocation that market receives. Any options classes listed by an exchange during the preceding calendar quarter would be excluded from the ratio calculation. Excluding new listings from the ratio calculation would allow exchanges to list new options classes without being penalized in the allocation of capacity.

The equal allocation would be adjusted by an exchange's deviation from the average ratio of quotes-to-contracts traded multiplied by a dampening factor. The Commission is proposing that the dampening factor be 10% for the first Quote-to-Contract Volume Deviation calculation. The dampening factor will be reduced by one percent and a recalculation of the Quote-to-Contract Volume Deviation will be made if after the first calculation any exchange's capacity allocation falls below a pre-determined minimum, which the Commission is proposing to be 15% of all OPRA capacity. Recalculations of the Quote-to-Contract Volume Deviation will continue, reducing the dampening factor by one percent for each successive recalculation until all exchanges have at least the 15% minimum capacity allocation.

The Commission seeks comment on Alternative B as proposed, and on whether another relative performance criteria, such as quotes-to-number of trades, would be more appropriate. The Commission also seeks comment on what minimum portion of capacity an exchange should be guaranteed. For example, rather than 15%, is 10% a more appropriate minimum? The Commission also seeks comment about the propriety of the proposed dampening factor. Should the dampening factor for the first calculation be a factor other than 10%? In addition, should the dampening factor used in the recalculations be reduced from the factor used in the first calculation by a percentage other than one percent?

III. Request for Public Comments

The Commission seeks comments on adopting a capacity allocation formula, as described in this release. In addition to the requests for comments throughout the release, the Commission seeks comment on whether a capacity allocation formula to allocate OPRA systems capacity during peak periods is necessary and should be adopted. If an objective capacity allocation formula is desirable, commenters should address which of the Commission's proposals would most fairly allocate systems capacity among the options exchanges during peak periods. Commenters should also address whether there are any legal or policy reasons why the Commission should consider a different approach and a description of what that approach should be. The Commission seeks comment on the specific proposals set forth, as well as on the proposed calculation of the average quoting frequency for multiply-traded and exclusively-traded products and the proposed treatment of new listings and new entrants into the market. Commenters should also address the propriety of a quarterly allocation calculation and whether OPRA participants should be permitted to perform the calculation, and under what circumstances. In addition, the Commission seeks comment on whether, under either of the proposed allocation alternatives, options exchanges should receive capacity in units that could be traded among the options exchanges, with the resulting transactions reported to the Commission.

IV. Costs and Benefits of the Proposed Plan Amendments

The Commission is considering the costs and benefits of the proposed amendment to the OPRA Plan.

A. Benefits

The Commission believes that some form of capacity allocation should provide significant short-term benefits by avoiding delayed quotes. Currently, OPRA has the capacity to handle approximately 3,540 messages per second and the exchanges are approaching this level on an almost daily basis. On March 15, 2000, OPRA received 3,486 messages per second over a five-minute period and 3,544 messages per second over a one-minute period. The Commission believes that without a capacity allocation formula for peak message periods, peak message

[20] The Commission defines an options class as a "new" listing if the listing exchange does not currently list that class, regardless of whether another options exchange has previously listed the same option class.

[21] Proposed OPRA Plan Section III (m).

traffic may regularly exceed OPRA's capacity, especially with the entry of the ISE, the planned conversion to decimal pricing, and the dissemination of options quotes with size. If peak quoting rates exceed OPRA's systems capacity, an unacceptable level of queuing may occur and stale or selective market data may be transmitted to market participants and investors, thereby reducing market transparency and hampering efficient price discovery. As a result, investors may be making investment decisions based on stale or delayed quote information.

The Commission believes that, until sufficient capacity is available to the options markets, the adoption of an objective capacity allocation formula, such as one of those proposed by the Commission, should help to ensure that scarce OPRA systems capacity is allocated in an equitable manner. The Commission further believes that the adoption of objective criteria should bring additional transparency and consistency to the allocation process. By using an objective capacity allocation formula to determine each exchange's message traffic limitations during high volume or high volatility times, the Commission's proposal should enable the options markets to disseminate options market data on a real-time basis, which should foster competition. Further, the proposal should maintain efficient and orderly markets for options by ensuring that current market data is continuously available and reliable. Finally, the proposal should encourage each individual exchange to establish and utilize efficient quote reduction methods based on the amount of message capacity it has been allocated, thereby promoting efficiency.

B. Costs

Although the proposed capacity allocation formulas have been tailored to minimize the costs on any one exchange, the Commission expects that the options exchanges will experience some burdens because capacity will be limited during peak periods and the exchanges will have to reduce message traffic during peak times. This may result in the exchanges taking steps to delist or inactivate options that are not being actively traded or reduce the number of times that quotes can be refreshed for certain options classes. The Commission notes, however, that the options exchanges have previously agreed to allocate existing OPRA capacity during peak periods on three occasions, while continuing to work on other short-term and long-term mitigation strategies.

To assist the Commission in its evaluation of the costs and benefits that may result from the proposed alternatives, commenters are requested to provide analysis and data relating to the anticipated costs and benefits associated with the proposed allocation alternatives, as well as any possible anti-competitive impact of the proposed alternatives. Specifically, the Commission requests commenters to address whether any of the proposed alternatives would generate the anticipated benefits or impose any costs on U.S. investors or others.

V. Effects on Competition, Efficiency, and Capital Formation

Commenters should consider the proposed rule's effect on competition, efficiency and capital formation.

Section 23(a) of the Act [22] requires that the Commission, when promulgating rules under the Act, to consider the anti-competitive effects of such rules, if any, and to balance any impact against the regulatory benefits gained in furtherance of the purposes of the Act. Section 3(f) of the Act [23] requires the Commission, when engaging in rulemaking, to consider or determine whether the action is necessary or appropriate in the public interest, and whether the action would promote efficiency, competition, and capital formation.

The Commission solicits comments on the impact of the proposed rules on competition. Specifically, the Commission requests commenters to address how the proposed rule would affect competition between and among the options exchanges, market participants and investors. Further, the Commission requests comment on the proposal's effect on efficiency and capital formation.

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996,[24] the Commission is also requesting information regarding the potential impact of the proposed rule on the economy on an annual basis. If possible, commenters should provide empirical data to support their views.

VI. Initial Regulatory Flexibility Analysis

This Initial Regulatory Flexibility Analysis ("IRFA") has been prepared in accordance with Section 3 of the Regulatory Flexibility Act ("RFA").[25] It relates to proposed amendments to the OPRA Plan to establish a capacity allocation model to allocate OPRA systems capacity among the options exchanges during peak periods.

A. Reasons for and Objectives of the Proposal

Although the participant exchanges have agreed to previous short-term capacity allocations and continue to work on short-term mitigation strategies, they have been unable to formulate a fair and objective capacity allocation model, which would include disincentives to quote existing listings or to add new listings excessively without a sound business rationale. The Commission is proposing to amend the OPRA Plan on its own initiative, until a long-term solution to the options industry's capacity problems has been implemented.

The objective of the proposed capacity allocation model is to achieve the statutory goals regarding the maintenance of fair and orderly markets to assure efficient execution of securities transactions and the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. The adoption of an objective capacity allocation model to allocate fairly OPRA systems capacity among the options exchanges during peak periods until a long-term solution to the capacity problem is achieved is intended to prevent queuing and delays in the dissemination of options market information that would result in market participants receiving unreliable market data.

B. Legal Basis

Section 11A(a)(3)(B) of the Act [26] authorizes the Commission, by rule or order, to authorize or require self-regulatory organizations ("SROs") to act jointly with respect to matters as to which they share authority under the Act in planning, developing, operating or regulating a national market system (or a subsystem thereof) or one or more facilities thereof. Rule 11Aa3–2 [27] establishes procedures for the proposal of amendments to national market system plans, such as the OPRA Plan. Paragraph (b)(2) of Rule 11Aa3–2 [28] states that the Commission may propose amendments to an effective national market system plan by publishing the text of the amendment together with a statement of purpose of the amendments.

[22] 15 U.S.C. 78w(a).
[23] 15 U.S.C. 78c(f).
[24] Pub. L. No. 104–121, tit. II, 110 stat. 857.
[25] 5 U.S.C. 603(a).
[26] 15 U.S.C. 78k–1(a)(3)(B).
[27] 17 CFR 240.11Aa3–2.
[28] 17 CFR 240.11Aa3–2(b)(2).

C. Small Entities Affected by the Proposed Amendments

The proposal would directly affect Amex, CBOE, ISE, PCX, and Phlx, none of which are small entities. Paragraph (e) of the Rule 0–10[29] states that the term "small business," when referring to an exchange, means any exchange that has been exempted from the reporting requirements of Rule 11Aa3–1.[30] Thus, there would be no impact for purposes of the RFA on small businesses.

D. Reporting, Recordkeeping, and Other Compliance Requirements

The proposals would not impose any new reporting, recordkeeping, or other compliance requirements.

E. Duplicative, Overlapping or Conflicting Federal Rules

The Commission believes that there are no rules that duplicate, overlap or conflict with the proposed rules.

F. Significant Alternatives

The RFA directs the Commission to consider significant alternatives that would accomplish the stated objectives, while minimizing any significant economic impact on small entities. In connection with the proposal, the Commission considered the following alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the Rule for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the Rule, or any part thereof, for small entities. The Commission believes that none of the above alternatives is applicable. The OPRA Plan participants are the only parties that are subject to the requirements of the OPRA Plan. The OPRA Plan participants are all national SROs and, as such, are not "small entities." Therefore, the Commission does not believe the alternatives are applicable to the proposal.

G. Solicitation of Comments

The Commission encourages the submission of comments with respect to any aspect of this IRFA. In particular, the Commission seeks comment on: (i) the number of small entities, if any, that would be affected by the proposed amendment; and (ii) the impact that the proposed amendment would have, if any, on such entities. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposed amendment is adopted, and will be in the same public file as comments on the proposed amendments themselves. Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Comments also may be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. 4–434; this file number should be included on the subject line if e-mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room. Electronically submitted comment letters also will be posted on the Commission's Internet web site (http://www.sec.gov).

VII. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed amendments do not impose recordkeeping or information collection requirements, or other collections of information which require approval of the Office of Management and Budget under 44 U.S.C. 3501, *et. seq.*

VIII. Description of Alternative Proposed Amendments to the OPRA Plan

The Commission hereby proposes to amend the OPRA Plan to provide for a specific formula to allocate capacity among the options exchanges during peak usage periods pursuant to Rule 11Aa3–2(b)(2) and (c)(1)[31] and the Commission's authority under Section 11A(a)(3)(B) of the Act.[32]

Alternative A

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III. Definitions

(a)–(k) No change.

(l) *Relevant Calendar Quarter.*

(i) For the capacity allocation commencing on May 1 of each year, the Relevant Calendar Quarter shall mean the months of January, February, and March.

(ii) For the capacity allocation commencing on August 1 of each year, the Relevant Calendar Quarter shall mean the months of April, May, and June.

(iii) For the capacity allocation commencing on November 1 of each year, the Relevant Calendar Quarter shall mean the months of July, August and September.

(iv) For the capacity allocation commencing on February 1 of each year, the Relevant Calendar Quarter shall mean the months of October, November and December.

(m) "Included Class" means any options class listed by an OPRA participant:

(i) For which such participant executes during the Relevant Calendar Quarter an average of at least 15 trades per day if the options class is multiply-listed;

(ii) For which such participant executes during the Relevant Calendar Quarter an average of at least 30 trades per day if the options class is exclusively listed; or

(iii) That during the Relevant Calendar Quarter has been trading options for fewer than 270 calendar days.

(n) An OPRA participant that is operating an options market receives a "Capacity Credit" for each options class that is an Included Class for that participant equal to:

(i) For a multiply-traded options class, the average quote messages generated during the Relevant Calendar Quarter by all OPRA participants, for which such class is an Included Class, during the first half-hour of trading after the opening rotation is completed divided by the number of such OPRA participants; or

(ii) For an exclusively-listed options class, the average quote messages generated during the Relevant Calendar Quarter by the OPRA participant during the first half-hour of trading after the opening rotation is completed.

(o) "Allocation Percentage" for an OPRA participant means the total of all such participant's Capacity Credits divided by the total of all Capacity Credits for all OPRA participants.

IV. No Change

V. (a)–(c) No Change

(d) *Quarterly Calculation of Capacity Allocation.*

(i) *On the first of February, May, August and November of each year, each OPRA participant that operates an options exchange will receive an allocation of OPRA's peak period systems capacity in an amount equal to its Allocation Percentage multiplied by the total OPRA systems capacity.*

[29] 17 CFR 240.0–10(e).

[30] 17 CFR 240.11Aa3–1.

[31] 17 CFR 240.11Aa3–2(b)(2) and (c)(1).

[32] 15 U.S.C. 78k–1(a)(3)(B). Section 11A(a)(3)(B) authorizes the Commission, in furtherance of its statutory directive to facilitate the development of a national market system, by rule or order, to authorize or require SROs to act jointly with respect to matters as to which they share authority under the Act in planning, developing, operating, or regulating a national market system (or subsystem thereof) or one or more facilities thereof.

(ii) *OPRA will calculate the capacity allocation specified in paragraph (d)(i) as soon as possible after the end of the Relevant Calendar Quarter. OPRA will use data to make this calculation that is provided to it by the OPRA participants. Alternatively, OPRA can contract with its processor or with another third party to perform this calculation. OPRA will notify the OPRA participants and the Commission of the capacity allocation for peak periods promptly after such calculation is made.*

(e) [d] Indemnification.

(i)–(ii) No change.

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Alternative B

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III. Definitions

(a)–(k) No change.

(l) Relevant Calendar Quarter.

(i) For the capacity allocation commencing on May 1 of each year, the Relevant Calendar Quarter shall mean the months of January, February, and March.

(ii) For the capacity allocation commencing on August 1 of each year, the Relevant Calendar Quarter shall mean the months of April, May, and June.

(iii) For the capacity allocation commencing on November 1 of each year, the Relevant Calendar Quarter shall mean the months of July, August and September.

(iv) For the capacity allocation commencing on February 1 of each year, the Relevant Calendar Quarter shall mean the months of October, November and December.

(m) "Quotes-to-Contract Volume" for an OPRA participant means the average daily quotes in options classes listed for more than 3 calendar months generated during the Relevant Calendar Quarter by a participant divided by the average daily contract volume traded in options classes listed for more than 3 calendar months by that participant during the same calendar quarter.

(n) "Average Quotes-to-Contract Volume" means the average Quote-to-Contract Volume of all OPRA participants during the Relevant Calendar Quarter computed by adding together the Quotes-to-Contract Volume for each participant and dividing by the number of participants.

(o) "Quotes-to-Contract Volume Deviation" for an OPRA participant is calculated using the following formula:

*(1—(Quotes-to-Contract Volume for that OPRA participant/ Average Quotes-to-Contract Volume)) * Dampening Factor.*

(d) "Equal Share" means one divided by the number of OPRA participants that are operating an options market.

(d) No Change

(d) (a)–(c) No change.

(d) Quarterly Calculation of Capacity Allocation

(i) On the first of February, May, August, and November of each year, each OPRA participant that operates an options exchange will receive an allocation of OPRA's systems capacity in an amount equal to the sum of the Equal Share and such participant's Quotes-to-Contract Volume Deviation. For purposes of calculating the Quote-to-Contract Volume Deviation, the Dampening Factor shall equal 10%.

(ii) Notwithstanding paragraph (d)(i), in no event shall an OPRA participant that operates an options exchange receive a capacity allocation that is less than 15% of OPRA's systems capacity. If the initial calculation of the Quote-to-Contract Volume Deviation results in an options exchange receiving an allocation of less than 15% of the total OPRA system's capacity, the Quote-to-Contract Volume Deviation will be recalculated as follows:

a. The first recalculation shall consist of a downward adjustment of the Dampening Factor by 1% (i.e., to 9%) applied to all OPRA participants.

b. If after the first recalculation, any OPRA participant that operates an options exchange still receives less than 15% of OPRA's systems capacity, the recalculations shall continue by adjusting the Dampening Factor downward by 1% until all OPRA participants have at least 15% of OPRA's systems capacity.

(iii) OPRA will calculate the capacity allocation specified in paragraph (d)(i) as soon as possible after the end of the Relevant Calendar Quarter. OPRA will use data to make this calculation that is provided to it by the OPRA participants. Alternatively, OPRA can contract with its processor or with another third party to perform this calculation. OPRA will notify the OPRA participants and the Commission of the capacity allocation for peak periods promptly after such calculation is made.

(e) [d] Indemnification.

(i)–(ii) No change.

* * * * *

By the Commission.

Dated: May 4, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–11680 Filed 5–9–00; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Asthma Disease Management, Inc.; Order of Suspension of Trading

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Asthma Disease Management, Inc., a Nevada corporation, with its principal place of business in Berlin, New Jersey. Questions have been raised about the adequacy and accuracy of publicly disseminated information, concerning, among other things, purported contracts between Asthma Disease Management, Inc. and three health maintenance organizations: Cape Health Plan (f/k/a Cape Medical) of Detroit, Michigan; Horizon Mercy of Trenton, New Jersey; and HMA of Philadelphia, Pennsylvania.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EDT, May 8, 2000, through 11:59 p.m. EDT, on May 19, 2000.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–11798 Filed 5–8–00; 12:15 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42752; File No. SR–Amex–00–18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to Options Transaction Fees for Non-Member Broker-Dealers

May 3, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby give that on April 7, 2000, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19–4.

change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to increase equity options transaction fees for non-member broker dealer orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspect of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex proposes to increase equity options transaction fees for non-member broker-dealer orders. The Amex currently imposes a transaction charge on options trades executed on the Exchange. The charges vary depending on whether the transaction involves an equity or index option and whether the transaction is executed for a specialist or market maker account, a member firm's proprietary account, a non-member broker-dealer, or a customer account. The Amex also imposes a charge for clearance of options trades and an options floor brokerage charge, which also depends upon the type of account for which the trade is executed. In addition, all three types for charges—transaction, options clearance, and options floor brokerage—are subject to caps on the number of options contracts subject to the charges on a given day.[3]

Recently, the Amex eliminated all options transaction, clearance, and floor brokerage fees for customer equity options orders.[4] To offset the elimination of these fees for customer equity options orders, the Exchange raised the equity options transaction fee from $0.07 to $0.19 per contract side for member firm proprietary orders and from $0.08 to $0.17 per contract side for specialist and market maker orders. Now, to further offset the elimination of options transaction, clearance and brokerage fees for customer equity option orders, the Exchange proposes to increase the equity options transaction fee for non-member broker-dealer orders from $0.07 to $0.19 per contract side. This revised fee will also apply to both LEAPS[5] and FLEX[6] options. Equity options clearance and floor brokerage fees for non-member-dealers will remain unchanged at $0.04 and $0.03 per contract side, respectively.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(4)[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statements on Burden on Competition

The Amex does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested person are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR–Amex–00–18 and should be submitted by May 31, 2000.

For the Commission, by the Division on Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–11607 Filed 5–9–00; 8:45 am]

BILLING CODE 8010–01–M

[3] The current caps are set at 2000 contracts for customer trades and 3000 contracts for member firm proprietary, non-member broker-dealer, specialist, and market maker trades.

[4] *See* Securities Exchange Act Release No. 42675, (April 13, 2000). 65 FR 21223 (April 20, 2000).

[5] LEAPS are Long Term Equity Anticipation Securities or options with durations of up to 36 months. *See* Amex Rule 903C.

[6] FLEX options are customized options with individually specified terms such as strike price, expiration date, and exercise style. *See* Amex Rule 900G.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42748; International Series Release No. 1222; File No. SR–Amex–98–49]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 3, 4, and 5 to the Proposed Rule Change Relating to Listing Additional Series of World Equity Benchmark Shares™

May 2, 2000.

I. Introduction

On December 23, 1998, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission

("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list additional series of World Equity Benchmark Shares ("WEBS"). The Exchange submitted Amendment No. 1 to its proposal on February 24, 1999,[3] and Amendment No. 2 on April 9, 1999.[4] The proposed rule change and Amendment Nos. 1 and 2 were published for comment in the **Federal Register** on April 29, 1999.[5] No comments were received on the proposal. The Exchange submitted Amendment No. 3 to its proposed rule change on December 15, 1999,[6] Amendment No. 4 on January 11, 2000,[7] and Amendment No. 5 on March 20, 2000.[8] This notice and order approves the proposed rule change, as amended, and solicits comments from interested persons on Amendment Nos. 3, 4, and 5.

II. Description of the Proposal

On March 4, 1996, the Commission approved Amex's listing and trading of Index Fund Shares under Amex Rules 1000A *et seq.*[9] Index Fund Shares are shares issued by an open-end management investment company that seek to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic equity market index.

The first Index Fund Shares approved for listing on the Exchange were seventeen series of WEBS issued by Foreign Fund, Inc. (now WEBS Index Fund, Inc.) ("Fund"), based on the following Morgan Stanley Capital international ("MSCI") indices: Australia, Austria, Belgium, Canada, France, Germany, Hong Kong, Italy, Japan, Malaysia, Mexico (Free), Netherlands, Singapore (Free), Spain, Sweden, Switzerland and the United Kingdom.[10] These WEBS Index Series have been trading on the Amex since March 18, 1996.

The Exchange is proposing to list six additional WEBS Index Series based on the following MSCI indices: MSCI EMU Index,[11] MSCI Brazil (Free) Index, MSCI South Korea Index, MSCI South Africa Index, MSCI Taiwan Index, and MSCI United States Index.

Issuances of WEBS by the Fund are made only in Creation Unit size aggregations or multiples thereof. The size of the applicable Creation Unit size aggregation will be set forth in the Fund's prospectus and varies from one WEBS Index Series to another, but is generally substantial (*e.g.*, value in excess of $450,000 per Creation Unit). The Fund issues and sells WEBS through SEI Investments Distribution Company ("Distributor"),[12] the distributor and principal underwriter, on a continuous basis at the NAV per share next determined after an order to purchase WEBS in Creation Unit size aggregations is received in proper form.[13] According to the Amex, following issuance, WEBS are traded on the Exchange like other equity securities by professionals, as well as retail and institutional investors.

Creation Unit size aggregations of WEBS are generally issued in exchange for the "in kind" deposit of a specified portfolio of securities, together with a cash payment representing, in part, the amount of dividends accrued up to the time of issuance. Amex states that such deposits are made primarily by institutional investors, arbitrageurs and the Exchange specialist. Redemption of WEBS is generally made on an in-kind basis, with a portfolio of securities and cash exchanged for WEBS that have been tendered for redemption. Issuances or redemptions could also occur for cash under specified circumstances (*e.g.*, if it is not possible to effect delivery of securities underlying the specific series in a particular foreign country) and at other times in the discretion of the Fund.

Local restrictions on transfers of securities to and between certain types of foreign investors in Korea, Taiwan and Brazil preclude in-kind creations and redemptions of Creation Units of the Korea, Taiwan and Brazil WEBS Index Series. Accordingly, these series have been structured so that Creation Units may be created and redeemed solely for cash until such time (if ever) as the local restrictions are changed in a way that permits such transactions to occur on an in-kind basis.[14] In addition, each of the three series will charge creation and redemption fees intended to offset the cost of brokerage and market impact associated with buying and selling the baskets of stock held by such Series.[15]

According to the Amex, an important advantage of "in-kind" redemptions and creations is that the Fund is not exposed to execution risk or execution costs. Amex stated in its proposal that although the Korea, Taiwan and Brazil WEBS Index Series will not benefit from in-kind redemptions and creations, it is expected that the fact that continuous sales and redemptions are available will result in WEBS Index Series trading close to their NAV. Amex further notes that the relevant markets are among the largest and most liquid emerging markets. As of August 31, 1999, the market capitalizations of the Korean, Taiwanese and Brazilian stock markets were approximately BRL 262.7 billion

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Restated 19b–4 Filing marked Amendment No. 1 ("Amendment No. 1").

[4] See Letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, to Katherine England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated April 8, 1999 ("Amendment No. 2").

[5] See Securities Exchange Act Release No. 41322 (April 22, 1999), 64 FR 23138.

[6] In Amendment No. 3, the Exchange clarified the Fund's policies relating to the weighting of securities and industries in a WEBS index; the need for cash creations and redemptions in Korea, Taiwan, and Brazil; the surveillance procedures; the calculation of the indicative optimized portfolio value; and provided general information regarding the value of a creation unit and the expected NAV of individual shares. *See* Letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, to Terri Evans, Special Counsel, Division, Commission, dated December 14, 1999 ("Amendment No. 3").

[7] In Amendment No. 4, the Exchange withdrew the WEBS Index Series based on the following MSCI Indicies: Greece, Indonesia (Free), Portugal, Thailand (Free) and Turkey. *See* Letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, to Terri Evans, Special Counsel, Division, Commission, dated January 6, 2000 ("Amendment No. 4").

[8] In Amendment No. 5, AMEX explained and clarified that the computation of the Net Asset Value ("NAV") for the Korea, Taiwan and Brazil WEBS Index Series will occur at times different than was reflected in Amendment No. 3. The computation of the NAV for the Korea and Taiwan WEBS Index Series will occur at 8:30 a.m. New York Time. The NAV computation for the Brazil WEBS Index Series will occur at 5:00 p.m. New York Time. In addition, the Exchange clarified that Funds Distributor, Inc. will be replaced by SEI Investments Distribution Company no later than March 28, 2000. *See* Letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, to Terri Evans, Special Counsel, Division, Commission, dated March 16, 2000 ("Amendment No. 5").

[9] *See* Securities Exchange Act Release No. 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996).

[10] "World Equity Benchmark Shares" and "WEBS" are service marks of Morgan Stanley Group, Inc. "MSCI" and "MSCI Indices" are service marks of Morgan Stanley & Co. Incorporated.

[11] *See* Amendment No. 4, *supra* note 7. The MSCI EMU Index is comprised of stocks of companies from countries participating in the EMU. Currently, eleven countries are participating in the EMU: Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain. The MSCI EMU is currently comprised of stocks of companies from ten of these EMU countries (*e.g.*, all of the EMU countries except Luxembourg). MSCI has advised that it may, in accordance with its methodology, change the composition of MSCI EMU in the future, such changes could include adding stock(s) of companies from Luxembourg or from any other country that becomes a participant in EMU.

[12] *See* Amendment No. 5, *supra* note 8.

[13] *See infra* Section II.B, Criteria for Initial and Continued Listing.

[14] *See* Amendment No. 3, *supra* note 6.

[15] *Id.* Information regarding such fees will be included in the prospectus and information circular. Telephone conversation between Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, and Terri Evans, Special Counsel, Division, Commission, on May 1, 2000.

or $137 billion; KRW 280,229.5 billion or $237.4 billion; and TWD 10,393.1 billion or $326.4 billion, respectively.

Barclays Global Fund Advisors, the Fund's investment advisor ("Advisor"), is of the view that the Fund should ordinarily be able to buy and sell Creation Unit size baskets of stocks promptly after receipt of an order (ordinarily on the business day after receipt of an order). The Fund currently intends to compute the NAV of each of the Korea and Taiwan WEBS Index Series at 8:30 a.m. New York Time, which is only a few hours after the close of each of the Korea and Taiwan markets. Amex notes, as with any open-end fund, a purchase or redemption order in respect of a WEBS Index Series is priced at the NAV of the series that is next determined after receipt of such an order. For example, if an order to purchase one or more Creation Units of Korea WEBS Index Series is entered with the Fund's Distributor at 4:00 p.m. New York Time on Tuesday, the cash amount to be required to be transferred to the Fund would be based on the NAV of the Korea WEBS Index Series as of 8:30 a.m. New York Time on Wednesday (*i.e.*, the next business day). According to the Amex, the Fund believes that timing the calculation of the NAV as of 8:30 a.m. New York Time will significantly lessen the exposure of the Korea and Taiwan WEBS Index Series and their shareholders to the risk of price movements in the local securities markets, because if the Korea or Taiwan WEBS Index Series receives a purchase or redemption order during the trading day in New York (when orders are accepted), that Series will have an opportunity to purchase or dispose of portfolio securities in the local market prior to the determination of the NAV following the close of the local market. Similarly, to ensure that the NAV of the Brazil WEBS Index Series is priced based on the closing prices in the Brazil markets, the Fund currently intends to compute the NAV of each of the Brazil WEBS Index Series at 5:00 p.m. New York Time.[16]

The Fund makes available on a daily basis a list of the names and the required number of shares of each of the securities to be deposited in connection with the issuance of a particular WEBS Index Series in Creation Unit size aggregations, as well as information relating to the required cash payment representing, in part, the amount of accrued dividends.

A WEBS Index Series may make periodic distributions of dividends from net investment income, including net foreign currency gains, if any, in an amount approximately equal to accumulated dividends on securities held by the WEBS Index Series during the applicable period, net of expenses and liabilities for such period.

The NAV for each WEBS Index Series is calculated by the Fund's administrator, PFPC Inc. ("Administrator"). After calculation, such NAVs are available to the public from the Fund's Distributor via a toll free telephone number, and are also available to National Securities Clearing Corporation ("NSCC") participants through data made available from NSCC.

WEBS are registered in book entry form through The Depository Trust Company. Trading in WEBS on the Exchange is effected until 4:00 p.m. (ET) each business day. The minimum trading increment for WEBS is 1/16 of $1.00, pursuant to Amex Rule 127, Commentary .02.

A. MSCI Indices

In this proposal, Amex submitted a description of the methodology used to calculate the MSCI Indices, which was prepared by MSCI. The following description, provided by Amex, supplements the description previously submitted to the Commission in connection with the Exchange's initial proposal to list WEBS.

Each MSCI Index on which a WEBS Index Series is based is calculated by MSCI for each trading day in the applicable foreign exchange markets based on official closing prices of the applicable foreign exchange markets. For each trading day, MSCI publicly disseminates each index value for the previous day's close. MSCI Indices are reported periodically in major financial publications worldwide, and are also available through vendors of financial information.[17]

There are two broad categories of changes to the MSCI Indices. The first consists of market-driven changes, including mergers, acquisitions, and bankruptcies. These are announced and implemented as they occur. The second category consists of structural changes to reflect the evolution of a market that may occur due to changes industry composition or regulations, among other reasons. Structural changes to MSCI Indices may occur only on four dates throughout the year: The first business day of March, June, September and December. The changes are announced at least two weeks in advance.

As noted in the WEBS prospectus for the initial seventeen WEBS Index Series (Registration No. 33–97598), the investment objective of each WEBS Index Series is to seek to provide investment results that correspond generally to the price and yield performance of public securities traded in the aggregate in particular markets, as represented by specific MSCI benchmark indices. Each WEBS Index Series utilizes a "passive" or indexing investment approach, which attempts to approximate the investment performance of its benchmark index through quantitative analytical procedures. Each Index Series has the policy to remain as fully invested as practicable in a pool of securities the performance of which will approximate the performance of the benchmark MSCI Index taken in its entirety. MSCI generally seeks to have 60% of the capitalization of a country's stock market reflected in the MSCI Index for such country, although in some cases, other considerations may result in an MSCI Index reflecting less or more than this percentage.

The Fund maintains several policies relating to the weighting of securities in a WEBS Index Series, which serve to prevent excessive weighting by individual securities. For example, in order for the Fund to qualify for tax treatment as a regulated investment company, it must meet several requirements under the Internal Revenue Code. Among these is the requirement that, at the close of each quarter of the Fund's taxable year, (1) at least 50% of the market value of the Fund's total assets must be represented by cash items, U.S. government securities, securities of other regulated investment companies and other securities, with such other securities limited for purposes of this calculation in respect of any one issuer to an amount not greater than 5% of the value of the Fund's assets and not greater than 10% of the outstanding voting securities of such issuer, and (2) not more than 25% of the value of its total assets may be invested in the securities of any one issuer, or of two or more issuers that are controlled by the Fund (within the meaning of section 851(b)(4)(B) of the Internal Revenue Code) and that are engaged in the same or similar trades or businesses or related trades or businesses (other than U.S. government

[16] *See* Amendment No. 5, *supra* note 8. The timing of the calculation of the NAV for Brazil, South Korea, and Taiwan and the potential market impact of the Fund buying or selling securities in those markets will be disclosed in the prospectus and information circular. Telephone conversation between Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, and Terri Evans, Special Counsel, Division, Commission, on May 1, 2000.

[17] *See also, infra* Section II.C, Dissemination of Indicative Optimized Portfolio Value.

securities or the securities of other regulated investment companies).[18]

The Fund also maintains an industry concentration policy of all WEBS Index Series. With respect to the two most heavily weighted industries or groups of industries in its benchmark MSCI Index, a WEBS Index Series will invest in securities (consistent with its investment objective and other investment policies) so that the weighting of each such industry or group of industries in the WEBS Index Series does not diverge by more than 10% from the respective weighting of such industry or group of industries in its benchmark MSCI Index. An exception to this policy is that if investment in the stock of a single issuer would account for more than 25% of the WEBS Index Series, the WEBS Index Series will invest less than 25% of its net assets in such stock and will reallocate the excess to stock(s) in the same industry or group of industries, and/or stock(s) in another industry or group of industries, in its benchmark MSCI Index. Each WEBS Index Series will evaluate these industry weightings at least weekly, and at the time of evaluation will adjust its portfolio composition to the extent necessary to maintain compliance with the above policy. A WEBS Index series may not concentrate its investments except as discussed above. This policy is a fundamental investment policy and may not be changed without the approval of a majority of a WEBS Index Series shareholders.[19]

Through the application of portfolio sampling, each of the WEBS Index Series is expected to contain less than all of the component stocks in its respective benchmark MSCI Index. The following tables set forth the number of stocks contained in the Benchmark MSCI Index, and the initial number of stocks expected to be included in each corresponding WEBS Index Series (data as of December 3, 1999).

County/Region	Number of stocks in benchmark MSCI index	Number of stocks in WEBS index series
Brazil	47	41
South Korea	92	92
South Africa	46	39
Taiwan	76	69
United States	324	155
EMU	317	125

Each WEBS Index Series has a policy to remain as fully invested as practicable in a pool of equity securities. Each WEBS Index Series will normally invest at least 95% of its total assets in stocks that are represented in its benchmark MSCI Index except, in limited circumstances, to assist in meeting shareholder redemptions of Creation Units. In order to comply with the Internal Revenue Code, and manage corporate actions and index changes in the smaller markets, each of the Brazil (Free), South Korea, South Africa, and Taiwan WEBS Index Series will at all times invest at least 80% of its total assets in such stocks and at least half of the remaining 20% of its total assets in such stocks or in stocks included in the relevant market but not in its benchmark MSCI Index.[20]

The Exchange believes that these requirements and policies prevent any WEBS Index Series from being excessively weighted in any single security or small group of securities and significantly reduce concerns that trading in a particular WEBS Index Series could become a surrogate for trading in unregistered securities.[21]

As stated above, a WEBS Index Series does not hold all of the issues that comprise the subject MSCI Index, but attempts to hold a representative sample of the securities in the Index utilizing a technique known as "portfolio sampling." As noted in the WEBS prospectus, it is expected that, over time, the "expected tracking error" of a WEBS Index Series relative to the performance of the relevant MSCI Index will be less than 5%. An expected tracking error of 5% means that there is a 68% probability that the net return on the asset value for the Index Series (including dividends and without reflecting expenses) will be between 95% and 105% of the return of the subject MSCI Index after one year without rebalancing the portfolio composition. While no particular level of tracking error is assured, the Fund's Advisor, monitors the tracking error of each Index Series on an ongoing basis and seeks to minimize tracking error to the maximum extent possible. Semi-annual and annual reports of the Fund disclose tracking error over the previous six-month periods, and in the event that tracking error exceeds 5%, the Fund Board of Directors will consider what action might be appropriate.

B. Criteria for Initial and Continued Listing

WEBS are subject to the criteria for initial and continued listing of Index Fund Shares in Amex Rule 1002A. For each of the six WEBS Index Series, it is anticipated that a minimum of two Creation Units will be required to be outstanding at the start of trading, with the exception of the United States WEBS Index Series and the EMU Index Series, for which one Creation Unit will be required to be outstanding at commencement of trading. It is anticipated that a Creation Unit will consist of 50,000 WEBS except for the United States WEBS Index Series and EMU WEBS Index Series, for which the anticipated minimums are 500,000 and 200,000 WEBS, respectively. The value of a Creation Unit at the start of trading would in all cases be in excess of $500,000. It is expected that the NAV of an individual share will initially range from $10 to $25.[22] The Fund will establish a minimum number of WEBS shares per Creation Unit for each Index Series prior to commencement of trading, which minimum number will be disclosed in the Fund's prospectus. According to the Exchange, the proposed minimum number of WEBS outstanding at the start of trading for each WEBS Index Series is sufficient to provide market outstanding at the start of trading for each WEBS Index Series is sufficient to provide market liquidity and to further the Fund's objective to seek to provide investment results that correspond generally to the price and yield performance of a specified MSCI Index.

C. Dissemination of Indicative Optimized Portfolio Value

As noted above, MSCI disseminates values for each MSCI Index once each trading day, based on closing prices in the relevant exchange market. In addition, the Fund makes available on a daily basis the names and required number of shares of each of the securities to be deposited in connection with the issuance of WEBS in Creation Unit size aggregations for each WEBS Index Series, as well as information relating to the required cash payment representing, in part, the amount of accrued dividends applicable to such WEBS Index Series. This information is made available by the Fund's Advisor to any NSCC participant requesting such information. In addition, other investors can request such information directly from the Fund's Distributor. The NAV for each WEBS Index Series is calculated daily by the Fund's Administrator.

In order to provide updated information relating to each WEBS

[18] *See* Amendment No. 3, *supra* note 6.

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] Telephone conversation between Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, and Terri Evans, Special Counsel, Division, Commission, on January 31, 2000.

Index Series for use by investors, professionals and persons wishing to create or redeem WEBS,[23] the Exchange currently disseminates through the facilities of the Consolidated Tape Association ("CTA") an updated "indicative optimized protfolio value" ("Value") for each of the seventeen WEBS Index Series currently traded as calculated by Bloomberg, L.P. The Exchange will also disseminate a Value for the proposed six new WEBS Index Series over CTA facilities (Network B) as calculated by a securities information provider ("Value calculator"). The Value for the proposed WEBS Index Series will be calculated by Bloomberg, L.P. in the same manner utilized by Bloomberg to calculate the Value for the seventeen WEBS index series that are currently trading.[24] The Value is disseminated on a per WEBS basis every 15 seconds during regular Amex trading hours of 9:30 a.m. to 4 p.m. (ET). The equity securities values included in the Value are the values of the designated portfolio of equity securities ("Deposit Securities") constituting an optimized representation of the benchmark MSCI foreign index for each WEBS Index Series, which is the same as the portfolio that to be utilized generally in connection with creations and redemptions of WEBS in Creation Unit Size aggregations on that day. The equity securities included in the Value reflect the same market capitalization weighting as the Deposit Securities in the optimized for the particular WEBS Index Series. In addition to the value of the Deposit Securities for each WEBS Index Series, the Value includes a cash component consisting of estimated accrued dividend and other income, less expenses. The Value also reflects changes in currency exchange rates between the U.S. dollar and the applicable home country currency.

The Value does not reflect the value of all securities included in the applicable benchmark MSCI index. In addition, the Value does not necessarily reflect the precise composition of the current portfolio of securities held by the Fund for each WEBS Index Series at a particular point in time. Therefore, Amex has stated that the Value of a per WEBS basis disseminated during Amex trading hours should not be viewed as a real time update of the NAV of the Fund, which is calculated only once a day. While the Value disseminated by the Amex at 9:30 a.m. is generally very close to the most recently calculated Fund NAV on a per WEBS basis,[25] Amex notes that it is possible that the value of the portfolio of securities held by the Fund for a particular WEBS Index Series may diverge from the Deposit Securities Values during any trading day. In such case, the Value will not precisely reflect the value of the Fund portfolio. Following calculation of the NAV by the Fund's Administrator as of 4:00 p.m. (ET),[26] the Value on a per WEBS basis can be expected to be the same as the NAV of the Fund on a per WEBS basis.

However, during the trading day, Amex believes the Value can be expected to closely approximate the value per WEBS share of the portfolio of securities for each WEBS Index Series except under unusual circumstances (*e.g.*, in the case of extensive rebalancing of multiple securities in a WEBS Index Series at the same time by the Fund Advisor). According to the Amex, the circumstances that might cause the Value to be based on calculations different from the valuation per WEBS share of the actual portfolio of an Index Series would not be different than circumstances causing any index fund or trust to diverge from the underlying benchmark index.

The Exchange believes that dissemination of the Value based on the Deposit Securities provides additional information regarding each WEBS Index Series that is not otherwise available to the public and is useful to professionals and investors in connection with WEBS trading on the Exchange or the creation or redemption of WEBS.

For South Korea and Taiwan, there is no overlap in trading hours between the foreign markets and the Amex. Therefore, for each Index Series, the Value calculator will utilize closing prices (in applicable foreign currency prices) in the principal foreign market for securities in the WEBS portfolio, and convert the price to U.S. dollars. This Value will be updated every 15 seconds during Amex trading hours to reflect changes in currency exchange rates between the U.S. dollar and the applicable foreign currency. The Value will also include the applicable estimated cash component for each WEBS Index Series.

For Brazil, South Africa, and countries included in the MSCI EMU Index, which have trading hours overlapping regular Amex trading hours, the Value calculator will update the applicable Value every 15 seconds to reflect price changes in the applicable foreign market or markets, and convert such prices into U.S. dollars based on the current currency exchange rate. When the foreign market or markets are closed but the Amex is open, the Value will be updated every 15 seconds to reflect changes in currency exchange rates after the foreign market close. The Value will also include the applicable estimated cash component for each Index Series.

For United States WEBS Index Series, the Value calculator will update the Value at least every 15 seconds, and such Value will included the applicable estimated cash component.

D. Original and Annual Listing Fees

The Amex original listing fee applicable to the listing of WEBS Index Series is $5,000 per WEBS Index Series. In addition, the annual listing fee applicable to WEBS Index Series under Section 141 of the Amex *Company Guide* will be based upon the year-end aggregate number of outstanding WEBS in all series, including the seventeen existing series and the additional series proposed herein.

E. Stop and Stop Limit Orders

Amex Rule 154, Commentary .04(c) provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Amex Rule 950(f) and Commentary thereto) the price of which is derivatively priced based upon another security or index of securities, may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c)(i–v). The Exchange has designated Index Fund Shares, including WEBS, as eligible for this treatment.[27]

F. Amex Rule 190

Amex Rule 190, Commentary .04, applies to Index Fund Shares listed on the Exchange, including WEBS. Commentary .04 states that nothing in Amex Rule 190(a) should be construed to restrict a specialist registered in a security issued by an investment company from purchasing and redeeming the listed security, or securities that can be subdivided or

[23] WEBS cannot be redeemed individually but must be redeemed in Creation Unit size aggregations applicable to the specific WEBS Index Series.

[24] *See* Amendment No. 3, *supra* note 6.

[25] A slight difference between the Value disseminated at 9:30 a.m. and the most recently calculated Fund NAV can be expected because the Value will include an estimated cash amount consisting principally of any dividend accruals for the Deposit Securities going "ex-dividend" on that day.

[26] The NAV for Korea and Taiwan will be calculated at 8:30 a.m. New York Time and 5 p.m. New York Time of Brazil. *See* Amendment No. 5, *supra* note 8.

[27] *See* Securities Exchange Act Release No. 29063 (April 10, 1991) 56 FR 15652 (April 17, 1991) note 9 (regarding Exchange designation of equity derivative securities as eligible for such treatment under Rule 154, Commentary .04(c)).

converted into the listed security, from the issuer as appropriate to facilitate the maintenance of a fair and orderly market.

G. Prospectus Delivery, Purchases, Redemptions, and Suitability

The Exchange, in an Information Circular to Exchange members and member organizations, will inform members and member organizations, prior to commencement of trading, that investors purchasing WEBS are required to receive a Fund prospectus prior to or concurrently with the confirmation of a transaction therein. The prospectus will disclose, among other matters, that the NAV is determined for Brazil, South Korea, and Taiwan at different times than other MSCI WEBS Index Series. Further the prospectus will disclose the possible market impact of the Fund buying or selling securities in Brazil, South Korea, and Taiwan prior to the calculation of the NAV,[28] as well as the creation and redemption fees for those WEBS.[29]

In the Amex's Information Circular, members and member organizations will be informed that procedures for purchases and redemptions of WEBS in Creation Unit Size are described in the Fund prospectus and statement of additional information, and that WEBS are not individually redeemable but are redeemable only in Creation Unit Size aggregations or multiples thereof. Further, the Information Circular will discuss certain factors that make the Brazil, South Korea, and Taiwan WEBS Series different from the other WEBS Index Series. This includes that the NAV for Brazil, South Korea, and Taiwan is determined at a different time than the other WEBS Index Series; there is a fee for creations and redemptions for WEBS based on Brazil, South Korea, and Taiwan; and there is a potential market impact of the Fund buying and selling in those three markets prior to the calculation of the NAV.[30] The Information Circular will also inform members and member organizations of the characteristics of the specific series and of applicable Exchange rules, as well as of the requirements of Amex Rule 411 (Duty to Know and Approve Customers).

[28] Telephone conversation between Georgia Bullitt, Vice President, Morgan Stanley Dean Witter, and Belinda Blaine, Associate Director, Division, Commission, on March 28, 2000.

[29] Telephone conservation between Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Amex, and Terri Evans, Special Counsel, Division, Commission, on May 1, 2000.

[30] *Id.*

H. Trading Halts and Surveillance

In addition to other factors that may be relevant, the Exchange may consider factors such as those set forth in Amex Rule 918C(b) in exercising its discretion to halt or suspend trading in Index Fund Shares, including WEBS. These factors would include, but are not limited to: (1) The extent to which trading is not occurring in stocks underlying the index; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[31] In addition, trading in WEBS will be halted if the circuit breaker parameters under Amex Rule 117 have been reached.

Exchange surveillance procedures applicable to trading in the proposed WEBS Index Series are the same as those applicable to WEBS currently trading on the Exchange.[32]

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b)(5) of the Act.[33] The Commission believes that the Exchange's proposal to list and trade WEBS will provide investors with a convenient way of participating in the foreign securities markets. The Commission believes that the Exchange's proposal should help to provide investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell securities at negotiated prices throughout the business day that replicate the performance of several portfolios of stocks.[34] Accordingly, the Commission finds that the Exchange's proposal will facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[35]

[31] *See* Amex Rule 918C.

[32] *See* Amendment No. 3, *supra* note 6.

[33] 15 U.S.C. 78f(b)(5). In approving this rule, the Commission notes that is has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[34] The Commission notes that unlike typical open-end investment companies, where investors have the right to redeem their fund shares on a daily basis, investors in WEBS can redeem in Creation Unit size aggregations only.

[35] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of exchange trading for new products upon a finding that the introduction of the product is in the public interest. Such a finding would be difficult with respect to a product that served no investment, hedging or other economic functions, because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

The estimated cost of an individual WEBS, approximately $10 to $25, should make it attractive to individual retail investors who wish to hold a security replicating the performance of a portfolio of foreign stocks. Moreover, the Commission believes that WEBS will provide investors with several advantages over standard open-end investment companies specializing in such stocks. In particular, investors will be able to trade WEBS continuously throughout the business day in secondary market transactions at negotiated prices.[36] Accordingly, WEBS should allow investors to: (1) Respond quickly to market changes through intra-day trading opportunities; (2) engage in hedging strategies not currently available to retain investors; and (3) reduce transaction costs for trading a portfolio of securities.

Although the value of WEBS will be based on the value of the securities and cash held in the Fund, WEBS are not leveraged instruments.[37] In essence, WEBS are equity securities that represent an interest in a portfolio of stocks designed to reflect the applicable MSCI Index. Accordingly, it is appropriate to regulate WEBS in a manner similar to other equity securities. Nevertheless, the Commission believes that the unique nature of WEBS raise certain product design, disclosure, trading, and other issues that must be addressed.

A. WEBS Generally

The Commission believes that the proposed WEBS are reasonably designed to provide investors with an investment vehicle that substantially reflects in value the index it is based upon, and, in turn, the performance of

[36] Because of potential arbitrage opportunities, the Commission believes that WEBS will not trade at a material discount or premium in relation to their NAV. The mere potential for arbitrage should keep the market price of WEBS comparable to their NAVs; therefore, arbitrage activity likely will not be significant. In addition, the Fund will generally redeem in-kind, thereby enabling the Fund to invest most of its assets in securities comprising the MSCI Indices.

[37] In contrast, proposals to list exchange-traded derivative products that contain a built-in leverage feature or component raise additional regulatory issues, including heightened concerns regarding manipulation, market impact, and customer suitability. *See e.g.*, Securities Exchange Act Release No. 36165 (August 29, 1995), 60 FR 46653 (relating to the establishment of uniform listing and trading guidelines for stock index, currency, and currency index warrants).

the specified foreign equities market. WEBS will be deemed equity securities subject to Amex rule governing the trading of equity securities. As such, the Commission finds that adequate rules and procedures exist to govern the trading of WEBS. In this regard, the Commission notes that MSCI imposes specified criteria in the selection of Index components. MSCI generally seeks to have 60% of a market's capitalization reflected in that market's corresponding index. In selecting components for a given Index, MSCI excludes issues that are either small or higher illiquid. Index constituents are selected on the basis of seeking to maximize float and liquidity, reflecting a market's size and industry profiles, and minimizing cross-ownership.

The aim of this component selection process is to make index components highly representative of the over-all economic sector make-up and market capitalization of a given market. At the same time, securities that are illiquid or have a restricted float are avoided. The Commission believes that these criteria should serve to ensure that the underlying securities of these indices are well capitalized and actively traded. The Commission also notes that a WEBS series normally will invest at least 95% of its total assets in such stocks, represented by the benchmark index. Three of the new WEBS, however, are normally only required to invest at least 80% of their total assets in stocks represented in its benchmark MSCI Index, with at least half of the remaining 20% in such stocks or in stocks included in the relevant market but not its benchmark MSCI Index. The Commission believes nevertheless that these procedures provide sufficient investment in the underlying Index. As stated above, each WEBS Index Series has a policy to concentrate its investments in an industry or industries if, and to the extent that, its corresponding MSCI Index concentrates in such industry or industries, except where the stock of a single issuer would account for more than 25% of the WEBS Index Series. While the Commission believes these requirements should help to reduce concerns that the WEBS could become a surrogate for trading in a single or a few unregistered stocks, in the event that a series of WEBS were to become such a surrogate, the Commission would expect the Amex to take action immediately to delist the securities to ensure compliance with the Act.

A WEBS series will not hold all of the securities that comprise the subject MSCI Index, but will attempt to hold a representative selection of such securities by means of "portfolio sampling." [38] Moreover, no WEBS series currently is expected to have fewer than seventeen of the component securities of the corresponding MSCI Index.[39] The Commission believes that taken together, the foregoing are adequate to characterize WEBS as bona fide index funds. The Commission would be concerned, however, if the capitalization percentages or minimum number of WEBS component securities were to fall to a level such that the WEBS portfolio no longer would substantially reflect their corresponding WEBS indices.[40]

B. Disclosure

The Commission believes that the Exchange's proposal should ensure that investors have information that will allow them to be adequately apprised of the terms, characteristics, and risks of trading WEBS.[41] As noted above, all WEBS investors; including secondary market purchasers, will receive a prospectus regarding the product. Because WEBS will be in continuous distribution, the prospectus delivery requirements of the Securities Act of 1933 will apply both to initial investors, and to all investors purchasing such securities in secondary market transaction on the Amex. The prospectus will address the special characteristics of a particular WEBS Index Series, including a statement regarding their redeemability and method of creation. As noted above, certain features make three of the WEBS Series operate different from the other WEBS Index Series. Accordingly, the prospectus will disclose that the NAV for Brazil, South Korea, and Taiwan is determined at different times than other MSCI WEBS Index Series. Further, the prospectus will disclose the possible market impact of the Fund buying or selling securities in Brazil, South Korea, and Taiwan and the creation and redemption fees, intended to offset the brokerage fees and market impact associate with buying and selling securities held by the Fund, that will be charged for those three indices.

The Commission also notes that upon the initial listing of any class of WEBS, the Exchange will issue a circular to its members explaining the unique characteristics and risks of this type of security. The circular also will note Exchange members' responsibilities under Exchange Rule 411 ("know your customer rule") regarding transactions in WEBS. Exchange Rule 411 generally requires that members use due diligence to learn the essential facts relative to every customer, every order or account accepted.[42] The circular also will address members' responsibility to deliver a prospectus to all investors as well as highlight the characteristics of purchases in WEBS, including that they only are redeemable in Creation Unit size aggregations. In addition, the Information Circular will disclose that the NAV for Brazil, South Korea, and Taiwan is determined at different times than other MSCI WEBS Index Series. Further, the Information Circular will disclose the possible market impact of the Fund buying or selling securities in Brazil, South Korea, and Taiwan and the creation and redemption fees that will be charged for those three indices.

C. Dissemination of WEBS Portfolio Information

The Commission believes that the Values the Exchange proposes to have disseminated for the six WEBS series will provide investors with timely and useful information concerning the value of WEBS or a per WEBS basis. The Exchange represents that the information will be disseminated through the facilities of the CTA and will reflect currently available information concerning the value of the assets comprising the Deposit Securities. This information will be disseminated every 15 seconds during regular Amex trading hours of 9:30 a.m. to 4 p.m., New York Time. In addition, since it is expected that the Value will closely track the applicable WEBS series, the Commission believes that the Values will provide investors with adequate information to determine the intra-day value of a given WEBS series. The Commission expects that the Amex will monitor the disseminated Value, and if the Amex were to determine that the Value does not closely track applicable WEBS series, it

[38] *See supra* Country/Region Table in Section II.A, MSCI Indices.

[39] Telephone conversation between Michael Cavalier, Associate General Counsel, Legal & Regulatory Policy, Exchange, and Terri Evans, Special Counsel, Division, Commission, on February 17, 2000.

[40] Among other issues that may arise under the federal securities laws, such an occurrence could raise the issue of whether WEBS trading would remain consistent with Amex listing standards for Index Fund Shares, as well as the surrogate trading issue noted above.

[41] The Exchange states that it may, in the future, seek to obtain an exemption from the prospectus delivery requirement, either with respect to WEBS or other Index Fund Shares listed on the Exchange. In the event it obtains such an exemption, the Exchange will discuss with Commission staff the appropriate level of the disclosure that should be required with respect to the Index Fund Shares being listed, and will file any necessary rule change to provide for such disclosure.

[42] Amex Rule 411.

would arrange to disseminate an adequate alternative value.

D. Specialists

The Commission finds that it is consistent with the Act to allow a specialist registered in a security issued by an Investment Company to purchase or redeem the listed security from the issuers as appropriate to facilitate the maintenance of a fair and orderly market in that security. As noted in the original WEBS order, which also permitted specialist purchases and redemptions, the Commission believes that such market activities should enhance liquidity in such securities and facilitate a specialist's market-making responsibilities. In addition, because the specialist only will be able to purchase and redeem Units on the same terms and conditions as any other investor at NAV in accordance with the terms of the Fund prospectus and statement of additional information, the Commission believes that concerns regarding potential abuse are minimized. The Exchange's existing surveillance procedures also should ensure that such purchases are only for the purpose of maintaining fair and orderly markets, and not for any other improper or speculative purposes. Finally, the Commission notes that its approval of this aspect of the Exchange's rule proposal does not address any other requirements or obligations under the federal securities laws that may be applicable.

E. Surveillance

The Commission notes that surveillance of the new WEBS product is the same as the original WEBS products. The Commission believes that the surveillance procedures developed by the Amex for WEBS are adequate to address concerns associated with the listing and trading of such securities, including any concerns associated with purchasing and redeeming Creation Units.

When a broker dealer, such as Morgan Stanley Dean Witter ("MSDW"), or a broker dealer's affiliate, such as MSCI, in involved in the development and maintenance of a stock index upon which a product such as WEBS is based, the broker-dealer and its affiliate should have procedures designed specifically to address the improper sharing of information. The Commission notes that MSCI has implemented procedures to prevent the misuse of material, non-public information regarding changes to component stocks in the WEBS Index Series. The Commission believes that the information barrier procedures put in place by MSCI address the unauthorized transfer and misuse of material, non-public information.

F. Stop and Stop Limit Orders

The Commission believes that the Amex's proposal to designate the additional WEBS Index Series as eligible for election by quotation with the prior approval of a Floor Official is consistent with the Act. Amex Rule 154, Commentary.04(c) generally provides that stop and stop limit orders to buy or sell a security or index of securities may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Rule 154, Commentary.04(c)(1–v). Rule 154, Commentary.04(c)(v) states that election by quotation only is available for such derivative securities as are designated by the Exchange as eligible for such treatment. The Exchange's proposal would so designate WEBS.

As previously noted by the Commission, allowing stop and stop limit orders in WEBS to be elected by quotation, a rule typically used in the options context, is appropriate because, as a result of their derivative nature, WEBS are in effect equity securities that have a pricing and trading relationship to the underlying securities similar to the relationship between options and their underlying securities.[43]

G. Scope of the Commission's Order

The Commission is approving in general the Exchange's proposed listing standards for the six new WEBS described herein. Other similarly structured products, including WEBS based on MSCI Indices not described herein, would require review by the Commission pursuant to Section 19(b) of the Act[44] prior to being traded on the Exchange.

H. Accelerated Approval of Amendment Nos. 3, 4 and 5

The Commission finds good cause for approving Amendment Nos. 3, 4 and 5 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 3 merely clarifies certain aspects of the proposed rule change, such as the Fund's policy with respect to the weighting of securities in a WEBS Index Series; cash creations and redemptions for Korea, Taiwan and Brazil WEBS Index Series; surveillance procedures; and the value of individual shares. Amendment No. 4 merely withdraws WEBS Index Series based on five different countries. And finally, Amendment No. 5 clarifies the timing of when the NAV for Brazil South Korea, and Taiwan is calculated. The Commission notes that all of the countries upon which the Exchange is proposing to trade new WEBS were disclosed during comment period and no comments were received.

The Commission believes that Amendment No. 3 strengthens the Exchange's proposal, because it provides greater information to investors regarding the weighting of securities in a WEBS Index Series. In addition, Amendment No. 3 assures investors that the Exchange's surveillance procedures for its current WEBS Index Series will apply to the six new WEBS Index Series. Further, the use of cash in lieu of "in-kind" creations and redemptions is consistent with Amex Rule 1000A. The Commission also believes that it is appropriate for the Exchange to withdraw five of the WEBS Index Series in Amendment No. 4. The Commission notes that Amendment No. 5 merely changes the timing of the NAV calculation for the Korea, Taiwan, and Brazil WEBS Index Series. As noted above, the Fund believes that the timing of the calculation of the NAV until the next day will significantly lessen exposure of the Korea and Taiwan WEBS Index Series and their shareholders to the risk of price movements in the local market. In addition, the timing of the NAV calculation of the Brazil WEBS Index Series should help to ensure that it is based on the Brazilian markets' closing prices. While there may be a market impact as a result of this change, this is disclosed in the prospectus given to all investors trading in WEBS and the Information Circular. Accordingly, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b) of the Act,[45] to improve Amendment Nos. 3, 4, and 5 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 3, 4, and 5, including whether Amendment Nos. 3, 4, and 5 are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed

[43] *See* generally Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (approving Amex proposal relating to stop and stop limit orders in certain equity securities).

[44] 15 U.S.C. 78s(b)

[45] 15 U.S.C. 78f(b)(5) and 78s(b).

rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–98–49 and should be submitted by May 31, 2000.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[46] that the proposed rule change (SR–Amex–98–49), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[47]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–11611 Filed 5–9–00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42751; File No. SR–NASD–99–76]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the National Association of Securities Dealers, Inc. Relating to Amendments to the Code of Procedure and Other Provisions

May 3, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act"),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on December 28, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. On April 17, 2000, NASD Regulation amended its proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing amendments to the NASD Code of Procedure and other provisions of the NASD Rules, that include: (1) Clarifying the Department of Market Regulation's role in disciplinary proceedings; (2) requiring members to designate, as the custodian of the record of the Form BDW, persons who are associated with the firm at the time the forms are filed; (3) clarifying the authority of hearing officers and making some limited changes to that authority; (4) clarifying the scope of the Association's document production requirements; (5) providing for hearing panel review of staff determinations to impose limitations on member firm's business activities because of financial and/or operational difficulties; (6) providing for changes to the process for appeals of disciplinary actions, statutory disqualification proceedings, and certain other accelerated proceedings; (7) providing for a streamlined process to impose bars or expulsions for the failure to provide information to the Association; and (8) providing for a process by which the Association can more expeditiously cancel memberships of firms that fail to meet the Association's eligibility and qualification standards. The text of the proposed rule change is available at the Office of the Secretary, the NASD and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NASD Code of Procedure (the "Code"), implemented on August 7, 1997, provides detailed requirements governing NASD Regulation's process for:

(1) Authorizing, litigating, and issuing disciplinary decisions;

(2) Providing for appeals of those decisions;

(3) Taking certain actions through categories of accelerated proceedings; and

(4) Determining requests for relief from statutory disqualifications.

Since August 7, 1997, the Association staff has had significant experience under the Code, and has noted certain areas that need to be clarified or changed. The Association is proposing a series of clarifying and substantive amendments to the Code and other provisions as described below.

Custodian of the Record. Firms often list persons not associated with the firms as custodians of records on the SEC Form BDW, and then the Association may have difficulty obtaining records when firms no longer conduct business. The Association is proposing to establish NASD Rule 3121 that would require members to designate, as the custodians of the record on the Form BDW, persons who are associated with the firms at the time the forms are filed.

Eligibility of Panel Members. In certain circumstances, the National Adjudicatory Council (NAC) or the Review Subcommittee of the NAC (Review Subcommittee) may appoint panels to conduct hearings. Under NASD Rule 1015, only one panel member can be from the NAC, unless a panel member is also a former NASD Regulation Director or NASD Governor. The Association believes that this unnecessarily limits the pool of potential panelists. The Association believes that members of the NAC possess specialized expertise that may not be fully utilized under the current rule language. Accordingly, the Association is proposing to eliminate this restriction.

Market Regulation's Role in Disciplinary Process. Both the Department of Market Regulation and the Department of Enforcement represent NASD Regulation in formal disciplinary matters under the Code. However, the disciplinary rules only refer to the Department of Enforcement as the representative of the Association

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[46] 15 U.S.C. 78s(b)(2).

[47] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated April 17, 2000 ("Amendment No. 1"). Amendment No. 1 made substantive changes to the proposed rule language, including the deletion of certain provisions in the 9300 Series, Review of Disciplinary Proceeding by National Adjudicatory Council and NASD Board; Application for Commission Review.

in these matters. The Department of Market Regulation also represents NASD Regulation under a delegation of authority from the Department of Enforcement, as stated in NASD Rule 9120(e). The Association is proposing amending the Code to clarify the Department of Market Regulation's role in the disciplinary process.

Investigations. The NASD Rule 8220 Series permits the Department of Enforcement to initiate proceedings to suspend or cancel membership from the Association or suspend the association of a person with a member based upon the failure to provide information. These proceedings may be initiated for the failure to provide information pursuant to an Association request or the failure to make required filings with the Association, such as FOCUS reports, or to keep membership applications or supporting documents current. Since the Rule 8220 Series proceedings are brought on an accelerated basis, the Association is proposing to amend the Rule 8220 Series to:

(1) As discussed below (under the heading *Failure To Respond*), limit the use of Rule 8220 Series proceedings to address the most serious on-going violations concerning associated persons and members who fail to provide the Association with requested information; and

(2) Limit the sanctions available under Rule 8220 proceedings to suspensions.

Finally, the Association is proposing to amend the service provision under the Rule 8220 Series to make it consistent with the service provision under the Rule 9530 Series, a similar rule series. The Association is proposing that both the Rule 8220 Series and the Rule 9530 Series service provisions permit personal service, service by facsimile, and service by overnight courier. The Association is further proposing to clarify that attempted delivery of a document by an overnight courier constitutes service under these provisions.

Service of Papers—Address Changes. NASD Rule 9134(b)(1) states that service of papers on a natural person in a disciplinary proceeding must be at the person's residential address as reflected in the Central Registration Depository (CRD). If the Association staff has actual knowledge that the person's residential CRD address is out of date, then in addition to service at the residential address as reflected in the CRD, service should also be make at the person's last know residential address and the CRD address of the firm with which the person is associated or affiliated, if he/she is currently in the industry. The Association is proposing to modify the rule to permit adjudicators to waive the requirement of sending papers to CRD addresses when they are no longer valid, and there is a more current address available. This change would only relate to documents served on respondents after complaints have been served.

Further, the Association is proposing to amend NASD Rule 9135(a) to clarify that complaints shall be deemed timely filed so long as they are either mailed or delivered to the Office of Hearing Officers within the two-year jurisdictional period, as outlined in the By-Laws.

Severance of Cases. NASD Rule 9214, "Consolidation of Disciplinary Proceedings," authorizes the Chief Hearing Officer to order the consolidation of disciplinary hearings. The Association is now proposing to amend NASD Rule 9214 to state that the Chief Hearing Officer has authority to sever disciplinary proceedings involving multiple respondents into two or more proceedings. Under the rule proposal, the Chief Hearing Officer may order the severance of a disciplinary matter into two or more disciplinary proceedings, upon his or her own motion, or upon motion of a Party.

In determining whether to order the severance, the Chief Hearing Office shall consider: (1) Whether the same or similar evidence reasonably should be expected to be offered at each of the possible hearings; (2) whether the severance would conserve the time and resources of the Parties; and (3) whether any unfair prejudice would be suffered by one or more of the Parties if the severance is (not) ordered. If the Chief Hearing Officer issues an order to sever a disciplinary proceeding for which a Hearing Panel, or if applicable, Extended Hearing Panel has been appointed, the Chief Hearing Officer's order shall specify whether the same Hearing Panel or, if applicable, Extended Hearing Panel, shall preside over the severed disciplinary proceedings, or whether a new Hearing Panel(s) or, if applicable extended Hearing Panel(s), shall preside over all severed proceedings, based on the criteria set forth in NASD Rules 9231 and 9232.

Producing Documents. The Association is proposing amendments to NASD Rule 9253 to clarify the scope of the Association's document production requirements. NASD Rule 9251(a) requires Association staff to make available to respondents documents prepared or obtained by the staff in connection with the investigations that led to the institution of a disciplinary proceeding. Exceptions to the production requirements are listed in NASD Rule 9251(b), and include examination and inspection reports and internal employee communication. Notwithstanding these exceptions, documents containing the staff's investigative techniques might become discoverable under Rule 9253, if staff members are called as witnesses during hearings. NASD Rule 9253 requires Association staff to produce written statements made or adopted by staff members, if they relate to the subject matter of those persons' testimony. It also requires the staff to produce contemporaneously recorded recitals of oral statements made by witnesses, if those written statements are substantially verbatim.

The proposed modifications of NASD Rule 9253 clarify that the only portions of routine examination or inspection reports, internal employee communications, and any other internal documents that are required to be produced, under this rule, are the portions outlining the substance of (and any conclusions regarding) oral statement made by persons who are not employees of the Association when evidence of those statements are offered by Association staff during disciplinary hearings.

Amending Complaints. The Association is proposing to modify its rules regarding amending complaints to more closely follow the Federal Rules of Civil Procedure ("FRCP). The FRECP do not limit the types of amendments that may be made to complaints. NASD Rule 9212, however, only permits amendments to "new matters of fact or law." The Association is proposing to amend the rule to eliminate this restriction. Thus, for instance, under the proposed rule change, the Association staff could amend complaints to include additional respondents. Further, the FRCP permit amendments to make complaints conform to the evidence presented. The Association is proposing to modify NASD Rule 9212 to permit such amendments. Also, the FRCP state that amendments to complaints will be freely granted when justice so requires. The Association is proposing to amend NASD Rule 9212 to state that amendments to complaints will be freely granted when justice so requires. Association staff will need to obtain hearing officer approval to amend complaints after answers have been filed.

Effective Dates of Sanctions. The Central Registration Depository currently sets the effective dates of the imposition of sanctions imposed under the Code by notifying respondents in

writing when fines are due and of the effective date of suspensions. The Association is proposing to amend NASD Rules 9216, 9268, 9269, and 9360 to state that the effective dates of sanctions are the dates set by the Association staff, unless stated otherwise in orders, decisions, or settlement agreements. As a result of these changes, the Association believes that IM–8310–2 is no longer needed and, accordingly, is proposing it be deleted. This change will not affect the NASD's policy of automatically staying the imposition of the fines, disgorgement and suspensions, pending review.

Summary Dispositions. NASD Rule 9264(a) authorizes either the Association or respondents to file motions to summarily dispose of "any or all the causes of action in the complaint." This rule however, does not permit parties to move to eliminate issues that do not involve entire "causes of actions." The Association is proposing to modify NASD Rule 9264(a) to track the language in the FRCP, which permits courts to dismiss issues.

Further, the Association is proposing to modify NASD Rule 9264 to authorize hearing officers to deny, grant, or defer motions to dismiss without referring the matter to the full panel. The authority to grant such motions would be limited to jurisdictional issues, such as whether the complaint was filed within the two-year jurisdictional period. The Association believes that Hearing Officers should be permitted to dismiss such motions which generally are technical legal questions, and do not require the input of industry representatives.

Default Decisions. NASD Rule 9269 provides that motions to set aside default decisions should be made to the Review Subcommittee or the NAC. The hearing officers who issue the default decisions, however, are particularly familiar with the matters. The Association is proposing to modify the rule to state that a motion to set aside a default decision should be made to the hearing officers that originally decided the motion for a default decision. If the hearing officer that issued the original order is not available, the Chief Hearing Officer shall appoint another hearing officer to decide the motion. Appeals from such denials could be made to the NAC or the Review Subcommittee.

Remand Cases. NASD Rule 9349 authorizes the NAC to remand disciplinary cases to hearing panels. The Association is proposing to amend NASD Rules 9344 and 9349 to clarify that the Review Subcommittee may also remand disciplinary cases to hearing panels.

Office of General Counsel. Under NASD Rules 9311 and 9312, the General Counsel of NASD Regulation is required to obtain Review Subcommittee or NAC authorization to order parties to brief particular matters. The General Counsel rarely seeks additional briefing on particular points, but where the General Counsel believes that additional briefing is necessary, the Review Subcommittee or the NAC would most likely order it. Thus, requiring the General counsel to seek authorization for additional briefing is an unnecessary use of resources. The Association is proposing that this requirement be eliminated. The Association is proposing to include in the rules a process by which parties may challenge, before the Review subcommittee or the NAC, requests for additional briefing made by the General Counsel.

Briefing Schedules. NASD Rule 9347(b) establishes briefing schedules for papers filed in NAC proceedings. The Association is proposing amending this rule to clarify that the time periods listed in the rule are only applicable to the principal briefing schedule and not applicable to the briefing of subsequent collateral issues.

Procedures for Regulation of Activities of a Member Experiencing Financing or Operational Difficulties. Under the NADA Rule 9410 Series, the Department of Member Regulation issues notices and holds initial hearings to determine whether members must limit their business activities as a result of financial and/or operational difficulties. Members can appeal Member Regulation's decisions to NAC, and the NAC or the Review Subcommittee will appoint a Subcommittee to participate in the review. The Association is proposing to amend the rule series to provide that firms may appeal limitations in notices issued by the Department of Member Regulation to hearing panels that will consist of a hearing officer and two other panelists. Under the proposal, the Department of Member Regulation would not hold hearings, and the NAC would not participate in matters handled under this rule series.

Currently, an NASD Governor may initiate the review of a decision issued by the NAC, under the NASD rule 9410 Series, not later than the next meeting of the NASD Board that is at least 15 days after the date on which the NASD Board reviews the proposed written decision of the NAC. The Association is proposing to replace this procedure with a mechanism by which the Executive Committee of the NASD Board may initiate the review of the hearing panel decision for a period of 15 days. Currently, the Department of Member Regulations's decision is stayed unless otherwise ordered by the NAC decision. The Association is proposing to modify this provision to provide that the Department of Member Regulation's recommendation is stayed unless ordered otherwise by the Executive Committee.

Other Proceedings. Two categories of expedited proceedings available under the NASD Rule 9510 Series are referred to as "Summary Proceedings" and "Non-Summary Proceedings." The key differences between Summary and Non-Summary proceedings are that: (1) In a Summary Proceeding, the Association can impose sanctions against a member or associated person before a hearing is held and a final Association decision is served, whereas in a Non-Summary Proceeding, generally a hearing must be held and a final decision served before any sanction may be imposed; (2) a Summary Proceeding requires prior authorization by the NASD Board of Governors, whereas a Non-Summary Proceeding may be initiated by staff without Board involvement; and (3) while the various forms of Summary Proceedings are enumerated in Section 15A(h)(3) of the Act,[4] the othe reforms of expedited proceedings, including Non-Summary, are not.

The Association is proposing several amendments to the rules that govern the Code's Summary and Non-Summary Proceedings. Under the current rules, it is unclear as to whether hearing officers have all of the powers in Summary and Non-Summary Proceedings (the Rule 9500 Series) that they have in regular disciplinary proceedings (the Rule 9200 Series). The Association is proposing to add a provision to the NASD Rule 9500 series stating that: The hearing officer shall have authority to do all things necessary and appropriate to discharge his or her duties as set forth under Rule 9235."

NASD Rule 9514(a)(1) requires that requests for hearings be filed within 7 days of receipt of suspension letters (or, with respect to notice of a pre-use filing requirement under Rule 2210(c)(4) and Rule 2220(c)(2), within 30 days of such notice). The Association is proposing to amend NASD Rule 9514(a)(2) to clarify that if the member or person subject to the notice does not timely request a hearing under Rule 9514(a)(1), the notice shall constitute final Association action.

NASD Rule 9514(d)(2) states that Non-Summary Proceedings held under

[4] 15 U.S.C. 78o–3(h)(3).

the Rule 9500 Series need to be held within 21 days after respondent requests a hearing. Hearing panels may, during the initial 21-day periods, extend the time in which the hearings shall be held by additional 21-day periods. The Association believes that these periods are too short, and is proposing amending the rule to extend the initial period to 40 days, with an additional 30 days of further extension. Since the suspension is not in effect during this time, this additional time will not prejudice respondents, and it will provide the staff and respondents with ample time to prepare for hearings.

NASD Rule 9516 gives firms/persons suspended or limited under these provisions the opportunity to become reinstated on the grounds of full compliance with the conditions of the suspension or limitation. The request needs to be filed with the department or office of the Association that acted as the party in the proceeding. If the department head denies reinstatement, the party may file a request for relief with the NASD Board, and the NASD Board must respond in writing within 14 days. The Association believes that the matters appealed, however, do not require NASD Board review. The Association is proposing that appeals under NASD Rule 9516 be addressed by the Review Subcommittee of the National Adjudicatory Council, rather than the NASD Board.

Eligibility Proceedings. The Association is proposing several changes to the NASD Rule 9520 Series that govern the process by which persons may become or remain associated with a member, notwithstanding the existence of a statutory disqualification or for a current member or person associated with a member to obtain relief from the eligibility or qualification requirements. First, the NASD Rule 9520 Series does not state whether extensions of time or waivers of time limitations for filing of papers or holding of hearings may be granted. The Association is proposing to create NASD Rule 9524(a)(5) that permits such actions by consent of all the parties. Further, the eligibility rules do not state whether the disqualification hearing panel or the NAC may order that the record be supplemented. The Association is proposing to create NASD Rule 9524(a)(3)(c) to permit the Hearing Panel to order the Parties to supplement the record with any additional evidence the Hearing Panel deems necessary.

NASD Rule 9524(b)(3) states that NASD Regulation's statutory disqualification recommendations become effective upon service on applicants. However, only the denials are effective upon service on applicants (subject to the applicant requesting a stay of effectiveness from the Commission). Approval decisions are not effective until the Commission has either sent an acknowledgment letter to NASD Regulation (usually within 30 days, and the SEC can request a further 60-day extension of that period), or the Commission has entered an order in cases that have involved a previously-entered SEC bar (there is no time limitation for the entry of such an order). The Association is proposing to amend this rule to reflect these points.

If a member files an application for relief under the eligibility rules, the NAC or the Review Subcommittee appoints a hearing panel composed of two or more members who are current or former members of the NAC or former Directors or Governors. The Association is proposing that NASD Rule 9524(a)(1) be amended to state that members of the Statutory Disqualification Committee may also serve on hearing panels.

NASD Rule 9524(a)(3) states that if the Association staff initiated the proceedings, the Association will give to the applicant all documents that were relied on by the Association in issuing its notice. However, most applications are started by member firms, not the Association. The Association is proposing to amend this rule to reflect this fact.

The Association is also proposing to amend NASD Rule 9524(a)(3) to provide that once an application is filed, CRD will gather all of the information necessary to process the application, including:

(1) CRD records for the disqualified member, sponsoring member, and/or disqualified person, and the proposed supervisor; and

(2) All of the information submitted by the disqualified member or sponsoring member in support of the application.

Proposed NASD Rule 9524(a)(3) would further provide that CRD will prepare an index of these documents, and simultaneously provide this index and copies of the documents to the disqualified member or sponsoring member, the Office of the General Counsel of NASD Regulation, and the Department of Member Regulation. The rule also would require the Department of Member Regulation to submit its recommendation and supporting documents to the hearing panel and the disqualified member or sponsoring member within 10 business days of the hearing, unless the parties otherwise agree. Similarly, the disqualified member or sponsoring member would be required to submit its documents to the hearing panel and the Department of Member Regulation within 10 business days of the hearing, unless otherwise agreed.

Amendments to the NASD Rule 9520 Series also concern the review procedures undertaken by Association staff in the case of certain disqualifying events. In particular, the Association is proposing to amend NASD Rule 9522(e) to permit members to submit a written request for relief (rather than an MC–400 application) in cases where the disqualified member or person is subject to an injunction that was entered 10 or more years prior to the proposed administration or association. Under Exchange Act Rule 19h–1,[5] the NASD is not required to provide any notice to the Commission of the proposed admission or association in these types of cases. The Association also proposes that members be able to file a written request for relief in cases where a member requests to change the supervisor of a disqualified person or where, for instance, the New York Stock Exchange has determined to approve the proposed association of a disqualified person and the NASD concurs with the determination. Member Regulation would also be granted discretion to approve the written request for relief in these cases, if it deemed such action to be consistent with the public interest and the protection of investors.

The Association also proposes to amend the NASD Rule 9520 Series to permit Member Regulation to approve an MC–400 application for relief in those cases where the disqualifying event is excepted from the "full" notice requirements of Rule 19h–1, but where a "short form" notification to the Commission under Rule 19h–1 is still required. In these cases, the member would be required to file an MC–400, but Member Regulation would have the discretion to approve the application when consistent with the public interest and the protection of investors.

In addition, the Association is proposing new Rule 9523 to permit Member Regulation to recommend the membership or continued membership of a disqualified member or sponsoring member or the association or continuing association of a disqualified person pursuant to a supervisory plan. The procedures set forth in proposed NASD Rule 9523 are modeled on current Rule 9216 concerning Acceptance, Waiver, and Consent procedures, and are intended to avoid the requirement of a formal hearing and decision by the Statutory Disqualification Committee (and its hearing panels) in cases that

[5] 17 CFR 240.19h–1.

generally only involve the issue of what type of supervisory plan is appropriate for the disqualified member or person. Under proposed NASD Rule 9523, the member would be required to file an MC–400 application with the NASD. Member Regulation, however, would have the discretion to recommend the approval of the application in the event an appropriate supervisory plan is established. The member would be required to execute a letter consenting to the imposition of the supervisory plan. The letter and the supervisory plan would then be submitted to the Office of General Counsel and/or the Chairman of the Statutory Disqualification Committee for review and possible approval. While both the Office of General Counsel and the Committee Chairman would have authority to approve the application or refer it to the NAC, only the Committee Chairman would be permitted to reject the application.

Failure To Respond. As noted above (under the heading "Investigations"), proceedings initiated under the Rule 8220 Series are designed to address the most serious on-going violations concerning associated persons and members that are failing to provide the Association with information. For this reason, these proceedings are brought on an accelerated basis.

The Association is proposing to create a new Rule 9540 Series that could be used against those who fail to provide the Association with information, required filings, or keep membership applications or supporting documents current. Under the proposed NASD Rule 9540 Series, the Association would send notices informing respondents that failure to provide the Association with previously requested information or required filings or the failure to keep its membership application or supporting documents current will result in suspensions, unless the information is provided to the Association within 20 days. Respondents would have five days to request hearings to challenge proposed suspensions. These hearings would be conducted before three-member hearing panels, and the hearing panels would have the authority to order any fitting sanctions, including expulsions and bars. Respondents who fail to request hearings to challenge the suspension during the six-month period following the receipt of notices initiating proceedings under this rule series will be automatically barred or expelled.

Further, the Association is proposing to include in the proposed NASD Rule 9540 Series a process by which the Department of Member Regulation could quickly cancel the memberships of firms that fail to meet the Association's eligibility and qualification standards. Under the proposal, the Association would send letters to members informing them that their memberships will be canceled within 20 days of receipt of the letters, unless the firm becomes eligible for continuance in membership within this time period. The members will be provided opportunities to request hearings within five days of service of the notices to challenge the proposed cancellations. The hearings would be held before Hearings Officers.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] which require that the rules of an association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. The NASD believes that the proposed rule change is consistent with Section 15A(b)(7) of the Act[7] in that it works to adequately safeguard the interests of investors while establishing fair and reasonable rules for its members and persons associated with its members. The rule change is consistent with Section 15A(b)(8) of the Act[8] in that it furthers the statutory goals of providing a fair procedure for disciplining members and associated persons.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

On August 10, 1999, the proposed rule change was published for comment in NASD *Notice to Members Number 99–73.* No comments were received in response to the Notice to Members.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–99–76 and should be submitted by May 31, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–11610 Filed 5–9–00; 8:45 am]

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[6] 15 U.S.C. 78o–3(b)(6).

[7] 15 U.S.C. 78o–3(b)(7).

[8] 15 U.S.C. 78o–3(b)(8).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42754; File No. SR–NASD–00–18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. and Amendment No. 1 thereto Relating to the Entry of Locking/Crossing Quotations Prior to the Nasdaq Market Opening

May 3, 2000.

Pursuant to Section 19(b0(1) of the Securities Exchange Act of 1934

("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 13, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association;"), through its wholly owned subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq", filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On April 18, 2000, the NASD and Nasdaq submitted Amendment No. 1 to the proposal.[3] The Commission is publishing this notice, as amended, to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to amend NASD Rule 4613(e) as it relates to the entry of locking/crossing quotations prior to the market's open. Proposed new language is *italicized.*

4613. Character of Quotations

(a)–(d) No Changes

(e) Locked and Crossed Markets

(1) A market maker shall not, except under extraordinary circumstances, enter or maintain quotations in Nasdaq during normal business hours if:

(A) the bid quotation entered is equal to (*"lock"*) or greater than (*"cross"*) the asked quotation of another market maker entering quotations in the same security; or

(B) the asked quotation is equal to (*"lock"*) or less than (*"cross"*) the bid quotation of another market maker entering quotations in the same security.

(C) Obligations Regarding Locked/Crossed Market Conditions Prior to Market Opening

(i) No Change.

(ii) Locked/Crossed market Between 9:20 and 9:29:59 a.m.—If a market maker locks or crosses the market between 9:20 and 9:29:59 a.m. Eastern Time, the market maker must immediately send through SelectNet to the market maker whose quotes it is locking or crossing a Trade-or-move Message that is at the receiving market maker's quoted price and that is for at least 5,000 shares (in instances where there are multiple market makers to a lock/cross, the locking/crossing market maker must send a message to each party the lock/cross and the aggregate size of all such messages must be at least 5,000 shares); *provided, however, that if a market participant is representing an agency order (as defined in subparagraph (iv) of this rule), the market participant shall be required to send a Trade-or-Move Message(s) in an amount equal to the agency order, even if that order is less than 5,000 shares.* A market maker that receives a Trade-or-Move Message during this period and that is a party to a lock/cross, must within 30 seconds of receiving such message either: fill the incoming Trade-or-Move Message for the full size of the message; or move its bid down (offer up) by a quotation increment that unlocks/uncrosses the market. A market participant shall not be subject to the 5,000 share requirement of this rule if the market participant is representing agency interest only.

(iii) No Change.

(iv) For the purposes of this rule "agency order"shall mean an order(s) that is for the benefit of the account of a natural person executing securities transactions with or through or receiving investment banking services from a broker/dealer, or for the benefit of an "institutional account" as defined in NASD Rule 3110. An agency order shall not include an order(s) that is for the benefit of a market maker in the security at issue, but shall include an order(s) that is for the benefit of a broker/dealer that is not a market maker in the security at issue.

(2)–(3) No Change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Nasdaq is proposing a rule to amend NASD Rule 4613(e), to permit market participants, when representing agency interests, to lock/cross the market at the actual size of the agency order, instead of 5,000 shares as currently required by rule.

1. Background

On February 7, 2000, the Commission approved amendments to NASD Rule 4613(e), which relate to the entry of locking/crossing quotes by Nasdaq market participants—market maker and electronic communications networks ("ECNs")—prior to the market's open.[4] As amended and approved by the Commission, NASD Rule 4613(e) provides that if a market participant locks/crosses the market between 9:20 a.m. and 9:29:59 a.m. Eastern Time, the market participant *must* send the market maker(s) or ECN(s) being locked/crossed, a SelectNet® message that has appended to it a "TRD OR MOV" administrative message ("Trade-or-Move Message")[5] The aggregate size of these Trade-or-Move Messages must be at least 5,000 shares.[6] (Thus, in order to lock/cross the market during this 10 minute before the market opens, a market participant must send a Trade-or-Move Message for 5,000 shares and be willing to trade at least this amount.)[7] The party being locked or crossed must respond to the Trade-or Move Message within 30 seconds by trading in full with the incoming message or moving its quotation to a price level that resolves the locked/crossed market.[8]

2. Purpose

The 5,000 share requirement that is currently in the rule requires market makers, ECNs, and customers thereof, who initiate a lock/cross to send a Trade-or Move(s) for a total of a least 5,000 shares. This requirement applies even if the market maker or ECN is representing an agency order for less than 5,000 shares. Therefore, as currently written and approved, an ECN, market maker, and customer thereof, may not lock/cross the market unless he/she is willing to trade at least 5,000 shares. Some market participants have raised concerns that NASD Rule 4613(e) may exclude certain agency interests from being reflected in the pre-opening market if that interest is less than 5,000 shares.[9]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] *See* letter from Robert E. Aber, General Counsel and Senior Vice President, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated April 14, 2000 ("Amendment No. 1"). In Amendment No. 1, Nasdaq corrected an inadvertent misstatement contained in an example describing the proposal's operation.

[4] *See* Exchange Act Release No. 42400 (February 7, 2000), 65 FR 7407 (February 14, 2000) (order approving File No. SR–NASD–99–23 to amend NASD Rule 4613(e)).

[5] *Id.*

[6] *Id.*

[7] Under the current rule, a market participant would be prohibited from locking/crossing the market in the ten minute period prior to the open unless the actively locking/crossing market participant is willing to trade at least 5,000 shares.

[8] *See* note 4, *above.*

[9] *Id.*

In light of these concerns, Nasdaq proposes to amend NASD Rule 4613(e) to allow a market participant to lock/cross the market for less than 5,000 shares if they are representing only agency orders. Under the amendment, if between 9:20 a.m. and 9:29:59 a.m., a market participant receives an agency order that would lock/cross the market, the market participant may lock/cross the market and sent a Trade-or Move Message for the "actual size" of the agency order, instead of 5,000 shares. (For purposes of the amended rule, an agency order would not include an order for the account of a market maker in the issue, but would include orders for individuals, institutions and broker/dealers whoa re not market makers in the security at issue). In essence, agency orders would be "exempt" from the 5,000 share requirement. Market participant whose proprietary quotes lock/cross the market between 9:20 and 9:29:59 a.m., would still be subject to the 5,000 aggregate share size requirement for Trade-or Move Messages. Thus, if a market participant wishes to lock/cross the market while acting as principal, the market participant must send an aggregate of at least 5,000 shares, through a Trade-or Move Message, to the parties being locket/crossed.

For example, at 9:21 a.m. the market is $20 to $20⅛, and MMA is alone at the inside offer. ECN1 receives an order from a public customer to sell shares at $20⅛. Under the current rule, ECN1 would be required to lock the market and then send a Trade-or Move Message to MMA for 5,000 shares. Under the proposed amendment, ECN1 would be required to send MMA a Trade-or Move message for the actual size of the agency order—800 shares.[10] If the order that ECN1 received at 9:21 a.m. represented an order that was for the account of MMB, ECN1 would be prohibited from locking for only 800 shares.

As a second example, at 9:21 a.m. the market is $20 to $29⅛, with MMA along at the inside offer. MMG receives an 800 share customer limit order to sell at $20¼, which the customer has requested be displayed in the pre-opening. MMG also wishes to cross the market at the $20¼ price, while acting in a proprietary capacity. Note that only the agency interest is exempt from the 5,000 share requirement. Accordingly, MMG must send a Trade-or Move Message for at least 5,800 shares—5,000 covering his proprietary interest and 800 covering the customer limit order/agency.[11] In short a market maker is not permitted to meet the 5,000 share requirement by "free-riding" off of its customer orders that customers specifically have requested be displayed and executed in the market prior to the open.

The requirement that a market maker send a Trade-or Move Message for the actual size of agency interest plus 5.000 shares, only applies when a market maker wishes to lock/cross the market proprietary and simultaneously is displaying agency interest pursuant to an understanding with the customer. This requirement does not apply when the marker maker is holding agency interest where there is not understanding with the customer to have its order displayed and/or executed prior to the market's open, and the market maker otherwise is engaging in *bona fide* market making activity during the pre-opening period.

3. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6)[12] and Sections 11A of the Act.[13] Section 15A(b)(6)[14] requires that the rules of a registered national securities association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 11A(a)(1)(C)[15] provides that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure: (1) Economically efficient execution of securities transactions; (2) fair competition among brokers and dealers; (3) the availability to brokers, dealers and investors of information with respect to quotations and transactions in securities; (4) and the practicability of brokers executing investors orders in the best market; and (5) an opportunity for investors orders to be executed without the participation of a dealer.

Nasdaq believes that the amendment to NASD Rule 4613(e) is consistent with Sections 15A(b)(6) and 11A(a)(1)(C).[16] The proposed amendments create equal access among market participants (market makers and ECNs) consistent with Sections 15A(b)(6) and 11A(a)(1)(C).[17] Locked/crossed markets present serious market integrity and investor protection issues, as they disrupt the orderly function of the market and in turn have an impact on the processing of investor orders. Nasdaq believes that by allowing agency orders to be displayed in the market at their actual share sizes for purposes of resolving locked/crossed markets will increase investor protection by providing; (1) Greater access to the market, (2) increased liquidity, and (3) transparency of orders in the marketplace. Nasdaq believes that these benefits will provide greater trading, processing, and pricing efficiency and stability in the pre-opening market. Nasdaq also believes that by allowing agency quotes to be sent at "actual size" rather than at the 5,000 share size, market participants will have increased opportunities to evaluate and access the depth and liquidity of securities prior to the opening of the market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory

[10] Under the prior language of NASD Rule 4613(e), ECN1 would have been required to send 5,000 shares along with its Trade-or Move SelectNet message. This 5,000 share size requirement of the Trade-or-Move SelectNet message would have effectively precluded agency orders from participating in the opening market.

[11] This assumes that the customer has an agreement with MMG that its limit order will be represented and potentially executed prior to the market's open.

[12] 15 U.S.C. 78o–3(b)(6).

[13] 15 U.S.C. 78k–1(a).

[14] 15 U.S.C. 78o–3(b)(6).

[15] 15 U.S.C. 78k–1(a)(1)(C).

[16] 15 U.S.C. 78o–3(b)(6) and 15 U.S.C. 78k–1(a)(1)(C).

[17] 15 U.S.C. 78o–3(b)(6) and 15 U.S.C. 78k–1(a)(1)(C).

organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the proposal, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the File No. SR–NASD–00–18 and should be submitted by May 31, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–11683 Filed 5–9–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42747; File No. SR–NSCC–98–14]

Self-Regulatory Organization; National Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Ceasing to Act for a Member

May 2, 2000.

On December 8, 1998, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–NSCC–98–14) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on June 17, 1999.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change eliminates the distinction between those instances where NSCC declines or ceases to act for a member because the member is insolvent and where NSCC declines or ceases to act for a member for another reason. The rule change also permits NSCC to complete certain open RVP/DVP transactions of an insolvent broker-dealer that is a member or clears through a member.

a. Declining or Ceasing To Act

NSCC's procedures for ceasing to act for an insolvent member were set forth in former Section 3 of Rule 18. Its procedures for ceasing to act when the member is not insolvent were set forth in Section 2 of Rule 18. Former Sections 2(a) and (b) (non-insolvency scenario) and Sections 3(a) and (b) (insolvency scenario) set forth the transactions which could be eliminated by NSCC from its processing when it ceased to act for a member. Generally, these sections provided that if NSCC gave notice that it was ceasing to act for a member before NSCC issued the security balance orders in a pending balance order accounting operation or before NSCC issued the consolidated trade summary in a pending continuous net settlement accounting operation for that member's pending trades. NSCC could in its discretion exclude that member's trades from the balance order or continuous net settlement accounting operation. Trades so executed would have to be settled between the parties outside of NSCC.

Under the rule change, new Sections 2(a)(i) and (ii) replace Sections 2(a) and (b) and Sections 3(a) and (b) and specifically tie the exclusion of a trade to whether or not the trade has been guaranteed by NSCC. New Section 2(a)(iii) addresses the exclusion of security orders issued with respect to "special trades" and transactions in foreign securities. Prior to the rule change, the exclusion of these trades was only addressed in the insolvency portion of NSCC's rules, former Section 3(c)(iii).

Former Section 2(c) set forth NSCC's procedures for handling envelope transactions when it ceased to act for a solvent member. Former Section 3 of NSCC's rules did not address envelop transactions when NSCC ceased to act for an insolvent member. New Section 4 mirrors former Section 2(c) and addresses the completion of envelope transactions of a member for whom NSCC has ceased to act regardless of the solvency status of the member.

Former Sections 2(d)(i) and (ii) and Section 3(b)(ii) governed the completion of CNS trades. According to NSCC, when it ceases to act for a member, it completes CNS trades through a qualified securities depository regardless of whether the member was solvent. However, only former Section 2 (non-insolvency scenario) specifically addressed the completion of these trades through a qualified securities depository. Accordingly, new Section 5 clarifies that CNS transactions will be completed through a qualified securities depository regardless of the solvency status of the relevant member unless in an insolvency scenario the rules of the relevant insolvency regime doe not allow NSCC to take certain actions with respect to the completion of CNS trades.

Former Sections 2(d)(iii) and 3(c)(ii) addressed the closing out of any remaining CNS transactions. Under the rule change, this is now covered in new Section 6(a).

Former Sections 2(b) and 3(c)(ii) pertained to the completion of balance order transactions after NSCC ceases to act for a member. Although NSCC's procedures for completing balance order transactions are the same regardless of whether NSCC is ceasing to act for a solvent or insolvent member, only former Section 3 detailed how NSCC would close-out balance order transactions and how members were to submit related close-out losses to NSCC. The rule change adopts new Section 6(b), which is similar to former Sections 3(c) and (d). New Section 6(b) governs the close-out of balance order transactions regardless of whether an insolvency situation exists.

The language contained in former Section 2(e), which set forth NSCC's rights with respect to any balance due to it from a member after NSCC had ceased to act for the member, technically only applied in non-insolvency scenarios. Under the rule change, the language of Section 2(e) now appears in Section 7(a) and applies to both insolvency and non-insolvency scenarios. The language set forth in former Sections 2(f) and (f), which provided that NSCC would maintain a lien on all property a member places with NSCC as security for any and all liabilities of the member to NSCC now appears in Section 7(f).

[18] *See* 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 41504 (June 9, 1999), 64 FR 32586 (June 17, 1999).

The rule change also adds the following terms to NSCC Rule 1 (Definition and Description): "CNS Position," "New Close Out Position," "RVP/DVP Transaction," and "RVP/DVP Customer."

b. DVP/RVP Transactions

The rule change adds a new Section 3 to Rule 18, which pertains to CNS or balance order RVP/DVP transactions.[3] The RVP/DVP transactions covered by proposed Section 3 are those in which the RVP/DVP customer[4] (1) has executed an RVP/DVP transaction with the NSCC member for which NSCC has ceased to act or with an introducing broker-dealer which clears through an NSCC member for which NSCC has ceased to act and (2) would have taken delivery of the cash or securities from the broker-dealer for which NSCC has ceased to ace on an RVP/DVP basis at its custodian bank or other depository agent in the absence of the default.

Under the new rule, after NSCC has ceased to act for a member, NSCC will attempt to complete: (1) All open RVP/DVP transactions of which NSCC is aware prior to ceasing to act but only to the extent that the completion of the RVP/DVP transactions would not increase the size of the position in any security that NSCC would have to close-out and (2) any additional open RVP/DVP transactions to the extent deemed appropriate by NSCC's Board of Directors. NSCC's obligation set forth in (1) remains regardless of whether NSCC would gain or lose money by completing such transactions, and any determinations by the NSCC Board to complete any additional RVP/DVP transactions would be made without regard to the potential profit or loss for NSCC in any individual transaction. In either case, NSCC would have no obligation to complete any open RVP/DVP transaction in an issue if: (1) NSCC believed it could not complete all RVP/DVP transactions in such issue that it would be obligated to attempt to complete under this new provision; (2) there were allegations of fraud or other questionable activities with respect to an issue; or (3) NSCC believed that the completion of an RVP/DVP transaction in an issue could not be completed.

[3] The term "RVP/DVP transaction" is defined in NSCC Rule 1 to mean any wholly executory receipt-versus-payment or delivery-versus-payment transaction between an NSCC member and an RVP/DVP customer. The term "RVP/DVP customer" is defined in Rule 1 to mean a party who has executed a RVP/DVP transaction with an NSCC member for whom NSCC has declined or ceased to act, or with an introducing broker who clears through an NSCC member for whom NSCC has declined or ceased to act.

[4] *Supra* note 3.

The rule change requires NSCC to provide notice of NSCC's intent to complete the RVP/DVP transactions to the trustee or receiver of the member for whom NSCC has ceased to act (if one has been appointed) and to the relevant RVP/DVP customers or the RVP/DVP customers' depository agents or their depository agents' depositories. This notice will alert the RVP/DVP customer that completion of any such transaction with NSCC constitutes a presumed waiver by the RVP/DVP customer of any claim arising out of such transactions against the member for whom NSCC has ceased to act, its receiver or trustee (or any successor trustee), or SIPC.[5]

II. Discussion

Section 17A(b)(3)(F)[6] of the Act requires that the rules of a clearing agency be designed among other things, to protect investors and the public interest. As set forth below, the Commission finds that NSCC's rule change is consistent with this obligation under the Act.

The Commission finds that allowing NSCC to complete RVP/DVP transactions after it ceases to act for an insolvent member could benefit customers, counterparties, and creditors of the insolvent broker-dealer by minimizing the disruptive market effects and the large administrative burdens and costs associated with the insolvency of a broker-dealer. The Commission also finds that the merging within NSCC's rules of the actions NSCC will take when it ceases to act for a member, regardless of whether it ceases to act because of the insolvency of the member or for some other reason, simplifies and makes clearer NSCC rules without effecting any real changes to its rules. As such, the Commission finds that NSCC's proposed rule change is consistent with NSCC's statutory obligation to protect investors and the public interest.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–98–14) be, and hereby is, approved.

[5] This notice would typically be sent via The Depository Trust Company's electronic message dissemination system.

[6] 15 U.S.C. 78q–1(b)(3)(F).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret McFarland,

Deputy Secretary.

[FR Doc. 00–11608 Filed 5–9–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42746; File No. SR–NYSE–99–34]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto Relating to the Exchange's Allocation Policy and Procedures

May 2, 2000.

I. Introduction

On July 20, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange"), filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change amending the Exchange's Allocation Policy and Procedures ("Policy"). On February 7, 2000, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on March 9, 2000.[4] This order approves the NYSE proposal, as amended.

II. Description of the Proposal

According to the Exchange, its Policy is intended to: (1) Ensure that the allocation process for securities is based on fairness and consistency and that all specialist units have a fair opportunity for allocations based on established criteria and procedures; (2) provide an incentive for ongoing enhancement of performance by specialist units; (3) provide the best possible match between a specialist unit and security; and (4) contribute to the strength of the specialist system.

Since 1987, the Exchange's Quality of Markets Committee has appointed a number of Allocation Review Committees ("ARCs") to review the

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240. 19b–4.

[3] *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Terri Evans. Attorney, Division of Market Regulation ("Division"), Commission, dated February 4, 2000 ("Amendment No. 1").

[4] Securities Exchange Act Release No. 42487 (March. 2, 2000), 65 FR 12603.

Policy and make recommendations with respect to changes.[5] In February 1999, the Quality of Markets Committee again appointed an ARC, ARC V, to review the Policy and make recommendations with respect to improvements in the allocation process. Those recommendations, which the Exchange is proposing as changes to the Policy, are discussed below.

A. Composition of Allocation Committee

Currently, the Allocation Committee is composed of nine members, consisting of seven floor brokers (including (1) three broker Governors (one of whom may be an independent/two dollar broker) and (2) four other floor brokers from the Allocation Panel) ("Panel") (one of whom must be an independent/two dollar broker)) and two allied members from the Market Performance Committee or the Panel. The Allocation Committee presently does not have representation from institutional investor organizations. The proposal would add one institutional investor representative member to the Allocation Committee, drawn from the Panel or from the institutional investor members of the Market Performance Committee. The Exchange does not believe that it is necessary to expand the size of the Allocation Committee. Therefore, the Exchange proposes to decrease the number of floor brokers on the Committee from seven to six by decreasing the number of other floor brokers from the Panel to three (one of whom must be an independent/two dollar broker).

B. Composition of Allocation Panel

According to the NYSE, the Panel is the resource from which the Allocation Committee is assembled. A Panel is appointed by the Exchange's Quality of Markets Committee from individuals nominated by the Exchange's membership. The Panel consists of 28 floor brokers; twelve allied members (including the four allied members serving on the Market Performance Committee); eight floor broker Governors, who are part of the Panel by virtue of their appointment as Governors; and a minimum of five Senior Floor Official brokers.

The Exchange proposes three changes to the composition of the Panel. First, the Exchange proposes to expand the Panel to add nine institutional investor organization representatives, including the five serving on the Market Performance Committee, to be consistent with the proposal to add institutional investor representatives to the Allocation Committee. Representatives from institutional investor organizations would be chosen in the same manner as other Panel members, (*i.e.*, through nominations from the membership and appointment by the Quality Markets Committee). Second, the Exchange is proposing to increase the number of floor broker Governors on the Panel from eight to ten to reflect the increased number of floor Governors appointed under Exchange Rule 46.[6] Finally, at the time the number of floor Governors was increased, the number of allied member representatives on the Market Performance Committee was increased from four to five. Therefore, the Exchange proposes to amend the composition of the Panel to reflect this increase.

Under these proposed revisions to the Policy, the new composition of the Panel would be 28 floor brokers; 13 allied members (including the five allied members serving on the Market Performance Committee); nine institutional members (including the five representatives of institutional investor organizations serving on the Market Performance Committee); then floor broker Governors, who are part of the Panel by virtue of their appointment as Governors; and a minimum of five Senior Floor Official brokers.

C. Allocation Committee Quorum Requirement

The proposal would not alter the Allocation Committee's existing quorum requirement that there be at least six floor brokers, at least two of whom are Governors, and one allied member. According to the Exchange, the presence of the instutional representative would not be required for a quorum because, at times, it may be difficult to obtain the participation of a representative of an institutional investor organization.

D. Contact Between Listing Companies and Specialist Units

Under the Policy, specialist units or any individual acting on their behalf are prohibited from having any contact with a company that has applied for listing from the date applications (known as "green sheets") are solicited from specialists for the purpose of allocating the stock to a specialist organization. The Exchange proposes to change this non-contact period to the earlier of the date written notice is given that the listing company filed its listing application with the Exchange or the date allocation applications are solicited, (*i.e.*, the date the "green sheet" is posted). The Exchange presently publishes this notice of listing applications in its Weekly Bulletin. This proposal would move the start of the period as to when contact is prohibited to an earlier date in those cases where the "green sheet" is issued after the Weekly Bulletin notice of an application to list has been published.

E. Listing Company Request for Additional Specialist Information Following Interviews

The Policy currently permits a listing company to pick its specialist unit after interviewing a pool of three, four, or five units selected by the Allocation Committee. Furthermore, any follow-up questions conveyed to the Exchange from a listing company regarding specialist unit(s) it interviewed are restricted to questions regarding publicly-available information. The Exchange must approve the request and all units in the group of units interviewed must be notified by the Exchange of the request.

The NYSE proposes that if a listing company has a follow-up question for any specialist unit(s) it interviewed, it must be conveyed to the Exchange. The Exchange would contact the unit(s) to which the question pertains and would provide any information received from the unit(s) to the listing company. The NYSE further proposes to eliminate the requirement that only publicly-available information be provided and the language requiring Exchange approval, as well as the requirement that the Exchange notify the other units interviewed of the company's request.

F. Common Stock Listing After Preferred

Currently, the Policy does not address the situation involving a common stock being listed after its preferred stock has been allocated. Accordingly, the Exchange is proposing that the allocation of the common stock of a company listing after its preferred stock has been listed would be open to all specialist units. Under the terms of the proposal, the company may select Option 1 (in which the Allocation Committee selects the specialist unit to be allocated the company's stock) or Option 2 (in which the company selects a specialist unit from among a group of units chosen by the Allcoation Committee). If Option 2 is selected, the specialist unit that trades the preferred stock must be included in the group of units comprising the interview pool. The company would not be able to

[5] *See* Securities Exchange Act Release No. 38372 (March 7, 1997), 62 FR 13421 (March 20, 1997) (containing recommendations made by ARCs I through IV).

[6] The floor broker Governors are automatically members of the Market Performance Committee and the Panel.

select the specialist unit trading the preferred stock without going through the allocation process.

G. Listed Company Mergers

Currently, when two listed companies merge, the merged entity is assigned to the specialist in the company that is determined to be the survivor-in-fact. Where no surviving entity can be identified, the matter is referred to the Allocation Committee and all specialists are invited to apply. The merged company may request either Option 1 or Option 2, with no provisions to include or exclude any unit from consideration by the Allocation Committee. The Exchange notes that there is no provision for the merged company to select a unit that trades one of the listed companies, which is merging, without going through the allocation interview process.

The Exchange is proposing several changes to the Policy relating to listed company mergers. The Exchange is proposing that in cases where no surviving entity can be identified, the listing company would be permitted to select one of the units trading the merging companies without going through the allocation process. If the listing company determines to go to allocation, it may select Option 1 or Option 2. Under Option 1, the company would not be able to request that the Allocation Committee not allocate the stock to one of the units trading the merging companies. If the company chooses Option 2, the interview pool would consist of the specialist units of the merging companies and must include additional units. The number of additional units must be consistent with the Policy requirement that each pool consists of three to five units. Under Option 2, the company would not be permitted to request that any of the units trading the merging companies be excluded from the interview pool.

H. Listed/Unlisted Company Mergers

Currently, if the unlisted company is the survivor-in-fact, the company may choose to remain registered with the unit that traded the listed company involved in the merger or may request that the matter be referred to allocation, with applications invited from all units. The company may request that the unit trading the listed company not be allocated the stock (and, as a result, not be included in the pool of units under Option 2) and the Allocation Committee must honor that request.

The Exchange is proposing to conform this Policy to the proposed Policy involving listed company mergers with no survivor-in-fact. Therefore, the Policy would be amended to preclude the unlisted company from excluding from consideration by the Allocation Committee the specialist unit that trades the listed company. Further, the Policy would require that if the unlisted company chooses Option 2, the unit trading the listed company must be included in the allocation pool.

I. Issuance of Tracking ("Target") Stock

These securities (also known as "letter stock") typically are "targeted" to a specific aspect of an issuer's overall business. There are two instances in which "target" stocks are being listed. The first involves situations in which the "target" stock is being "uncoupled" from the listed company, and itself listing on the Exchange. Under the current Policy, when such a security is "uncoupled" and becomes an independent listing, it remains with the specialist registered in the stock prior to its separate listing ("original stock"), unless the listing company requests that the new stock be referred to the Allocation Committee. The second type of "target" stock involves a listed company issuing a "target" stock to track a separate business line. In these instances, the issue is assigned by Exchange staff to the specialist in the listed company issuing the "target" stock. As a result, the new listing company (the "target" stock) has no input in the allocation decision. As a result, the Exchange proposes to amend the Policy to conform to the spin off/related company policy.

Target stocks, whether the target stock itself is joining the Exchange as a separate listing (*e.g.*, Con Edison Inc. issuing distinct securities in Con Edison of New York) or where the target stock represents a tracking of a business line of the current listed company (*e.g.*, GM and GMH), will be treated in the same manner as spin-offs and listing of related companies. According to the exchange, the Policy allows the listed/listing company to choose to stay with the specialist unit registered in the related listed company or be referred to the Allocation Committee. In the latter case, the company may request not to be allocated to the parent's specialist and the Allocation Committee will honor such request. Alternatively, the company may request the exclusion or inclusion of the parent's specialist in the allocation pool under Option 2.

J. Allocation Sunset Policy

When the Exchange allocates a company that is listing its shares from its initial public offering, that allocation decision remains effective for three months. If the company does not list within that time, the matter is referred again to the Allocation Committee. However, the Exchange is proposing to amend the Policy to permit a listing company to choose whether to stay with the merged specialist unit, or be referred to allocation if the selected specialist unit mergers or is involved in a combination within the three-month period.

K. Listing Company Attendees at Specialist Interviews

The current Policy requires that a senior official of the listing company of the rank of Corporate Secretary or above be present at the interviews with specialists under Option 2. In the case of structured products' listings,[7] the corporate makeup contemplated by the existing requirement often does not exist. The Exchange proposes to amend the Policy to clarify that any senior officer[8] of the issuer may be present at the interview to satisfy the requirement.

III. Discussion

The Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[9] Specifically, the Commission believes that the proposal is consistent with the requirements of Section 6(b)(5) of the Act,[10] because it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. Further, the Commission finds that the proposal also is consistent with Section 11(b) of the Act[11] and Rule 11b–1[12] thereunder, which allow exchanges t promulgate rules relating to specialists to ensure fair and orderly markets.

Specialists play a crucial role in providing stability, liquidity, and continuity to the trading of securities. Among the obligations imposed upon the specialists by the Exchange, and by the Act and the rules thereunder, is the maintenance of fair and orderly markets in their designated securities.[13] To ensure that specialists fulfill these obligations, it is important that the Exchange develop and maintain stock

[7] A structured product is a security, which is based on the value of another security.

[8] The structured product company would designate which of its officers is a senior officer.

[9] In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78k(b).

[12] 17 CFR 240.11b–1.

[13] *See* 17 CFR 240.11b–1; NYSE Rule 104.

allocation procedures and policies that provide specialists an initiative to strive for optimal performance.

A. Composition of Allocation Committee

The Exchange first proposes to add one institutional investor representative member to the Allocation Committee drawn from the Panel or from the institutional investor members of the Market Performance Committee. In conjunction with this proposed change, the Exchange proposes to decrease the number of floor brokers on the Allocation Committee from seven to six by decreasing the number of other floor brokers from the Panel to three. The Commission believes that institutional investors are significant participants in the securities markets, including the Exchange and, therefore, that such representation enhances the expertise and objectivity of the allocation process. The Commission further believes that it is reasonable for the Exchange to determine not to increase the size of the Allocation Committee with the addition of an institutional investor.

B. Composition of Allocation Panel

The Exchange also proposes three changes to the composition of the Panel. First, in order to be consistent with the proposal to add institutional investor representatives to the Allocation Committee, the Exchange proposes to expand the Panel to add nine institutional investor organization representatives, including the five serving on the Market Performance Committee. Second, the Exchange proposes to increase the number of floor broker Governors on the Panel from eight to ten to reflect the increased number of floor Governors appointed under Exchange Rule 46. Third, the Exchange proposes to amend the composition of the Panel to reflect the increase in the number of allied member representatives on the Market Performance Committee from four to five. The Commission believes that these changes to the composition of the Panel are reasonable and consistent with the Act, and merely reflect the proposed inclusion of institutional investor representatives in the allocation process or incorporate prior changes made by the Exchange.

C. Quorum

The Exchange believes that it may be difficult at times to obtain the participation of an institutional investor representative and therefore has decided not to change the Allocation Committee's existing quorum requirement. The Commission recognizes that while institutional investor participation may be preferred, it may be difficult to have such participation at all times without delaying the allocation process. Therefore, the Commission believes that it is reasonable not to change the quorum requirement to reflect the addition of institutional investor representatives on the Allocation Committee.

D. Contact Between Listing Companies and Specialist Units

The proposal also changes the non-contact period between listing companies and specialist units to the earlier of the date written notice is given that the listing company filed its listing application with the Exchange or the date allocation applications are solicited. The Commission believes that once the listing process has begun, the Exchange may want to limit contacts between specialists and the listing company to avoid the appearance of impropriety and, therefore, it is appropriate to extend the limitation on contact to reflect the earliest notification to the specialist units of the company's intent to apply.

E. Requests for Additional Specialist Information

The proposal further amends the Policy with respect to requests by a listing company for additional specialist information following interviews. Specifically, the proposal provides that if a listing company has a follow-up question for any specialist unit(s) it interviewed, it must be conveyed to the Exchange, which would then contact the unit(s) to which the question pertains and provide any information received from the unit(s) to the listing company. The proposal also eliminates the requirement that only publicly-available information be provided and the language requiring Exchange approval, as well as the requirement that the Exchange notify other units of the company's request.

The Commission believes that these changes should allow listing companies greater latitude in obtaining information from specialist, as well as reduce the burden on both the listing company and prospective specialist units. For example, in some cases, the listing company may have received information during the interview from one specialist and desires to obtain similar information about the other specialists to better compare the specialists. In other cases, the listing company may only be interested in one or more of the specialists in the pool and consequently, only desire information on those specific specialists. Therefore, the proposed changes should reduce the burden on listing companies because the companies would only have to review responses from selected specialist. In addition, it should also reduce the burden on specialists to provide information that the listing company may not be interested in receiving from that particular specialist.

F. Common Stock Listing After Preferred

With respect to situations where a common stock is to be listed after its preferred stock has been allocated, the proposal provides that the allocation of the common stock would be open to all units. As a result, a company would not be able to select the specialist unit trading the preferred stock without going through the allocation process. The Commission notes that because of the potential greater volume associated with trading a common stock listing, a listing company may have different criteria for selecting a specialist for its common stock. Therefore, the Commission believes that the proposed change would ensure that all special units would be allowed to compete for the common stock listing on an equal basis and is, accordingly, appropriate.

G. Listed Company Mergers

With respect to listed company mergers, the proposal provides for several changes. First, where no surviving entity of a merger can be identified, the listing company would be allowed to select one of the units trading the merging companies without going through the allocation interview process. The Commission believes that this would make the allocation process more efficient and less time-consuming for the listing company in those instances in which the company ultimately may have decided that it would select one of the units trading the merging companies.

Under the proposal, a listing company may also request that the listing go to the Allocation Committee under Option 1 or Option 2. Under Option 1, the company would not be able to request that the Allocation Committee not allocate the stock to one of the units trading the merging companies. If the company chooses Option 2, the interview pool would consist of the specialist units of the merging companies and must include additional units. Under Option 2, the company would not be permitted to request that any of the units trading the merging companies be excluded from the interview pool. The Commission believes that this approach strikes an appropriate balance between the

interests of specialist units, who have developed a relationship and a history of market-making performance with a listed company, and the interests of listed companies in choosing the most appropriate unit to be their specialist. The Commission also believes that this proposal provides the current specialist(s) with a reasonable opportunity to present their case to the merged company's new management without, of course, any guarantee of receiving the allocation. Accordingly, the Commission believes that the proposed changes would assist in providing the opportunity for input and choice on the part of the listing company, and as such, are appropriate and consistent with the Act.

H. Listed/Unlisted Company Mergers

The Exchange's proposal under Options 1 and 2 to preclude a company resulting from a merger between a listed company and an unlisted company from excluding from consideration by the Allocation Committee the specialist unit that trades the listed company is appropriate because it ensures that all specialist units would be allowed to compete to the allocation on an equal basis.

I. Issuance of Tracking Stock

The Commission notes that the Exchange is conforming its treatment of target stocks to its treatment of spin-offs and the listing of related companies. In this situation, the Commission believes that this is appropriate since target stocks may have a similar relationship with the parent's specialist. If the patent company is unsatisfied with the specialist's performance to date, the Commission believes it is unnecessary to include this unit in the pool if the company so requests. In the same vein, if the parent company is satisfied with the specialist's performance but wishes to avail itself of the opportunity to interview other units, the company should have the option of including such specialist in the interview pool along with other specialists selected by the Allocation Committee. Finally, it is important to bear in mind that senior management of the subject companies is often the same as that of the parent (or there is substantial overlap), and, therefore, the choice of a specialist would be influenced by an assessment of the current relationship and market-making performance.

J. Allocation Sunset Policy

With respect to the Exchange's three-month allocation sunset policy, the Commission believes that in a situation where the selected specialist unit merges or is involved in a combination within the three-month period, the proposal to permit the listing company to choose whether to stay with the merged specialist unit or be referred to allocation, is appropriate. In this regard, the Commission recognizes that the listing company should have an ability to reconsider its choice given the changed circumstances.

K. Listing Company Attendees at Specialist Interviews

Finally, with respect to the current Policy, whereby a senior official of the listing company of the rank of Corporate Secretary or above must be present at interviews with specialist units under Option 2, the Commission believes that the proposal to accommodate the listing of a structured product company by clarifying that any officer designated as senior by the company may be allowed to satisfy the requirement is appropriate, as the corporate makeup of such a company does not always exist in a manner contemplated by the current Policy.

In summary, the Commission believes that the Exchange's Policy can serve as an effective incentive for specialist units to maintain high levels of performance and market quality to be considered for, and ultimately awarded, additional listings. This in turn may benefit the execution of public orders and promote competition among specialist units.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–NYSE–99–34), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

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[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42758; File No. SR–NYSE–99–48]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Change To Rescind Exchange Rule 390

On December 10, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to rescind Exchange rule 390. The proposed rule change was published for comment in the **Federal Register** on February 28, 2000.[3] The release publishing notice of the proposed rule change also included a Commission request for comment on issues relating to market fragmentation. The comment period relating to the rescission of Exchange rule 390 expired on March 20, 2000. The Commission has received twelve comments letters explicitly addressing whether Rule 390 should be rescinded. These comments are summarized in section II below. The comment period on issues related to market fragmentation has been extended for two weeks and now expires on May 12, 2000.[4]

Off-board trading restrictions such as Rule 390 have long been questioned as attempts by exchanges with dominant market shares to prohibit competition from other market centers. On their face, such restrictions run contrary to the Exchange Act's objectives to assure fair competition among market centers and to eliminate unnecessary burdens on competition. The NYSE has defended Rule 390 on the basis that it was intended to address market fragmentation by promoting interaction of investor orders without the participation of a dealer, which also is a principal objective of the Exchange Act. Even granting the importance of this objective, however, Rule 390 is overbroad as a tool to address market fragmentation—it applies in many situations that do nothing to promote investor order interaction. In the after-hours context, for example, it creates an artificial incentive for trades to be routed to foreign markets. Rule 390 also effectively restricts the competitive opportunities of electronic communications networks ("ECNs"), which use innovative technology to operate agency markets that offer investors a high degree of order interaction. To avoid the anticompetitive effect of the Rule, some ECONs even have indicated that they would accept the very substantial regulatory responsibilities associated with registering as a national securities exchange, thereby foregoing the streamlined requirements available

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577 ("Concept Release").

[4] Securities Exchange Act Release No. 42723 (April 26, 2000).

under Regulations ATS. Rescission of Rule 390 will eliminate these distortions of competition. The Commission will address legitimate concerns about assuring an opportunity for interaction of investor orders in the context of its ongoing review of fragmentation issues.

In an age when advancing technology and expanding trading volume are unleashing powerful forces for change and new competitive challenges for the U.S. securities markets, both at home and abroad, the continued existence of regulatory rules that attempt to prohibit competition can no longer be justified. Such rules typically succeed only in distorting competition and introducing unnecessary costs. The NYSE operates a market of very high quality. It recognizes that success in the future will depend on its ability to adapt and meet competitive challenges by continuing to provide a market that well-serves the interests of investors. The NYSE's proposed rule change to rescind Rule 390 is approved.

I. Description of Proposed Rule Change

The proposed rule change rescinds Rule 390, which generally prohibits NYSE members and their affiliates from effecting transactions in NYSE-listed securities away from a national securities exchange. Two Commission rules already limit the reach of Rule 390. Exchange Act Rule 19c–3 [5] limits the application of Rule 390 to stocks listed on the NYSE as of April 26, 1979. Exchange Act Rule 19c–1 [6] permits NYSE members to trade as agent in the over-the-counter market with another person, except when the member also is acting as agent for such other person. In addition, Rule 390 itself contains ten specific exceptions for unusual situations, such as a transaction that is part of a primary distribution by an issuer.[7] Finally, an interpretation of the Rule permits members and their affiliates to trade as principal or agent on any organized foreign exchange at any time, and to trade as principal or agent in a foreign country's over-the-counter market after regular trading hours.[8]

The NYSE stated in its description of the proposed rule change that the intended purpose of Rule 390 was to maximize the opportunity for customer orders to interact with one another in agency auction markets and be executed without the participation of a dealer. The NYSE also discussed its concerns that broker-dealer internalization practices and market fragmentation would increase in the wake of Rule 390's rescission. It asserted that internalization—broker-dealers trading as principal against their customer order flow—results in the most objectionable of all forms of market fragmentation: the execution of captive customers' orders in a manner that isolates them from meaningful interaction with other buying and selling interest. The NYSE asserted that such practices not only decrease competitive interaction among market centers, but also isolate segments of the total public order flow and impede competition among orders, with no price benefit to the orders being internalized.

To address these concerns, the NYSE requested the Commission to adopt a new market-wide rule prohibiting broker-dealers from trading as principal against their customer orders unless they provide a price to the order that is better than the national best bid or offer against which the order might otherwise be executed. The NYSE asserted that this market-wide rule would assure that investors receive the fairest pricing of their internalized orders and would eliminate broker-dealer conflicts of interest in trading against their own customer order flow to capture the spread. The Commission's Concept Release sets forth the NYSE's proposal as one of the six potential options on which comment is requested.[9]

II. Summary of Comments

The Commission received twelve comment letters explicitly addressing whether Rule 390 should be rescinded.[10] No commenter asserted that the Rule should be retained. Nearly all believed that the Rule imposed an unnecessary burden on competition. Four commenters, however, believed that the Commission should not approve the proposed rule change until it also addressed fragmentation concerns.

Many commenters supported rescinding Rule 390 on the ground that it is an unnecessary or inappropriate burden on competition.[11] The STA asserted that the rule is "an anachronism that limits liquidity and competition and thereof constrains investors from always obtaining the best possible price." ITG stated that the rule "imposes an unnecessary barrier to competition in listed securities between exchanges and other markets" and "imposes unnecessary costs on market participants." Instinet stated that "[a]among the most significant factors that make such [off-board trading] rules obsolete is the development of electronic intermarket linkages that will ensure nationwide access to the best bids and offers available in any marketplace." Although supporting the rescission of the rule, AGC Specialist Partners stated that Rule 390 was "not intended as an anti-competitive initiative but as a protection for the public to ensure the proper exposure of their orders."

Several of these commenters also noted that rescission of the Rule would enhance the opportunity for competition between exchange markets and alternative trading systems.[12] The SIA stated that "technological advances and recent regulatory developments [have] led to the development of a host of alternative trading systems that provide a similar capability operating alongside the established markets in an intensely competitive environment," and that "[t]here is simply no justification for regulations such as Rule 390 that restrict off-board trading."

[5] 17 CFR 240.19c–3.

[6] 17 CFR 240.19c–1.

[7] NYSE Rule 290(c)(i).

[8] NYSE Rule 290, Supplementary Material .10, Interpretations of the Market Responsibility Rule.

[9] Concept Release, note 3 above, section IV.C.2.b.

[10] George Reichhelm, General Partner, and Andrew Schwarz, General Partner, AGS Specialist Partners, dated March 16, 2000 ("AGS Letter"); Deborah A. Lamb, Chair, Advocacy Committee, and Maria J. A. Clark, Office of General Counsel, Association for Investment Management and Research, dated March 15, 2000 ("AIMR Letter"); Fredric W. Rittereiser, Chairman and Chief Executive Officer, and William W. Uchimoto, Executive Vice President and General Counsel, Ashton Technology Group, Inc., dated March 20, 2000 ("Ashton Technology Letter"); George W. Mann, Jr., Senior Vice President and General Counsel, Boston Stock Exchange, dated March 17, 2000 ("BSE Letter"); Craig S. Tyle, General Counsel, Investment Company Institute, dated March 20, 2000 ("ICI Letter"); John Oddie, Chief Executive Officer, Global Equities, Instinet Corporation, dated March 20, 2000 ("Instinet Letter"); Timothy H. Hosking, ITG, Inc., dated March 17, 2000 ("ITG Letter"); Kenneth D. Pasternak, President and Chief Executive Officer, and Walter F. Raquet, Executive Vice President, Knight/Trimark Group, Inc., dated March 21, 2000 ("Knight/Trimark Letter"); Robin Roger, Managing Director and Counsel, Morgan Stanley Dean Witter, dated March 27, 2000 ("Morgan Stanley Letter"); Richard G. Ketchum, President, National Association of Securities Dealers, Inc., dated March 31, 2000 ("NASD Letter"); Marc E. Lackritz, President, Securities Industry Association, dated March 21, 2000 ("SIA Letter"); Robert C. King, Chairman, and Lee Korins, President and Chief Executive Officer, Security Traders Association, dated March 15, 2000 ("STA Letter").

In addition, the Commission has received other letters that address fragmentation issues, but do not address explicitly whether Rule 390 should be rescinded. Copies of all comment letters are available for inspection and copying in File No. SR–NYSE–99–48 in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Electronically-submitted comment letters are posted on the Commission's Internet web site (http://www.sec.gov).

[11] AIMR Letter; Ashton Technology Letter; ICI Letter; Instinet Letter; ITG Letter; Knight/Trimark Letter; Morgan Stanley Letter; NASD Letter; SIA Letter; STA Letter.

[12] ITG Letter; Morgan Stanley Letter; SIA Letter

Morgan Stanley noted that "the rule still may hinder the establishment and development of alternative OTC trading systems and markets in non-19c–3 listed stocks."

Other commenter believed that the Commission should take action to address possible collateral effects that could occur in the wake of rescinding Rule 390.[13] Ashton Technology stated that is supported the rescission of the rule "if conditioned upon adoption of the NYSE Proposal as modified by an order exposure alternative, applying equally to upstairs market makers and exchange specialists, and calling for a new high powered routing mechanism with auto-execution capabilities to access and trade against 'exposed' orders." The ICI supported the NYSE's recommendation that the Commission adopt "a market-wide requirement that broker-dealers not be permitted to trade as principal with their own customer order unless they provide for 'price improvement,' *i.e.*, a price to the order that is better than the national bid or offer against which the order might otherwise be executed." Nevertheless, ICI believed that the rescission of Rule 390 should not be delayed while the Commission considered whether to adopt a price improvement requirement.

Other commenters did not support the NYSE's proposal. The Knight/Trimark Group stated that the "NYSE's" recommendation that the Commission adopt a new rule requiring broker-dealers to improve on the NBBO if they trade with customer orders as principal is an attempt to replace an Exchange rule that is explicitly anticompetitive with a Commission rule that is implicitly anticompetitive." The NASD criticized the NYSE proposal because it believed the proposal would "allow NYSE specialists to match the NBBO, while requiring market makers to attempt to improve [the NBBO] and also to bear the risk of the NBBO moving away in the interim." The NASD stated that best execution and order display obligations could achieve the same objectives as the NYSE's proposal.

Other commenters believed that the Commission should not approve the rescission of Rule 390 until it addressed market fragmentation issues.[14] The AIMR noted that while it tentatively supports the rescission of the Rule, it "strongly believes that the present issue and those surrounding market fragmentation, which the Commission highlighted in its official request for public comment, are so closely related that the Commission cannot meaningfully consider each issue in isolation of the others." It requested that the Commission delay its decision regarding Rule 390 until the Commission had reviewed all public comments addressing possible market fragmentation and related issues. Finally, the BSE stated that "[a]t the very least, perhaps the Commission should deny the NYSE's requests to rescind Rule 390 until the Commission is satisfied that is rescission will not have a deleterious impact on the market, or until it has decided on the solution to any such anticipated deleterious impact".

In contrast, other commenters did not believe that the approval of Rule 390 should be delayed.[15] The STA stated that "the question of internalization of customer orders touches upon a great number of important, compelling and interrelated issues regarding the roles of the exchanges, market makers, ECNs and investors," and that it was "inappropriate to link this complex and possibly contentious proposal with the proposal to rescind Rule 390." Morgan Stanley also believed that the Commission should not delay in its approval of the proposed rule change "pending its determination of what regulatory action should be taken to address the fragmentation issues."[16]

III. Discussion

The Commission finds that the proposed rule change is consistent with Section 6 of the Exchange Act[17] and the rules and regulations thereunder applicable to a national securities exchange.[18] In particular, the Commission finds the proposed rule change is consistent with section 6(b)(5), which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and section 6(b)(8), which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act. The rescission of Rule 390 also is consistent with section 11A of the Exchange Act,[19] which sets forth the findings and objectives that are to guide the Commission in its oversight of the national market system. Rescinding Rule 390 will help further the national market system objective in section 11A(a)(1)(C)(i) to assure the economically efficient execution of securities transactions and in section 11A(a)(1)(C)(ii) to assure fair competition between exchange markets and markets other than exchange markets.

Rule 390 long has been questioned by the Commission and others because it directly restricts a certain type of market center competition—competition between exchange markets and markets other than exchange markets.[20] Given the explicit national market system objective to assure fair competition among market centers, as well as the requirement that the rules of a national securities exchange not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act, Rule 390 has been suspect on its face.

The NYSE has defended Rule 390 on the basis that is purpose was not to protect the NYSE's competitive position, but to protect customer interests by assuring a greater opportunity for interaction of investors' orders without the participation of a dealer, This type of order interaction is also a principal objective of the national market system set forth in section 11A(a)(1)(C)(v) of the Exchange Act. Over the years, the Commission has sought to cut back on Rule 390 in ways that would reduce its anticompetitive nature without inappropriately reducing the opportunity for investor orders to interact. Exchange Act Rule 19c–1 allows NYSE members to execute trades in markets other than exchange markets as agents for their customers. Exchange Act Rule 19c–3 systematically has reduced the scope of Rule 390 over time as more and more companies have listed their stocks on the NYSE in the years since 1979. Nevertheless, the Rule still applies to securities that generate nearly one-half of total NYSE trading volume,

[13] AGS Letter; Ashton Technology Letter; ICI Letter.

[14] AGS Letter; AIMR Letter; Ashton Technology Letter; BSE Letter.

[15] ICI Letter; Morgan Stanley Letter; STA Letter.

[16] Morgan Stanley also recommended that the NYSE file an additional proposal with the Commission to rescind Exchange Rule 393, asserting that it no longer serves "any valid regulatory purpose." Rule 393 requires members to obtain NYSE approval prior to participating in an off-board secondary distribution of an NYSE-listed security.

[17] 15 U.S.C. 78f.

[18] In approving this proposal, the Commission also has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78k–1.

[20] *See, e.g.*, Exchange Act Section 11A(c)(4), 15 U.S.C. 78k–1(c)(4) (provision added to the Exchange Act in 1975 directing the Commission to review exchange rules that impose off-board trading restrictions); Securities Exchange Act Release no. 11628 (Sept. 2, 1975), 40 FR 41808 (Commission commences proceedings under Exchange Act Section 19(c) to determine whether to amend or abrogate exchange rules that impose off-board trading restrictions.

including many of the most active NYSE issues.[21]

The Commission believes that whatever beneficial effect Rule 390 may have in enhancing the interaction of investor orders can no longer justify anticompetitive nature. To the extent the Rule promotes the interaction of investors' orders, it does so in an undesirable way—by attempting a direct restriction on competition. Such attempts can never be wholly successful and typically succeed primarily in distorting, rather than eliminating, competition and introducing unnecessary costs. An egregious effect of Rule 390 is the artificial incentive it provides for NYSE members to route orders to foreign OTC markets for execution after regular trading hours. Such distortions can no longer be justified in an increasingly competitive international environment.[22]

In addition, Rule 390 is much too broad even when considered solely as a tool to address market fragmentation and to promote the interaction of investor orders. As noted by several commenters, the Rule effectively restricts NYSE members from participating in markets operated by ECNs or ATSs.[23] These market centers offer their customers, among other things, agency limit order books that provide a high degree of investor order interaction. Using advanced technology for communicating and organizing information, ECNs can offer a number of advantages to investors, including low costs, fast display of limit orders, and fast executions against displayed trading interest.

These ECN limit order markets also can benefit the national market system as a whole by enhancing the process of public price discovery. Displayed limit orders are perhaps the most significant source of price competition in the securities markets. Limit order markets also allow for both investor and broker-dealer participation, but minimize principal-agent conflicts by adopting trading rules that establish a level playing field for the trading interest of both investors and broker-dealers—principally through price/time priority rules. Whatever limit order is first in line at the best price, whether submitted by investor or broker-dealer, such limit order has the right to trade first at that price. Price competition in invigorated and spreads are narrowed because those who improve the best bid or offer through limit orders know that they will be the first to trade. The price/time priority rules of limit order markets also can enhance depth and liquidity by providing an incentive for trading interest to stack up at prices that are at or around the best bid and offer. Because the second, third, and fourth orders in line at a price will be the second, third, and fourth to trade at that price (and so on), there is a strong incentive to submit limit orders even at prices that match or are outside the best bid or offer. The deeper a market, the less vulnerable it will be to excessive short-term price swings.[24]

In recent years, the Commission has taken a number of steps that have paved the way for ECNs to compete with established market centers and be integrated into the national market system. In 1996, the Commission adopted the Order Handling Rules,[25] which required, among other things, the inclusion in the consolidated national best bid and offer ("NBBO") of limit order prices and sizes that improved the market for a security (by either improving the price of the NBBO or adding significant depth to the NBBO). These rules applied to both customer limit orders handled by specialists and market makers, as well as the limit orders of specialists and market makers themselves if they were displayed in an ECN. In 1998, the Commission adopted Regulation ATS,[26] which provides a streamlined regulatory regime for trading systems (including ECNs) that choose to be regulated as ATSs. In addition, ATSs with significant trading volume are required to display publicly their "top-of-book" trading interest in the consolidated national quote stream, even if such interest is not associated with a specialist or market maker. Most recently, the Commission approved a proposed rule change by the NASD that would enable ECNs to participate in the Intermarket Trading System that links market centers trading listed securities.[27] With the rescission of Rule 390, yet another regulatory barrier to competition will be eliminated.

The Commission emphasizes strongly, however, that its desire to clear away regulatory barriers to competition from ECNs in the listed market should not be interpreted as an indication of whether the ECNs will or should attract a significant amount of listed market share. That will be determined by competition. Similarly, the Commission's criticism of Rule 390 should not be interpreted as a criticism of the quality of the NYSE's market. To the contrary, studies repeatedly have demonstrated the merits of the NYSE's market, both in terms of its execution quality and its public price discovery function.[28]

The NYSE offers a multi-facted trading mechanism that can accommodate a wide variety of participants and trading strategies. Like the ECNs, it offers a limit order book with price/time priority among orders on the book. In addition, the NYSE, through its floor, offers a mechanism for investors with large trading interest to be represented in the market. Such investors typically will not display their full interest in a limit order because it likely would move the market against them, thereby increasing their transaction costs or even precluding any execution at all. The NYSE floor allows the large trading interest to interact with trading interest of all sizes on the other side of the market.[29] This enhanced

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[21] Jeffrey Bacidore, Katharine Ross & George Sofianos, *Quantifying Best Execution at the New York Stock Exchange: Market Orders*, NYSE Working Paper 99–05 (December 1999) at 1 n.2 ("At the end of October 1999, 23 percent of NYSE issues accounting for 46 percent of the volume were subject to Rule 390.").

[22] The trades executed in foreign markets also are not subject to NYSE surveillance or the Commission's regulatory oversight.

[23] For example, none of the various exceptions to, and limitations on, the scope of Rule 390 would generally allow an NYSE member to trade as principal in a U.S. market operated by an ECN.

[24] *See* Concept Release, note 3 above, at n.26 and accompanying text.

[25] Securities Exchange Act Release No. 37619A (Sept. 6, 1996), 61 FR 48290.

[26] Securities Exchange Act Release No. 40760 (Dec. 8, 1998), 63 FR 70844.

[27] Securities Exchange Act Release No. 42536 (Mar. 16, 2000), 65 FR 15401.

[28] *See, e.g.*, Hendrik Bessembinder, *Trade Execution Costs on NASDAQ and the NYSE: A Post-Reform Comparison*, 34 J. Financial & Quantitative Analysis 387, 389 (2999) (" This study finds that trade execution costs remain larger on NASDAQ compared to the NYSE even after the new SEC order-handling rules are implemented, and that the difference in average trading costs is not attributable to variation in observable economic characteristics of the listed stocks."); Marshall E. Blume & Michael A. Goldstein *Quotes, Order Flow, and Price Discovery*, 52 J. Finance 221, 232 (1997) ("The NYSE bid price equals on average the best bid price 97.1 percent of the time, and the NYSE ask price equals the best ask price 96.9 percent of the time."); Joel Hasbrouck, *One Security, Many Markets: Determining the Contributions to Price Discovery*, 50 J. Finance 1175, 1197 (1995) (an analysis of "price discovery for equities traded on the NYSE and regional exchanges revealed that "price discovery appears to be concentrated at the NYSE: the median information share is 92.7 percent"); Justin Schack, *Cost Cotnoinment*, Institutional Investor, Nov. 1999, at 43 (worldwide survey of institutional investor trading costs found that "[f]or the first time even NYSE-listed shares took top honors for the cheapest cost of execution anywhere in the world"); *compare* Louis K.C. Chan & Josef Lakonishok, *Institutional Equity Trading Costs: NYSE verus Nasdoq*, 52 J. Finance 713, (1997) (comparison of execution costs for institutional investors on Nasdaq and NYSE found that "costs are lower on Nasdaq for trades in comparatively smaller firms, while costs for trading larger stocks are lower on NYSE").

[29] Some ECNs offer an opportunity for large trading interest to interact by including a reserve

opportunity for interaction can benefit both large and small investors. Indeed, the NYSE's very substantial price improvement rate for smaller orders is attributable to such interaction—more than 50% of market orders of less than 500 shares routed to the NYSE floor in stocks with a quoted spread of greater than 1/16th are executed at a price better than the NBBO.[30]

Finally, the NYSE has adopted a comprehensive set of trading rules that address the potential principal-agent conflicts that can arise when both broker-dealers and their customers trade in the same market center. These rules are intended to prevent NYSE members and professionals from obtaining unfair advantages in trading. In addition, the NYSE incorporates one market maker—the specialist—into its trading mechanism. Specialist trading is limited to help assure that it supplements, but does not supplant, public trading interest and thereby contributes to a fair and orderly market.[31] The NYSE also monitors the actual performance of its specialists to assure that they comply with their affirmative and negative market-making responsibilities.

The outcome of the competition between the NYSE and other market centers will depend on which market centers are most able to serve investor interests by providing the highest quality trading services at the lowest possible costs. The Commission's regulatory task is removing unwarranted regulatory barriers to competition between the NYSE and other market centers. Its approval of the rescission of Rule 390 is intended solely to free the forces of competition and allow investor interests to control the success or failure of individual market centers.

Freeing of forces of competition to serve investor interests underlies the Commission's comprehensive review of issues related to market fragmentation. As discussed in the Concept Release, the Commission is concerned about certain broker-dealer practices that may substantially reduce the opportunity for investor orders to interact. Reduced order interaction may hamper price competition, interfere with the process of public price discovery, and detract from the depth and stability of the markets.

Currently, brokers that handle customer orders have a strong financial incentive either to internalize their orders by trading against them as principal or to route their orders to dealers that will trade against them as principal and share a portion of the profits with the broker. Internalization and payment for order flow arrangements provide dealers with a guaranteed source of order flow, eliminating the need to compete aggressively for orders on the basis of their displayed quotation. Instead, the dealers can merely match the prices that are publicly displayed by other market centers. These prices in many cases will represent limit orders that are displayed by agency market centers (such as the NYSE or an ECN). The limit orders may be denied an opportunity for an execution if dealers choose not be route orders to the market center displaying the limit orders and instead match the limit order prices.[32]

Price-matching dealers thereby take advantage of the public price discovery provided by other market centers (which must make their best prices publicly available pursuant to Exchange Act price transparency requirements), but do not themselves necessarily contribute to the process of public price discovery. Moreover, if a substantial portion of the total order flow in a security is subject to dealer price-matching arrangements, it reduces the ability of other dealers to compete successfully for order flow on the basis of their displayed quotations. In both cases (unfilled limit orders and disregarded dealer quotations), those market participants who are willing to participate in public price discovery by displaying firm trading interest at the best prices are not rewarded for their efforts. This creates disincentives for vigorous price competition, which, in turn, could lead to wider bid-asked spreads, less depth, and higher transaction costs. These adverse effects would harm all orders, not just the ones that are subject to internalization and payment for order flow arrangements. Consequently, a loss of execution quality and market efficiency may not be detectable simply by comparing the execution prices of orders that are subject to such arrangements with those that are not.

Moreover, an agent-principal monitoring problem may tend to perpetuate rather than alleviate the isolation of investor orders that are subject to internalization and payment for order flow arrangements. It can be very difficult for retail customers to monitor the quality of execution provided by their brokers, particularly in fast-moving markets.[33] Given the difficulty of monitoring execution quality, the most rational strategy for any individual customer may be simply to opt for the lowest commission possible (which may be low in part because the broker is receiving payment for order flow part of which is passed on the customer). If many individual customers adopt this strategy, it could blunt the forces that otherwise would reward market centers that offer high quality executions.

Finally, the fragmentation concerns raised in the Concept Release are not limited to assuring that investors receive at least the best *displayed* prices, whatever they happen to be. Assuring that investors receive the best prices displayed anywhere in the national market system is crucial, but is not sufficient to assure that the best prices displayed in the system are the most efficient prices reasonably possible. For example, the spread between the best displayed bid and the best displayed offer may be wider than it otherwise would be if a

size feature in their limit order book. *See* Concept Release, note 3 above, at text accompanying n.27.

[30] *See Quantifying Best Execution*, note 21 above, at Table 10 & Table 14. A market's price improvement rate is affected by the quality of the publicly displayed quotations that are "price-improved." The quality of the NYSE's public quotations is one of the issues addressed in the studies cited in note 28 above.

[31] *See* Kenneth A. Kavajecz, *A Speciolist's Quoted Depth ond the Limit Order Book*, 54 J. Finance 747, 753 (1999) (comparison of spreads on NYSE limit order book with specialist's quoted spreads "suggests that the specialist plays an important role in narrowing the spread the market participants face when demanding liquidity, especially for smaller (less frequently traded) stocks.").

[32] In February 2000, the agency markets operated by ECNs executed approximately 19% of the share volume in Nasdaq securities, a drop of 3% from September 1999. *See* NASD Economic Research Dept., <*http://www.morketdoto.nosdoq.com*> (visited April 10, 2000) (In February 2000, ECNs that are ATSs collectively accounted for 19.2% of Nasdaq share volume, 25.1% of Nasdaq dollar volume, and 24.6% of Nasdaq trades.); NASD Economic Research Dept., <*http://www.morketdota.nasdoq.com*> (visited Dec. 11, 1999) (In September 1999, ECNs that are ATSs collectively accounted for 22.2% of Nasdaq share volume, 29.2% of Nasdaq dollar volume, and 28.0% of Nasdaq trades.). In calculating the market share of ATSs, the NASD adds orders executed internally on an ATS and the orders routed to an ATS for execution. Orders routed out to another market participant are not included.

[33] *See, e.g.*, Lawrence Harris, *Consolidation, Fragmentation, Segmentation, and Regulotion, in Modernizing U.S. Securities Regulation: Economic and Legal Perspectives* 269, 286 (Kenneth Lehn & Robert W. Kamphius, Jr., eds., 1992) ("[F]ew brokerage clients—and probably no small clients—can observe, monitor, and measure their brokers' efforts at low cost. Given the high volatility of securities prices, the general lack of real-time market information available to most brokerage clients, and the high cost of processing that information even when it is readily available, most clients cannot accurately determine whether their orders are well executed or not. Moreover, even if they could measure their broker's performance, fairly evaluating that information is still more difficult. A fair evaluation would require that the clients compare the quality of service offered by at least a few different brokers") (footnotes omitted). Retail investors have greater access to real-time market information today than in 1992. The order barriers to monitoring execution quality continue to exist.

market structure fails to promote vigorous price competition.[34] Similarly, the depth of trading interest at the best displayed prices may be very thin, so that prices will be more volatile than they otherwise would be if a market structure does not reward traders for displaying multiple orders (and thereby adding depth) at the best prices. In addition, some market centers offer investors an opportunity for price improvement—an execution at a price better than the best displayed prices. To meet their best execution responsibilities, brokers must take these price improvement opportunities into consideration in deciding where to route customers orders.

Several commenters believed that the Commission should not approve the rescission of Rule 390 until it had addressed market fragmentation concerns. The Commission does not believe, however, that the potential fragmentation of the listed market due to an increase in internalization and payment for order flow arrangement warrants a delay in approving the proposed rule change. First, the Commission already has commenced its review of market fragmentation issues, and the comment period for the Concept Release ends on May 12, 2000. Several of the six potential options to address fragmentation set forth in the Concept Release would address internalization and payment for order flow arrangements.[35] The Concept Release also requests comment on any additional options, or modifications of any of the six options, that commenters believe would be useful in addressing fragmentation.[36] Second, the Commission intends to monitor any significant changes in the order-routing practices of NYSE members resulting from the rescission of Rule 390, particularly decisions to internalize their customer order flow. To comply with the duty of best execution owed their customers, brokers would need to assure that such changes further their customers' interests and not merely their own.

[34] The spread between the best bid and offer is an indication of the premium that must be paid by investors seeking liquidity and therefore of the efficiency of the market. *See* Concept Release, note 3 above, at n.20 and accompanying text.

[35] *See* Concept Release, note 3 above, section IV.C.2.b.

[36] After the end of the comment period, the Commission intends to review expeditiously the comments submitted in response to the Concept Release and determine what, if any, further action is necessary.

IV. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule change (SR–NYSE–99–48) is approved.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–11682 Filed 5–9–00; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3241]

State of Ohio; Amendment #1

In accordance with information received from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damage as a result of this disaster from May 6, 2000 to May 8, 2000.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is December 7, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 28, 2000.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 00–11644 Filed 5–9–00; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3307]

Culturally Significant Objects Imported for Exhibition Determinations: "Painting on Light: Drawings and Stained Glass in the Age of Durer and Holbein"

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "Painting on Light: Drawings and Stained Glass in the Age of Durer and Holbein," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the J. Paul Getty Museum in Los Angeles, CA, from July 11, 2000 through September 24, 2000, and at the St. Louis Museum of Art in St. Louis, MO from November 4, 2000 through January 7, 2001 is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Jacqueline Caldwell, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6982). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: May 4, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 00–11701 Filed 5–9–00; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending April 7, 2000

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 after the filing of the application.

Docket Number: OST–2000–7203.

Date Filed: April 5, 2000.

Parties: Members of the International Air Transport Association.

Subject:

PTC COMP 0609 dated 31 March 2000

Mail Vote 074—Resolution 024j

Special Construction Rules (Amending)

Intended effective date: 15 April 2000

Andrea M. Jenkins,

Federal Register Liaison.

[FR Doc. 00–11687 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–62–P

[37] 15 U.S.C. 78s(b)(2).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending April 14, 2000

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 after the filing of the application.

Docket Number: OST–2000–7234.
Date Filed: April 11, 2000.
Parties: Members of the International Air Transport Association.
Subject:
PTC2 AFR 0078 dated 29 February 2000 (Mail Vote 068)
TC2 Within Africa Resolutions r1-r29
PTC2 AFR 0081 dated 24 March 2000
Adopting Mail Vote 068
Minutes—PTC2 AFR 0079 dated 29 February 2000
TC2 Africa Policy Group Report
Tables—PTC2 AFR FARES 0030 dated 4 April 2000
Intended effective date: 1 May 2000

Andrea M. Jenkins,
Federal Register Liaison.
[FR Doc. 00–11688 Filed 5–9–00; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending April 28, 2000

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2000–7289.
Date Filed: April 26, 2000.
Parties: Members of the International Air Transport Association.
Subject: CBPP/5/Reso/003/99 dated September 8, 1999
Finally Adopted Resos & Recommended Practices r1–3
Minutes—CBPP/5/Meet r–1–600a r–2–606 r–3–RP1600d
Intended effective date: November 17, 1999.

Docket Number: OST–2000–7313.
Date Filed: April 27, 2000.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 075 Resolution 002
TC1/TC12 USA/US Territories—Austria, Belgium, Chile, Germany, Italy, Netherlands, Scandinavia, Switzerland Standard Revalidating/Adopting/Amending Resolution
Intended effective date: 1 October 2000.

Docket Number: OST–2000–7314.
Date Filed: April 27, 2000.
Parties: Members of the International Air Transport Association.
Subject: PTC2 EUR 0307 dated 18 April 2000 TC2 Within Europe Expedited Resolution 002d
Intended effective date: 15 May 2000.

Andrea M. Jenkins,
Federal Register Liaison.
[FR Doc. 00–11691 Filed 5–9–00; 8:45 am]
BILLING CODE 4910–62–P

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 April 21, 2000

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–2000–7277.
Date Filed: April 21, 2000.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 12, 2000.
Description: Application of Mandarin Airlines Company, Ltd. ("Mandarin") pursuant to 49 U.S.C. 41301, 41305 and subpart Q, applies for a foreign air carrier permit to allow it to engage in scheduled foreign air transportation of persons, property, and mail between Taipei, Taiwan, and Saipan, Commonwealth of the Northern Mariana Islands.

Docket Number: OST–2000–7281.
Date Filed: April 21, 2000.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 12, 2000.
Description: Application of Air Namibia (Pty) Ltd. pursuant to 49 U.S.C. 40109, 41302, parts 211, 302 and subpart Q, applies for a foreign air carrier permit authorizing it to engage in scheduled foreign air transportation of persons, property and mail between a point or points in Namibia, on the one hand, via intermediate points in both directions, to a point or points in the United States, on the other hand. Air Namibia also requests authority to operate charters pursuant to 14 CFR section 212.

Andrea M. Jenkins,
Federal Register Liaison.
[FR Doc. 00–11689 Filed 5–9–00; 8:45 am]
BILLING CODE 4910–62–P

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 April 28, 2000

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–1999–6319.
Date Filed: April 28, 2000.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 19, 2000.
Description: Amendment of Northwest Airlines, Inc. to its application pursuant to 49 U.S.C. 41102 and subpart B, of its Route 564 U.S.-Mexico certificate authority to request that the Department add a Houston-Mazatlan segment to Northwest's Route 564.

Andrea M. Jenkins,
Federal Register Liaison.
[FR Doc. 00–11690 Filed 5–9–00; 8:45 am]
BILLING CODE 4910–62–P

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 April 14, 2000

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–2000–7231.
Date Filed: April 11, 2000.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 2, 2000.
Description: Application of Air-Serv, Inc. d/b/a AirServ ("AirServ") pursuant to 49 U.S.C. Section 41102, Parts 201, 204 and Subpart B, applies for a certificate of public convenience and necessity to authorize it to engage in foreign charter air transportation of persons, property and mail.

Docket Number: OST–2000–7232.
Date Filed: April 11, 2000.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 2, 2000.
Description: Application of Air-Serv, Inc. d/b/a AirServ ("AirServ") pursuant to 49 U.S.C. Section 41102, Parts 201, 204 and Subpart B, applies for a certificate of public convenience and necessity to engage in interstate charter air transportation of persons, property and mail.

Docket Number: OST–2000–7251.
Date Filed: April 13, 2000.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 2000.
Description: Application of C.A.L. Cargo Air Lines Ltd. ("C.A.L.") pursuant to 49 U.S.C. Section 41302, Part 211.20 and Subpart B, applies for an initial foreign air carrier permit to provide foreign air transportation of property and mail between Tel Aviv and New York (JFK)/Chicago (O'Hare) via Luxembourg and Gander, Newfoundland and to provide all cargo foreign air transportation under charter pursuant to the provisions of 14 CFR Part 212.

Andrea M. Jenkins,
Federal Register Liaison.

[FR Doc. 00–11692 Filed 5–9–00; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Railroad Administration

Federal Transit Administration

Office of the Secretary of Transportation

Applications for TIFIA Credit Assistance

AGENCIES: Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), Federal Transit Administration (FTA), Office of the Secretary of Transportation (OST), DOT.

ACTION: Notice of availability of funds inviting applications for credit assistance for major surface transportation projects.

SUMMARY: The Transportation Equity Act for the 21st Century (TEA–21) created the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA). The TIFIA authorizes the Department of Transportation (DOT) to provide credit assistance in the form of secured (direct) loans, lines of credit, and loan guarantees to public and private sponsors of eligible surface transportation projects. The TIFIA regulations (49 CFR part 80, as published in the **Federal Register**, Vol. 64, No. 105, on Wednesday, June 2, 1999) provide specific guidance on the program requirements.

Although the DOT is currently contemplating revisions to the regulations, the Final Rule as published in the **Federal Register** on June 2, 1999 remains applicable to this notice.

Funding for this program is limited, and projects requesting assistance will be evaluated and selected by the DOT on a competitive basis. Following selections, term sheets will be issued and credit agreements will be developed through negotiations between the project sponsors and the DOT. The DOT expects that approximately $81 million in net budget authority will be available in fiscal year 2000 to fund the subsidy costs of up to approximately $1.673 billion in Federal credit assistance.

DATES: For consideration in this application cycle, letters of interest must be submitted by 4:30 p.m. EDT on Wednesday, May 31, 2000. The deadline for receipt of the completed application and the non-refundable $5,000 application fee is 4:30 p.m. EDT on Wednesday, July 5, 2000. Applications received in the offices of the DOT after that date and time will not be considered. Applications sent to the DOT electronically or by facsimile will not be accepted. Applicants should refer to the TIFIA Application for Federal Credit Assistance, which specifies the number of hard copies (plus original) required for each section of the application as well as those sections of the application requiring electronic versions.

ADDRESSES: Both the letters of interest and completed applications should be submitted to the attention of Ms. Stephanie Kaufman, Office of Budget and Program Performance, Department of Transportation, Room 10105, B–10, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: FHWA: Mr. Max Inman, Office of Budget and Finance, Federal-Aid Financial Management Division, (202) 366–0673; FRA: Ms. JoAnne McGowan, Office of Passenger and Freight Services, Freight Program Division, (202) 493–6390; FTA: Mr. Paul Marx, Office of Policy Development, (202) 366–1734; OST: Ms. Stephanie Kaufman, Office of Budget and Program Performance, (202) 366–9649; Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Hearing- and speech-impaired persons may use TTY by calling the Federal Information Relay Service at 1–800–877–8339. Additional information, including the TIFIA program guide and application materials, can be obtained from the TIFIA web site at http://tifia.fhwa.dot.gov.

SUPPLEMENTARY INFORMATION:

Types of Credit Assistance Available

The DOT may provide credit assistance in the form of secured (direct) loans, loan guarantees, and lines of credit. These types of credit assistance are defined in 23 U.S.C. 181 and 49 CFR 80.3.

Program Funding and Limitations on Assistance

The TIFIA provides annual funding levels for both total credit amounts (*i.e.*, the total principal amounts that may be committed in the form of direct loans, loan guarantees, or lines of credit) and subsidy amounts (*i.e.*, the amounts of

budget authority available to cover the estimated present value of the Government's expected losses associated with the provision of credit instruments, net of any fee income). Funding for the subsidy amounts is provided in the form of budget authority funded from the Highway Trust Fund (other than the Mass Transit Account). Total Federal credit amounts authorized for the TIFIA program are $1.8 billion in fiscal year (FY) 2000; $2.2 billion in FY 2001; $2.4 billion in FY 2002; and $2.6 billion in FY 2003. These amounts lapse if not awarded by the end of the fiscal year for which they are provided.

To support these credit amounts, the TIFIA provides budget authority to fund the maximum subsidy amounts of $90 million in FY 2000; $110 million in FY 2001; $120 million in FY 2002; and $130 million in FY 2003. Of these amounts, the Secretary may use up to $2 million for each of the fiscal years for administrative expenses. Any budget authority not obligated in the fiscal year for which it is authorized remains available for obligation in subsequent years.

The TIFIA budget authority is subject to an annual obligation limitation that may be established in appropriations law. Like the funding for certain other administrative or allocated programs (not apportioned to the States) that are subject to the annual Federal-aid highway obligation limitation, the amount of TIFIA budget authority that is available to fund credit instruments in a given year may be less than the amount originally authorized for that year. The extent of any budget authority reduction will depend on the ratio of the obligation limitation, which is determined annually in the appropriations process, to the contract authority for the Federal-aid highway program, which was established in TEA–21. For FY 2000, this reduction is 12.9 percent, or $11.6 million. The credit amounts authorized in the TIFIA are not subject to this annual reduction.

The DOT expects that approximately $81 million in net budget authority will be available in FY 2000 to fund the TIFIA credit assistance program. This approximation takes into account unused FY 1999 budget authority, the reduction in FY 2000 budget authority due to the annual obligation limitation, and administrative expenses authorized by the TIFIA statute. The amount of net budget authority available for new TIFIA commitments in FY 2000 also may be affected by credit subsidy adjustments to obligations for prior TIFIA commitments.

The total amount of Federal credit assistance available for new TIFIA commitments in FY 2000 is approximately $1.673 billion, which is less than the $1.8 billion authorization level as a result of contingent TIFIA commitments made in FY 1999.

The amount of credit assistance that may be provided to a project under the TIFIA is limited to not more than 33 percent of eligible project costs.

Eligible Projects

Highway, rail, transit, and intermodal projects (including intelligent transportation systems) may receive credit assistance under the TIFIA. See the definition of "project" in 23 U.S.C. 181(9) and 49 CFR 80.3 for a description of eligible projects.

Threshold Criteria

Certain threshold criteria must be met by projects seeking TIFIA credit assistance. These eligibility criteria are detailed in 23 U.S.C. 182(a) and 49 CFR 80.13.

Rating Opinions

A project sponsor must submit with its application a preliminary rating opinion letter from one or more of the nationally recognized credit rating agencies, as detailed in 23 U.S.C. 182(b)(2)(B) and 49 CFR 80.11. The letter must indicate the reasonable potential for the senior obligations funding the project to receive an investment grade rating. This preliminary rating agency opinion will be based on the financing structure proposed by the project sponsor. A project that does not demonstrate the potential for its senior obligations to receive an investment grade rating will not be considered by the DOT.

The DOT will also use the preliminary rating opinion letter to assess the potential default risk on the requested TIFIA instrument. Therefore, the letter should also provide a preliminary assessment of the strength of either the overall project or the requested TIFIA credit instrument, whichever assessment best reflects the rating agency's preliminary evaluation of the default risk on the requested TIFIA instrument.

Each project selected for TIFIA credit assistance must obtain an investment grade rating on its senior debt obligations and a revised opinion on the default risk of its TIFIA credit instrument before the DOT will execute a credit agreement and disburse funds.

Application and Selection Process

Each applicant for TIFIA credit assistance will be required to submit a letter of interest and subsequently an application to the DOT to be considered for approval. The following describes the application process:

1. *Letter of Interest.* Initially, any applicant seeking TIFIA credit assistance must submit a brief letter of interest to the DOT by Wednesday, May 31, 2000. The letter of interest should include a brief project description (including its purpose, basic design features, and estimated capital cost), basic information about the proposed financing for the project (including a preliminary summary of sources and uses of funds and the type and amount of credit assistance requested from the DOT), and a description of the proposed project participants. The letter also should summarize the status of the project's environmental review (*i.e.,* has the project received a Categorical Exclusion, Finding of No Significant Impact, or Record of Decision or, at a minimum, has a draft Environmental Impact Statement been circulated). The letter of interest should not exceed five pages. A multi-modal DOT Credit Program Working Group will review this preliminary submission to ensure that the project meets the most basic requirements for participation in the TIFIA program. The Working Group will then designate a lead modal agency (FHWA, FRA, or FTA) for the project.

2. *Application.* Once approved for further review, the applicant will be notified by a representative from the designated modal agency of its eligibility to submit a formal application. The applicant must submit all required materials (generally described in 49 CFR 80.7 and detailed in the TIFIA application) to the DOT by Wednesday, July 5, 2000. The TIFIA application and additional program information may be obtained from the TIFIA web site at http://tifia.fhwa.dot.gov or through one of the program contacts listed in this notice.

3. *Sponsor Presentation.* Each applicant that passes an initial screening of the application for completeness and satisfies the threshold criteria will be invited to make an oral presentation to the DOT on behalf of its project. The DOT plans to schedule presentations within two weeks of the application deadline, and will discuss the structure and content of the presentation with the applicant at the time of the invitation.

4. *Project Selection.* Based on the application and oral presentation, the DOT will evaluate each project's distinct public benefits and contribution to program goals according to each of the selection criteria described in 23 U.S.C. 182(b) and 49 CFR 80.15. The Secretary of Transportation intends to make final project selections within six

to eight weeks of the application deadline.

Fees

For this application cycle, the DOT will require each TIFIA applicant to pay a non-refundable application fee of $5,000. Checks should be made payable to the Federal Highway Administration. The project sponsor applying for TIFIA credit assistance must submit this payment by the application deadline of July 5, 2000. There will be no credit processing fee for this application cycle. Selected applicants will, however, be required to pay fees for loan servicing activities associated with their TIFIA credit instruments. For subsequent application cycles, the DOT may adjust the amount of the application fee and may establish a credit processing fee (to recover all or a portion of the costs to the DOT of evaluating applications, selecting projects to receive assistance, and negotiating term sheets and credit agreements) on the basis of its program implementation experience. The DOT will publish these amounts in each **Federal Register** solicitation for applications.

Applicants shall not include application or credit processing fees or any other expenses associated with the application process (such as charges associated with obtaining the required preliminary rating opinion letter) among eligible project costs for the purpose of calculating the maximum 33 percent credit amount.

If there is insufficient budget authority to fund the TIFIA credit instrument for a qualified project that has been selected to receive assistance, the DOT and the approved applicant may agree upon a supplemental fee to be paid by or on behalf of the approved applicant at the time of execution of a term sheet to reduce the subsidy cost of that project. No such fee may be included among eligible project costs for the purpose of calculating the maximum 33 percent credit amount.

Dated: May 4, 2000.

Rodney E. Slater,

Secretary, Department of Transportation.

[FR Doc. 00–11693 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2000–7330]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Numbers 2115–0506, and 2115–0505

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 OMB for the renewal of two Information Collection Requests (ICRs). These ICRs comprise (1) Declaration of Inspection; and (2) Plan Approval and Records for Tank, Passenger, Cargo and Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical Schools, Oceanographic Vessels, and Electrical Engineering. Before submitting the ICRs to OMB, the Coast Guard is asking for comments on the collections described below.

DATES: Comments must reach the Coast Guard on or before July 10, 2000.

ADDRESSES: You may mail comments to the Docket Management System (DMS) [USCG 2000–7330], U.S. Department of Transportation (DOT), 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 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The DMS maintains the public docket for these requests. Comments will become part of this docket and will be available for inspection or copying in room PL–401, located on the Plaza Level of the Nassif Building at the above address between 9 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 ICRs 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 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–9330, for questions on the docket.

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 2000–7330] and the specific ICR to which each comment applies, and give the reason(s) for each comment. Please submit all comments and attachments in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Information Collection Requests

1. *Title:* Declaration of Inspection.

OMB Control Number: 2115–0506.

Summary: The Coast Guard uses Declarations of Inspection (DOIs) to help prevent spills of oil and hazardous materials, and prevent damage to facilities or vessels. Persons-in-charge of transfers must review and certify compliance with procedures specified by the terms of the DOIs.

Need: 33 U.S.C. 1221 authorizes the Coast Guard to establish rules to prevent the discharge of oil and hazardous material from vessels and facilities. (The rules for DOIs appear at 33 CFR 156.150 and 46 CFR 35.35–30.) The Coast Guard uses the Declarations to ensure the integrity of facilities and vessels.

Respondents: Persons-in-charge of transfers.

Frequency: On occasion.

Burden: The estimated burden is 28,332 hours annually.

2. *Title:* Plan Approval and Records for Tank, Passenger, Cargo and Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical Schools, Oceanographic Vessels, and Electrical Engineering.

OMB Control Number: 2115–0505.

Summary: This collection of information requires the shipyard, designer, or manufacturer for the construction of a vessel to submit plans, technical information, and operating manuals to the Coast Guard.

Need: 46 U.S.C. 3301 and 3306 make the Coast Guard responsible for enforcing rules that promote the safety of life and property in marine transportation. The Coast Guard uses the information collected to ensure that a vessel meets the applicable standards of construction, arrangement, and equipment.

Respondents: Shipyards, designers, and manufacturers of certain vessels.

Frequency: On occasion.

Burden: The estimated burden is 5,286 hours annually.

Dated: May 1, 2000.

Daniel F. Sheehan,

Director of Informotion ond Technology.

[FR Doc. 00–11706 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2000–16]

Petitions for Waiver; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for waivers received and of dispositions of prior petitions.

SUMMARY: This notice contains the summary of a petition requesting a waiver from the interim compliance date required of 14 CFR part 91, § 91.867. Requesting a waiver is allowed through § 91.871. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 25, 2000.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. 28680, 800 Independence Avenue, SW., Washington, D.C. 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Dated: Issued in Washington, D.C., on May 5, 2000.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petition for Waiver

Docket No.: 30028.

Petitioner: Aeroflot Russian International Airlines.

Sections of the FAR Affected: 14 CFR 91.873.

The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, P.L. 106–181 amended the Airport Noise and Capacity Act of 1990, 49 U.S.C. § 47528(b), to allow foreign air carriers, for a limited time, to apply for a waiver from the Stage 3 aircraft requirement of 49 U.S.C. 47528(a).

Description of Relief Sought: To permit Aeroflot to operate two Stage 2 IL–62 and one Stage 2 IL–76(F) aircraft pending the replacement of those aircraft with Stage 3 aircraft to resume the air transportation between Seattle and Khabarovsk.

[FR Doc. 00–11711 Filed 5–09–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2000–17]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 31, 2000.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200, Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271, Forest Rawls (202) 267–8033, or Venessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC., on May 5, 2000.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29900.

Petitioner: Atlantic Coast Airlines and Trans State Airlines.

Section of the FAR Affected: 14 CFR 121.344(d)(1).

Description of Relief Sought: To permit ASA and TSA to operate its Jetstream-41 (J–41) aircraft without meeting the requirements of 14 CFR 121.344(d)(1).

Docket No.: 29941.

Petitioner: Hawaiian Airlines, Inc.

Section of the FAR Affected: 14 CFR 25.857(c), 25.858, 121.314(c).

Description of Relief Sought: To allow Hawaiian Airlines to operate, until May 15, 2001, one DC10–10 airspace beyond the cargo compartment modification deadline of March 30, 2001.

Docket No.: 29981.

Petitioner: Delta Air Lines, Inc.

Section of the FAR Affected: 14 CFR 25.857(c), 25.858, 121.314(c).

Description of Relief Sought: To permit Delta Air Lines to operate, until September 20, 2001, nine L–1011 airplanes beyond the cargo compartment modification deadline of March 19, 2001.

Dispositions of Petitions

Docket No.: 28419.

Petitioner: United Parcel Service.

Section of the FAR Affected: 14 CFR 121.433(c)(1)(iii), 121.440(s),

121.441(a)(1) and (b)(1), and appendix F to part 121.

Description of Relief Sought/ Disposition: To permit UPS to combine recurrent flight and ground training and proficiency checks for UPS's pilots in command, seconds in command, and flight engineers in a single annual training and proficiency evaluation program.

Grant, 04/06/2000, Exemption No. 6434B.

Docket No.: 29883.

Petitioner: Embry-Riddle Aeronautical University.

Section of the FAR Affected: 14 CFR 61.65(a)(1).

Description of Relief Sought/ Disposition: To permit ERAU to permit students enrolled in ERAU's AGATE III to take concurrently the private pilot and instrument rating practical test, subject to certain conditions and limitations.

Grant, 04/14/2000, Exemption No. 7168.

Docket No.: 29930.

Petitioner: Gulfshore Helicopters.

Section of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Gulfshore to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 03/24/2000, Exemption No. 7155.

Docket No.: 28434.

Petitioner: Mercy Air Service, Inc.

Section of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Mercy Air Service to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 03/27/2000, Exemption No. 6769A.

Docket No.: 29782.

Petitioner: Mr. Roy Earnest Duckworth.

Section of the FAR Affected: 14 CFR 61.129(c)(4)(ii).

Description of Relief Sought/ Disposition: To permit Mr. Duckworth to obtain a commercial pilot certificate with a rotorcraft category and helicopter class rating without accomplishing the requirement for 5 hours of solo night flying, subject to certain conditions and limitations.

Grant, 04/04/2000, Exemption No. 7165.

Docket No.: 29195.

Petitioner: Premium Jets, Inc.

Section of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Premier Jets to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 03/27/2000, Exemption No. 7160.

Docket No.: 29737.

Petitioner: Air Jamaica Limited.

Section of the FAR Affected: 14 CFR 145.47(b).

Description of Relief Sought/ Disposition: To permit Air Jamaica to use the calibration standards of the Jamaica Bureau of Standards rather than the calibration standards of the NIST, formerly the NBS, to test its inspection and test equipment, subject to certain conditions and limitations.

Grant, 03/20/2000, Exemption No. 7152.

Docket No.: 28144.

Petitioner: Perris Valley Skydiving.

Section of the FAR Affected: 14 CFR 105.43(a).

Description of Relief Sought/ Disposition: To permit nonstudent parachutists who are foreign nationals to participate in PVS-sponsored events without complying with the parachute equipment and packing requirements of § 105.43(a).

Grant, 03/29/2000, Exemption No. 6745A.

Docket No.: 29913.

Petitioner: Franklin County Sport Parachute Center, Inc., dba Carolina Sky Sports.

Section of the FAR Affected: 14 CFR 105.43(a).

Description of Relief Sought/ Disposition: To permit CSS to allow nonstudent parachutists who are foreign nationals to use parachutes that do not meet the requirements of 105.43(a), subject to certain conditions and limitations.

Grant, 03/21/2000, Exemption No. 7175.

Docket No.: 29949.

Petitioner: Air Transport International, L.L.C.

Section of the FAR Affected: 14 CFR 121.310(d)(4).

Description of Relief Sought/ Disposition: To permit ATI to operate its DC–8 airplanes in passenger-carrying operations without a cockpit control device for each emergency light, subject to certain conditions and limitations.

Grant, 03/29/2000, Exemption No. 7156.

Docket No.: 29985.

Petitioner: Alpha Aviation, Inc.

Section of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Alpha Aviation to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 04/07/2000, Exemption No. 7164.

Docket No.: 29853.

Petitioner: JRG Design Inc.

Section of the FAR Affected: 14 CFR 25.857(e).

Description of Relief Sought/ Disposition: To permit supplemental type certification of DC–10–30F and –40F freighter airplanes with a Class E cargo compartment, with accommodations for up to two supernumeraries immediately aft of the cockpit as proposed, to include the airplane being equipped as proposed with two floor-level emergency exists with escape slide/rafts subject to several conditions.

Grant, 04/03/2000, Exemption No. 7161.

Docket No.: 28118.

Petitioner: King Airlines.

Section of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit King Airlines to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 03/30/2000, Exemption No. 6093B.

Docket No.: 29496.

Petitioner: Blue Mountain Air dba Blue Mountain Lodge.

Section of the FAR Affected: 14 CFR 43.3(a) and (g), and paragraph c of appendix A to part 43.

Description of Relief Sought/ Disposition: To permit BML's pilots to perform the preventative maintenance functions listed in paragraph c of appendix A to part 43 on an aircraft operated under 14 CFR part 135.

Denial, 03/21/2000, Exemption No. 7158.

Docket No.: 29483.

Petitioner: Jackson Police Department.

Section of the FAR Affected: 14 CFR 61.195(g)(1), 91.109(a).

Description of Relief Sought/ Disposition: To permit Jackson PD pilots in training to use public aircraft to log the aeronautical experience required by § 61.39 to take the practical test for issuance of a pilot certificate and aircraft rating.

Denial, 02/28/2000, Exemption No. 7133.

Docket No.: 29842.

Petitioner: Mr. Lawrence M. Schilling.

Section of the FAR Affected: 14 CFR 121.383(c).

Description of Relief Sought/ Disposition: To permit Mr. Schilling to act as a pilot in-operations conducted under part 121 after reaching his 60th birthday.

Denial, 04/04/2000, Exemption No. 7166.

[FR Doc. 00–11712 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Chicago Midway Airport, Chicago, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Chicago Midway Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 9, 2000.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Room 320, Des Plaines, IL 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas R. Walker, Commissioner of the city of Chicago Department of Aviation at the following address: Chicago O'Hare International Airport, P.O. Box 66142, Chicago, IL 60666.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Chicago Department of Aviation under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Philip M. Smithmeyer, Manager, Chicago Airports District Office, 2300 East Devon Avenue, Room 320, Des Plaines, IL 60018, (847) 294–7335. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Chicago Midway Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 14, 2000, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Chicago Department of Aviation was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 3, 2000.

The following is a brief overview of the application.

PFC application number: 00–08–C–00–MDW.

Level of the proposed PFC: $3.00.

Actual charge effective date: September 1, 1993.

Revised estimated charge expiration date: November 1, 2044.

Total estimated PFC revenue: $20,000,000.00

Brief description of proposed project: Residential sound insulation of approximately 600 homes.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: air taxi operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the city of Chicago Department of Aviation.

Issued in Des Plaines, Illinois on April 26, 2000.

Barbara Jordan,

Acting Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 00–11709 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (00–05–C–00–CLM) To Impose and Use a Passenger Facility Charge (PFC) at William R. Fairchild International Airport, Submitted by the Port of Port Angeles, Port Angeles, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at William R. Fairchild International Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before June 9, 2000.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration: 1601 Lind Avenue SW, Suite 250; Renton, WA 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jeffrey Robb, Airport Manager, at the following address: Port of Port Angeles, P.O. Box 1350, Port Angeles, WA 98362.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to William R. Fairchild International Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Lee-Pang, (425) 227–2660; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Renton, WA 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (00–05–C–00–CLM) to impose and use PFC revenue at William R. Fairchild International Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 28, 2000, the FAA determined that the application to impose and use the revenue from a PFC, submitted by the Port of Port Angeles, William R. Fairchild International Airport, Port Angeles, Washington, was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 29, 2000.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: August 1, 2000.

Proposed charge expiration date: May 1, 2003.

Total requested for use approval: $211,683.00.

Brief description of proposed projects:

Impose and Use Projects: Construct runway 08 safety area; Expand terminal building; Security fencing; Taxiway

safety area grading; Runway 08 safety area drainage design and engineering; Passenger lift; Upgrade baggage handling equipment; Airport layout plan update; Vehicle security gate.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Part 135 Air Taxi/Commercial Operators who conduct operations in air commerce carrying persons for compensation or hire, including air taxi/commercial operators offering on-demand, non-scheduled public or private charters.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the William R. Fairchild International Airport.

Issued in Renton, Washington on April 28, 2000.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 00–11710 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Marine Transportation System National Advisory Council

ACTION: National Advisory Council Public Meeting.

SUMMARY: The Maritime Administration announces that the Marine Transportation System National Advisory Council (MTSNAC) will hold its first meeting to discuss the Council's role in attaining the desired MTS and formulate an initial Council Action Plan. A public comment period is scheduled for 2:45 to 3:15. To provide time for as many people to speak as possible, speaking time for each individual will be limited to three minutes. Members of the public who would like to speak are asked to contact Kathleen Dunn by May 22, 2000. Commenters will be placed on the agenda in the order in which notifications are received. If time allows, additional comments will be permitted. Oral comments must be submitted in writing at the meeting. Additional written comments are welcome and must be filed by June 8, 2000.

DATES: The meeting will be held on Wednesday May 24, 2000, from 8:30 AM to 5 PM.

ADDRESSES: The meeting will be held in Ballrooms A and B of the Commonwealth Ballroom of the Holiday Inn and Suites, Historic District Alexandria, 625 First Street, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Kathleen R. Dunn, (202) 366–2307; Maritime Administration, MAR 810, Room 7209, Washington, DC 20590; Kathleen.Dunn@marad.dot.gov.

Authority: 5 U.S.C. App 2, Sec.9(a)(2); 41 CFR 101–6.1005; DOT Order 1120.3B.

Dated: May 5, 2000.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00–11747 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Research and Development Programs Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces and provides the agenda for a public meeting at which the National Highway Traffic Safety Administration (NHTSA) will describe and discuss specific research and development projects.

DATES AND TIMES: The National Highway Traffic Safety Administration will hold a public meeting devoted primarily to presentations of specific research and development projects on June 15, 2000, beginning at 1:30 p.m. and ending at approximately 4:30 p.m. Questions may be submitted in advance regarding the agency's research and development projects. Questions must be submitted in writing by June 5, 2000, to the Office of the Associate Administrator for Research and Development, NHTSA, at the mailing address, E-mail address, or fax number given below. If sufficient time is available, questions received after June 5, 2000, will be answered at the meeting during the discussion period. The individual, group, or company asking a question does not have to be present for the question to be answered. A consolidated list of answers to questions submitted by June 5, 2000, will be available at the meeting and will be mailed to requesters after the meeting.

ADDRESSES: The meeting will be held at NHTSA's Vehicle Research and Test Center (VRTC), East Liberty, Ohio 43319. Directions to VRTC, as well as this **Federal Register** notice, will be available on NHTSA's Web site, at Announcements/Public Meetings at URL http://www.nhtsa.dot.gov/nhtsa/announce/meetings/, or by contacting Susie Weiser at VRTC, East Liberty, Ohio, at (937) 666–4511. Questions for the June 15, 2000, meeting relating to the agency's research and development programs should be submitted to the Office of the Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, Room 6206, 400 Seventh St., SW., Washington, DC 20590. The fax number is (202) 366–5930.

SUPPLEMENTARY INFORMATION: In recent years, since April 1993, NHTSA has provided detailed information about its research and development programs in presentations at a series of public meetings. The purpose is to make available more complete and timely information regarding the agency's research and development programs. This is the twenty-sixth meeting in that series, and it will be held on June 15, 2000, at the Vehicle Research and Test Center, East Liberty, Ohio 43319. To expedite clearance into the VRTC facility, persons who plan to attend the public meeting should contact Susie Weiser, VRTC, East Liberty, Ohio, at (937) 666–4511 by close of business June 13, 2000.

Beginning at 1:30 p.m. and concluding by 4:30 p.m., NHTSA's Office of Research and Development will discuss the following topics:

(1) Overview of Effort to Ready New Test Dummies for Federal Motor Vehicle Safety Standard No. 208;

(2) Preliminary Observations from Side Impact Air Bag Testing;

(3) Preliminary Test Results from School Bus Restraint Testing; and

(4) Status and Overview of NHTSA's Antilock Brake System (ABS) Program.

Based upon time and interest, tours may be given of the Transportation Research Center of Ohio and VRTC facilities. Attendees should indicate interest in this when providing their names for the meeting to Susie Weiser, VRTC, East Liberty, Ohio, at (937) 666–4511 by close of business June 13, 2000.

Additionally, if any interested parties would like to make a presentation regarding technical issues concerning any of NHTSA's research programs,

information concerning the proposed topic and speaker should be submitted in writing to the Associate Administrator for Research and Development, NHTSA, at the mailing address or telefax number given below by 5 p.m. on June 5, 2000.

Any questions regarding research projects that have been submitted in writing not later than 5 p.m. on June 5, 2000, will be answered at the public meeting. The summary minutes of the meeting, copies of materials handed out at the meeting, and answers to the questions submitted for response at the meeting will be available for public inspection in the DOT Docket in Washington, DC, within 3 weeks after the meeting. Copies of this material will then be available at ten cents a page upon request to DOT Docket, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. The DOT Docket is open to the public from 10 a.m. to 5 p.m. The summary minutes, handouts, and answers to the previously submitted questions will also be available on NHTSA's Web site at Announcements/Public Meetings at URL http://www.nhtsa.dot.gov/nhtsa/announce/meetings/.

NHTSA will provide technical aids to participants as necessary, during the Research and Development Programs Meeting. Thus, any person desiring the assistance of "auxiliary aids" (*e.g.*, sign-language interpreter, telecommunication devices for deaf persons (TTDs), readers, taped texts, braille materials, or large print materials and/or a magnifying device), please contact Rita Gibbons by telephone on (202) 366–4862, by telefax on (202) 366-5930, or by E-mail at rgibbons@nhtsa.dot.gov by 5 p.m. June 5, 2000.

Should it be necessary to cancel the meeting due to inclement weather or to any another emergencies, a decision to cancel will be made as soon as possible and posted immediately on NHTSA's Web site at Announcements/Public Meetings at URL http://www.nhtsa.dot.gov/nhtsa/announcements/meetings/. If you do not have access to the Web site, you may call the information contact listed below and leave your telephone or telefax number. You will be called only if the meeting is postponed or canceled.

The next public meeting to discuss NHTSA's research and development projects is scheduled for September 14, 2000, at the Tysons Westpark Hotel, 8401 Westpark Drive, McLean, Virginia. The meeting will begin at 1:30 p.m. and will end at approximately 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Rita Gibbons, Staff Assistant, Office of Research and Development, 400 Seventh Street, S.W., Washington, DC 20590. Telephone: (202) 366–4862. Fax number: (202) 366–5930. E-mail: rgibbons@nhtsa.dot.gov.

Issued: May 4, 2000.

Raymond P. Owings,

Associate Administrator for Research and Development.

[FR Doc. 00–11694 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Bureau of Transportation Statistics, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request abstracted below has been forwarded to the Office of Management and Budget for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 5, 2000 [65 FR 554–555].

DATES: Comments must be submitted on or before June 9, 2000.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, (202) 366–4387, DOT, Office of Airline Information, Room 4125, K–25, 400 Seventh Street, NW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics

Title: Report of Extension to Political Candidates.

Type of Request: Extension of a currently approved Collection.

OMB Control Number: 2138–0016.

Form(s): BTS Form 183.

Affected Public: Certificated air carriers.

Abstract: An air carrier must submit monthly reports to the Department when the indebtedness for transportation furnished to a candidate, running for Federal office, or to persons acting on behalf of such candidates, exceeds $5,000 on the last day of a month during the 6 months before an election or nomination. After that period, the air carrier shall file such a report with the Office of Airline Information not later than the 20th day following the end of the calendar month in which the election or nomination takes place and thereafter when any change occurs in that report, until a negative report is filed. For Form 183 purposes, a "negative report" is one that indicates an indebtedness of $5,000 or less.

These disclosures have tended to reduce the lag time between when transportation is furnished to political candidates and when it is paid. In the past, such lag time resulted in substantial balances in accounts receivable to some air carriers. This led Congress to enact the Federal Election Campaign Act.

When there are carriers submitting Form 183, the Office of Airline Information compiles a monthly report identifying unpaid balances due air carriers from political candidates and sends the report to the Federal Election Commission.

Estimated Annual Burden Hours: 24.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention BTS Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication.

Donald W. Bright,

Acting Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 00–11716 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Bureau of Transportation Statistics, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 5, 2000 [65 FR 555–557].

DATES: Comments must be submitted on or before June 9, 2000.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, (202) 366–4387, DOT, Office of Airline Information, Room 4125, K–25, 400 Seventh Street, N.W., Washington, D.C. 20590–0001.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

Title: Report of Traffic and Capacity Statistics—The T–100 System.

Type of Request: Extension of a currently approved Collection.

OMB Control Number: 2138–0040.

Form(s): BTS Schedule T–100 and Form T–100(f).

Affected Public: Large certificated and foreign air carriers.

Abstract: Large certificated and foreign air carriers submit BTS Form 41, Schedule T–100 and BTS Form T–100(f), respectively.

These reports provide segment and on-flight traffic data. DOT uses the data in safety surveillance, bilateral negotiations, distribution of airport improvement funds, air traffic control, essential air service determinations, etc.

Estimated Annual Burden Hours: 15.084.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW, Washington, DC 20503, Attention BTS Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication.

Donald W. Bright,

Acting Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 00–11717 Filed 5–9–00; 8:45 am]

BILLING CODE 4910–FE–M

Corrections

Federal Register
Vol. 65, No. 91
Wednesday, May 10, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

48 CFR Part 219 and Appendix I to Chapter 2

[DFARS Case 99–D307]

Defense Federal Acquisition Regulation Supplement; Mentor-Protege Program Improvements

Correction

In rule document 00–2946, beginning on page 6554, in the issue of Thursday, February 10, 2000, make the following corrections:

219.7102 [Corrected]

1. On page 6556, in the first column, in section 219.7102(d)(1)(ii), in the sixth line, "SADBU" should read "(SADBU".

219.7103–2 [Corrected]

2. On the same page, in the same column, in section 219.7103–2(b), in the sixth line, "firms" should read "firm".

3. On the same page, in the second column, in section 219.7103–2(e) introductory text, in the third line, "cost" should read "costs".

4. On the same page, in the same column, in section 219.7103–2(f), in the first line, "Authorized" should read "Authorize".

219.7104 [Corrected]

5. On the same page, in the same column, in section 219.7104(a), in the first line, "Development" should read "Developmental".

Appendix I—Corrected

6. On page 6557, in the second column in paragraph (c), in the seventh line, "it" should read "if".

7. On page 6558, in the second column, in paragraph (c)(2)(v), in the first line "an" should read "An".

8. On the same page, in the same column, in paragraph (f), in the fourth line, after "manager" add "may".

9. On page 6559, in the second column in paragraph (f)(6), in the fourth line, "Investment" should read "Investments".

10. On the same page, in the same column, in the third line from the bottom, "the" should read "that".

11. On the same page, in the third column, in paragraph (d), in the sixth line, "52.232.12" should read "52.232–12".

12. On the same page, in the same column, in the same paragraph, in the seventh line, "Reimbursements" should read "Reimbursement".

13. On the same page, in the same column, in the same paragraph, in the ninth line, "FARS" should read "DFARS".

14. On page 6560, in the first column, in paragraph (e)(1), in the second line, "time" should read "times".

15. On the same page, in the second column, in pagragraph (l), in the second line, the second "be" should be removed.

16. On the same page, in the third column, in paragraph, (a)(3)(i), in the second line, "assistances" should read "assistance".

[FR Doc. C0–2946 Filed 5–9–00; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Wednesday,
May 10, 2000

Part II

Environmental Protection Agency

40 CFR Parts 141 and 142
National Primary Drinking Water Regulations: Ground Water Rule; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[WH–FRL–6584–4]

RIN 2040–AA97

National Primary Drinking Water Regulations: Ground Water Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to require a targeted risk-based regulatory strategy for all ground water systems. The proposed requirements provide a meaningful opportunity to reduce public health risk associated with the consumption of waterborne pathogens from fecal contamination for a substantial number of people served by ground water sources.

The proposed strategy addresses risks through a multiple-barrier approach that relies on five major components: periodic sanitary surveys of ground water systems requiring the evaluation of eight elements and the identification of significant deficiencies; hydrogeologic assessments to identify wells sensitive to fecal contamination; source water monitoring for systems drawing from sensitive wells without treatment or with other indications of risk; a requirement for correction of significant deficiencies and fecal contamination (by eliminating the source of contamination, correcting the significant deficiency, providing an alternative source water, or providing a treatment which achieves at least 99.99 percent (4-log) inactivation or removal of viruses), and compliance monitoring to insure disinfection treatment is reliably operated where it is used.

EPA believes that the combination of these components strikes an appropriate regulatory balance which tailors the intensity or burden of protective measures and follow-up actions with the risk being addressed. In addition to proposing requirements for ground water systems, EPA requests comment on ways to address the problem of transient providers of water who furnish drinking water to large numbers of people for a limited period of time. One possible solution is to adopt alternative definitions for "public water systems" which is currently defined as "one that serves 25 or more people or has 15 or more service connections and operates at least 60 days per year. EPA is only requesting comment on this issue. The Agency is not today proposing to change the definition of "public water system," or modify related provisions. If EPA decides to take action on this issue, EPA will publish a proposal at a later date.

DATES: The EPA must receive comments on or before July 10, 2000.

ADDRESSES: References, supporting documents and public comments (and additional comments as they are provided) are available for review at EPA's Drinking Water Docket #W–98–23: 401 M Street, SW, Washington, DC 20460 from 9 a.m. to 4 p.m., Eastern Time, Monday through Friday, excluding Federal holidays.

You may submit comments by mail to the docket at: 1200 Pennsylvania Ave., NW, Washington, DC 20460 or by sending electronic mail (e-mail) to ow-docket@epa.gov. Hand deliveries should be delivered to: EPA's Drinking Water Docket at 401 M Street, SW, Washington, DC 20460.

For access to docket materials, please call 202/260–3027 to schedule an appointment and obtain the room number.

FOR FURTHER INFORMATION CONTACT: For general information, contact the Safe Drinking Water Hotline, telephone (800) 426–4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time. For technical inquiries, contact the Office of Ground Water and Drinking Water (MC 4607), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., N.W. Washington, DC 20460; telephone (202) 260–3309.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by the Ground Water Rule are public water systems using ground water. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Public ground water systems.
State, Local, Tribal, or Federal Governments.	Public ground water systems.

This 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 § 141.400(b) of this proposed rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section entitled **FOR FURTHER INFORMATION CONTACT.**

Abbreviations Used in This Notice

AWWA: American Water Works Association
ASDWA: Association of State Drinking Water Administrators
AWWARF: American Water Works Association Research Foundation
BMP: Best Management Practice
CDC: Centers for Disease Control and Prevention
CT: The residual concentration of disinfectant multiplied by the contact time
CWS: community water system
CWSS: Community Water System Survey
DBP: disinfection byproducts
ELR: Environmental Law Reporter
EPA: Environmental Protection Agency
FR: Federal Register
GAO: Government Accounting Office
GWR: Ground Water Rule
GWS: ground water system
HAA5: Haloacetic acids consisting of the sum of mono-, di-, and trichloroacetic acids, and mono-and dibromoacetic acids
HAV: Hepatitis A Virus
ICR: Information Collection Rule
IESWTR: Interim Enhanced Surface Water Treatment Rule
IT: UV irradiance multiplied by the contact time
m: meter
ml: milliliters
MCL: maximum contaminant level
MCLG: maximum contaminant level goal
mg/L: milligrams per liter
MPN: most probable number
MWCO: molecular weight cut-off
NCWS: non-community water system
NTNCWS: non-transient non-community water system
PCR: polymerase chain reaction
PWS: public water system
RO: reverse osmosis
RT–PCR: reverse-transcriptase, polymerase chain reaction
SBREFA: Small Business Regulatory Enforcement Fairness Act
SDWA: Safe Drinking Water Act
SDWIS: Safe Drinking Water Information System
Stage 1 DBPR: Stage 1 Disinfectants/Disinfection Byproducts Rule
Stage 2 DBPR: Stage 2 Disinfectants/Disinfection Byproducts Rule
SWAPP: Source Water Assessment and Protection Program
SWTR: Surface Water Treatment Rule
TCR: Total Coliform Rule
TNCWS: transient non-community water system
TTHM: total trihalomethanes
UIC: Underground Injection Control
USGS: United States Geological Survey
US EPA: United States Environmental Protection Agency
UV: ultraviolet radiation
WHP: Wellhead Protection

Table of Contents

I. Introduction and Background

The purpose of this section is to provide background on existing regulations that affect ground water systems and current state practices.

A. Statutory Authority

This section discusses the Safe Drinking Water Act (SDWA) requirements which EPA must meet in developing the Ground Water Rule (GWR).

EPA has the responsibility to develop a GWR which not only specifies the appropriate use of disinfection but, just as important, addresses other components of ground water systems to ensure public health protection. Section 1412(b)(8) states that EPA develop regulations specifying the use of disinfectants for ground water systems "as necessary." Under these provisions, EPA has the responsibility to develop a ground water rule which specifies the appropriate use of disinfection, and, in addition, addresses other components of ground water systems to ensure public health protection.

B. Existing Regulations

This section briefly describes the existing regulations that apply to ground water systems. These rules are the baseline for developing the GWR. The regulations that will be discussed include the Total Coliform Rule (TCR)(US EPA, 1989a), Surface Water Treatment Rule (SWTR)(US EPA, 1989b), Interim Enhanced Surface Water Treatment Rule (IESWTR)(US EPA 1998d), Information Collection Rule (ICR)(US EPA, 1996b), Stage 1 Disinfectant/Disinfection Byproducts Rule (Stage 1 DBPR)(US EPA, 1998e), Underground Injection Control Program (US EPA, 1999g) and the Source Water Assessment and Protection Program/ Wellhead Protection Program.

1. Total Coliform Rule

The Total Coliform Rule (TCR), promulgated on June 29, 1989 (54 FR 27544)(US EPA,1989a) covers all public water systems. The rule protects public water supplies from disease-causing organisms (pathogens), and it is the most important regulation applicable to drinking water from ground water systems.

Total coliforms are a group of closely related bacteria that are generally free-living in the environment, but are also normally present in water contaminated with human and animal feces. They generally do not cause disease (there are some exceptions). Specifically, coliforms are used as a screen for fecal contamination, as well as to determine the efficiency of treatment and the integrity of the water distribution system. The presence of total coliforms in drinking water indicates that the system is either fecally contaminated or vulnerable to fecal contamination.

The TCR requires systems to monitor their distribution system for total coliforms at a frequency that depends upon the number of people served and whether the system is a community water system (CWS) or non-community water system (NCWS). The monitoring frequency ranges from 480 samples per month for the largest systems to once annually for some of the smallest systems. If a system has a total coliform-positive sample, it must (1) test that sample for the presence of fecal coliform or *E. coli,* (2) collect three repeat samples (four, if the system collects one routine sample or fewer per month) within 24 hours and analyze them for total coliforms (and then fecal coliform or *E. coli,* if positive), and (3) collect at least five routine samples in the next month of sampling regardless of system size.

Under the TCR, a system that collects 40 or more samples per month (generally systems that serve more than 33,000 people) violates the maximum contaminant level (MCL) for total coliforms if more than 5.0% of the samples (routine + repeat) it collects per month are total coliform-positive. A system that collects fewer than 40 samples per month violates the MCL if two samples (routine or repeat samples) during the month are total coliform-positive. For any size system, if two consecutive total coliform-positive samples occur at a site during a month, and one is also fecal coliform/*E. coli*-positive, the system has an acute violation of the MCL, and must provide public notification immediately. The presence of fecal coliforms or *E. coli* indicates that recent fecal contamination is present in the drinking water.

The TCR also requires a sanitary survey every five years (ten years for a protected, disinfected, ground water system) for every system that takes fewer than five samples per month (the monitoring frequency for systems serving 4,100 people or fewer, which is approximately 97% of GWS). Other provisions of the TCR include criteria for invalidating a positive or negative sample and a sample siting plan to ensure that all parts of the distribution system are monitored over time.

2. Surface Water Treatment Rule and Interim Enhanced Surface Water Treatment Rule

The Surface Water Treatment Rule, promulgated in June 29, 1989 (54 FR 27486)(40 CFR Part 141, Subpart H)(US EPA 1989b) covers all systems that use surface water or ground water under the direct influence of surface water. It is intended to protect against exposure to *Giardia lamblia,* viruses, and *Legionella,* as well as many other pathogens. The rule requires all such systems to reduce the level of Giardia by 99.9% (3-log reduction) and viruses by 99.99% (4-log reduction). Under this rule, all surface water systems must disinfect. The vast majority must also filter, unless they meet certain EPA-specified filter avoidance criteria that define high source water quality. More specifically, the SWTR requires: (1) A 0.2 mg/L disinfectant residual entering the distribution system, (2) maintenance of a detectable disinfectant residual in all parts of the distribution system; (3) compliance with a combined filter effluent performance standard for turbidity (*i.e.,* for rapid granular filters, 5 nephelometric turbidity units (NTU) maximum; 0.5 NTU maximum for 95% of measurements (taken every 4 hours) during a month); and 4) watershed protection and other requirements for unfiltered systems. The SWTR set a maximum contaminant level goal (MCLG) of zero for *Giardia,* viruses, and *Legionella.* The MCLG is a non-enforceable level based only on health effects.

On December 16, 1998, EPA promulgated the Interim Enhanced Surface Water Treatment Rule (IESWTR) (63 FR 69478)(US EPA, 1998d). The IESWTR covers all systems that use surface water, or ground water under the direct influence of surface water, that serve 10,000 people or greater. Key provisions include: a 2-log *Cryptosporidium* removal requirement for filtered systems; strengthened combined filter effluent turbidity performance standards (1 NTU maximum; 0.3 NTU maximum for 95% of measurements during a month); individual filter turbidity provisions; disinfection benchmark provisions to ensure continued levels of microbial protection while facilities take the necessary steps to comply with new disinfection byproduct (DBP) standards; inclusion of *Cryptosporidium* in the definition of ground water under the direct influence of surface water and in the watershed control requirements for unfiltered public water systems; requirements for covers on new finished water reservoirs; sanitary surveys for all surface water systems regardless of size; and an MCLG of zero for *Cryptosporidium.* In a parallel rulemaking, EPA has proposed a companion microbial regulation for surface water systems serving less than 10,000 people, the Long Term 1 Enhanced Surface Water Treatment Rule.

3. Information Collection Rule

The Information Collection Rule, promulgated on May 14, 1996 (61 FR 24368)(40 CFR part 141, Subpart M)(US EPA, 1996b), is a monitoring and data reporting rule. The data and information provided by this rule will support development of the Stage 2 Disinfection Byproducts Rule and a related microbial rule, the Long Term 2 Enhanced SWTR, scheduled for promulgation in May 2002.

The ICR applied to large water systems serving at least 100,000 people, and ground water systems serving at least 50,000 people. About 300 systems operating 500 treatment plants were involved. The ICR required systems to collect source water samples, and in some cases finished water samples, monthly for 18 months, and test them for *Giardia, Cryptosporidium,* viruses, total coliforms, and either fecal coliforms or *E. coli.* The ICR also required systems to determine the concentrations of a range of disinfectant and disinfection byproducts in different parts of the system. These disinfection byproducts form when disinfectants used for pathogen control react with naturally occurring total organic compounds (TOC) already present in source water. Some of these byproducts are toxic or carcinogenic. The rule also required systems to provide specified operating and engineering data to EPA. The required 18 months of monitoring under the ICR ended in December 1998.

As noted earlier, the only ground water systems affected by the ICR were those that served at least 50,000 people. These systems had to conduct treatment study applicability monitoring (by measuring TOC levels) and, in some

cases, studies to assess the effectiveness of granular activated carbon or membranes to remove DBP precursors. In addition, ground water systems serving at least 100,000 people had to obtain disinfectant and DBP occurrence and treatment data. EPA is still processing the ICR data, and has not used this information in developing the GWR.

4. Stage 1 Disinfectants/Disinfection Byproducts Rule

The Stage 1 Disinfectants/Disinfection Byproducts Rule (Stage 1 DBPR) (63 FR 69389; December 16, 1998) (US EPA, 1998e) sets maximum residual disinfection level limits for chlorine, chloramines, and chlorine dioxide, and MCLs for chlorite, bromate, and two groups of disinfection byproducts: total trihalomethanes (TTHMs) and haloacetic acids (HAA5). TTHMs consist of the sum of chloroform, bromodichloromethane, dibromochloromethane, and bromoform. HAA5 consist of the sum of mono-, di-, and trichloroacetic acids, and mono- and dibromoacetic acids. The rule requires water systems that use surface water or ground water to remove specified percentages of organic materials, measured as total organic carbon (TOC), that may react with disinfectants to form DBPs. Under the rule, precursor removal will be achieved through a treatment technique (enhanced coagulation or enhanced softening) unless a system meets alternative criteria.

The Stage 1 DBPR applies to all CWSs and non-transient NCWSs, both surface water systems and ground water systems, that treat their water with a chemical disinfectant for either primary or residual treatment. In addition, certain requirements for chlorine dioxide apply to transient water systems.

A ground water system that disinfects with chlorine or other chemical disinfectant must comply with the Stage 1 DBPR by December 2003. Sampling frequency will depend upon the number of people served. Ground water systems not under the direct influence of surface water that serve 10,000 people or greater must take one sample per quarter per treatment plant, and analyze for TTHMs and HAA5; systems that serve fewer than 10,000 people must take one sample per year per treatment plant during the month of warmest water temperature, and analyze for the same chemicals. Systems must monitor for chlorine or chloramines at the same location and time that they monitor for total coliforms. Additional monitoring for other chemicals is required for systems that use ozone or chlorine dioxide.

5. Underground Injection Control Program

In 1980, EPA established an Underground Injection Control (UIC) Program (US EPA, 1999g) to prevent injection practices which contaminate sources of drinking water. The UIC Program protects both underground sources of drinking water and ground water under the direct influence of surface water, which includes at least 41 percent of the streams and rivers in the U.S. during dry periods. Injection is a common and long-standing method of placing fluids underground for disposal, storage, replenishment of ground water, enhanced recovery of oil and gas, and mineral recovery. These fluids often contain contaminants. The EPA sets minimum requirements for effective State programs to ensure that injection practices, or "injection wells" as they are called in the UIC Program, are operated safely. EPA or the appropriate State regulatory agency may impose on any injection well, requirements for siting, construction, corrective action, operation, maintenance, monitoring, reporting, plugging and abandonment, and impose penalties on violators. The UIC Program regulations are designed to recognize varying geologic, hydrologic or historic conditions among different States or areas within a State.

The UIC Program regulations are found under Title 40 of the Code of Federal Regulations (CFR), Parts 124, and 144–148. Section 144.6 divides injection practices into five categories or classes of wells. Classes I, II, and III are wells which inject fluids beneath and away from aquifers used by ground water systems into confined geologic formations. These wells are associated with municipal or industrial waste disposal, hazardous waste or radioactive waste sites, oil and gas production, and extraction of minerals. Class IV and most of Class V are wells which inject contaminants, into or above aquifers which may be used by ground water systems. Class IV wells inject hazardous or highly radioactive wastes and are banned by all States and EPA. Class V wells include storm water and agricultural drainage wells, dry wells, floor drains and similar types of shallow disposal systems which discharge directly or indirectly to ground water, but in any case, must not endanger the ground water resources. However, Class V wells which may pose the greatest potential threat to ground water systems include poorly-designed or malfunctioning large-capacity septic tanks, leach fields and cesspools associated with solely sanitary wastewater disposal. Malfunctioning septic systems can result in the release of disease-causing microorganisms including enteric viral and bacterial pathogens to surface and ground water. Multi-family, commercial, manufacturing, recreational, and municipal facilities, particularly those located in unsewered areas sometimes dispose both sanitary waste and process wastewater containing harmful chemicals in Class V wells. This combination can increase the risk of contamination to aquifers used by ground water systems. Approximately half of the States have adopted primary enforcement authority for the regulation in whole or part and, therefore, have primary enforcement responsibility (primacy). State enforcement activities range from notices of improper activities to penalties and well closures. For those States which do not have primacy, the EPA Regional Offices perform the enforcement duties. (Note: the UIC Program does not regulate individual or single family residential septic systems and cesspools which inject solely sanitary wastewater) (40 CFR 144.1(g)(1)(2)). EPA has finalized banning large capacity cesspools in ground water source water protection areas (64 FR 234, December 7, 1999)(USEPA, 1999g).

6. Source Water Assessment and Protection Program (SWAPP) and the Wellhead Protection (WHP) Program

The Wellhead Protection Program (WHP Program) in SDWA section 1428 requires every State to develop a program that protects ground water sources of public drinking water. The intended result of the WHP Program are local pollution prevention programs that reduce or eliminate the threats of contamination to ground water sources of drinking water. To do this, States delineate wellhead protection areas (WHPA) in which sources of contamination are managed to minimize ground water contamination. WHPA boundaries are determined based on factors such as well pumping rates, time-of-travel of ground water flowing to the well, aquifer boundaries, and degree of aquifer protection by the overlying geology. These hydrogeologic characteristics have a direct effect on the likelihood and extent of contamination. Currently, 48 States and two territories have a WHP Program in place.

A new Source Water Assessment and Protection Program (SWAPP) was incorporated into SDWA section 1453 and requires each State to establish a SWAPP that describes how the State will: (1) Delineate source water

protection areas; (2) inventory significant contaminants in these areas; and (3) determine the susceptibility of each public water supply to contamination. This program builds upon the WHP Program; however, it addresses both ground water and surface water sources of public drinking water. The States' SWAPP were approved by EPA by November, 1999. Under the SWAPP, the State must complete source water assessments for all PWSs by November 6, 2001, although EPA may grant an extension to May 6, 2003. A summary of the results of the source water assessments must then be made available to the public in CWSs' Consumer Confidence Reports. The 1996 Amendments to the SDWA do not require States to protect water sources after the assessments are completed.

EPA seeks, in today's proposed GWR, to incorporate the States' SWAPP and WHP Programs into an overall Agency program for protecting ground water sources of public drinking water by encouraging States to use information gathered through these programs in site-specific sanitary surveys and hydrogeologic sensitivity assessments where appropriate.

C. Industry Profile—Baseline Information

1. Definitions and Data Sources

Outlined in the following section are data sources relied upon by the Agency to develop baseline information for the GWR. The baseline information is important to understanding how various regulatory options might affect risk reduction and the cost to small public water systems. The information shows that there is a large number of systems which solely utilize ground water, over 156,000. In addition, most of the ground water systems are small, with 97% serving 3,300 or fewer people. However, 55% of the people served by ground water sources get their drinking water from systems which serve 10,000 or more persons (one percent of the systems).

A public water system (PWS) is one that serves 25 or more people or has 15 or more service connections and operates at least 60 days per year. The following discussion of PWSs is based on the current definition of PWS (i.e., operating at least 60 days a year). A PWS can be publicly owned or privately owned. EPA classifies PWSs as community water systems (CWSs) or non-community water systems (NCWSs). CWSs are those that serve at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. NCWSs do not have year-round residents, but serve at least 15 service connections used by travelers or intermittent users for at least 60 days each year, or serving an average of 25 individuals for at least 60 days a year. NCWSs are further classified as either transient or non-transient. A non-transient non-community water system (NTNCWS) serves at least 25 of the same persons over six months per year (*e.g.*, factories and schools with their own water source). Transient non-community water systems (TNCWS) do not serve at least 25 of the same persons over six months per year (*e.g.*, many restaurants, rest stops, parks). The majority of ground water systems are NCWSs, with 60% (93,618) transient and 12% (19,322) non-transient. CWSs make up the remaining 28% (44,910) of all ground water systems. Although there are far more NCWSs, CWSs serve a far larger number of people.

Over 88 million people are served by CWSs that use ground water and 20 million people are served by NCWSs that use ground water. An overlap occurs because most people are served by both types of systems which may also include a combination of ground and surface water. For example, a person may be served by a surface water community water system (CWS) at home and by a ground water non-community water system (NCWS) at work.

EPA uses two primary sources of information to characterize the universe of ground water systems: the Safe Drinking Water Information System (SDWIS) and the Community Water System Survey (CWSS) (US EPA, 1997c). EPA's SDWIS contains data on all PWSs as reported by States and EPA Regions. This data reflects both mandatory and optional reporting components. States must report the location of the system, system type (CWS, TNCWS, or NTNCWS), primary raw water source (ground water, surface water or ground water under the direct influence of surface water), and violations. States may also report, at their option, type of treatment and ownership type. EPA does not have complete data on the discretionary items (such as treatment) in SDWIS for every system; this is especially common for NCWSs.

The second source of information, CWSS, is a detailed survey of surface and ground water CWSs conducted by EPA in 1995 (US EPA, 1997c). The CWSS includes information such as the number of system operators, revenues, expenses, treatment practices, source water protection measures, and capacity (*i.e.*, the amount of water the system is designed to deliver). The CWSS contains data from 1,980 water systems, and is stratified to represent CWSs across the U.S. Of the 1,980 water systems that were surveyed by CWSS, 1,020 are ground water systems; 510 are surface water systems; and 450 represent purchased water systems. Among the ground water systems represented, approximately 17% were from systems serving 100 persons or less; 20% were from systems serving 101–500 persons; 13% were from systems serving 501–1,000 persons; 14% were from systems serving 1,001–3,300 persons; 15% were from systems serving 3,301–10,000 persons; 10% were from systems serving 10,001–50,000 persons; and 11% were from systems serving 50,001 or more persons.

Baseline profile data for ground water systems from SDWIS and CWSS are summarized later. The data on system ownership, treatment, and operator information is from the CWSS.

2. Alternate Definition of "Public Water System" and the Problem of Short-Term Water Providers

EPA is not today proposing to change the definition of "public water supply," nor proposing additional requirements for short-term water providers. If EPA decides to take either action, EPA will publish a proposal at a later date. However, EPA requests comment on the following issues.

A PWS is one that serves 25 or more people or has 15 or more service connections and operates at least 60 days per year. EPA requests comment on the definition of "public water system" specifically, shortening the time period within the regulatory definition (§ 141.2). Section 1401(4)(A) of the SDWA defines public water system as one that "regularly serves at least twenty-five individuals." EPA by regulation defined the minimum time period that a system "regularly" serves as 60 days. See 40 FR 59566, December 24, 1975 for a discussion of the definition. The current definition applies after a minimum of 1,500 consumer servings (60 days multiplied by 25 individuals). However, some drinking water providers serve far more people during just a few events. For example, out-door public events may occur at a site just a few days a year but may draw thousands of people to each event. Such drinking water providers thus can affect the public health of a similar number of persons in a short period of time as a system that serves fewer people for a longer period. EPA wants to provide the same public health protection in these situations. Only

contaminants that cause adverse health effects through small volumes or short exposure (*e.g.*, acute contaminants such as microbes, nitrate and nitrite) are of concern at these short term events. Therefore, EPA is considering changing the definition of "public water system" by reducing the 60 day time frame to 30 days and including events drawing many people on one or just a few days, specifically by adding the phrase, "or serves at least 750 people for one or more days" to the end of the current definition of "public water system." In other words, for short-term providers, the term "regularly serves" would be defined in terms of the number of persons served rather than days of service, but the minimum number of persons served would be equivalent to the number of servings for longer-term systems. EPA requests comment on this issue. Rather than the simple total of 750 (30 days times 25 people), should EPA include a minimum of persons served days (calculated by multiplying the average number of individuals served by the number of days the system serves water)? What should that number be? Should there be a sliding scale (*e.g.*, for a system operating one day and serving more than 10,000 consumers, and systems operating more than 30 days and serving 2,000 consumers)? EPA requests comments on defining/identifying systems, implementation, public notice, training, monitoring and record keeping and reporting issues for these systems if they were included.

As an alternate to changing the definition EPA is also considering and requesting comments on requiring under section 1431 of the SDWA or other appropriate authorities that transient water providers or other types of drinking water systems (including those not currently defined as public water systems) monitor for acute contaminants prior to providing water to the public and requiring that any such provider that finds acute contaminants at a level above the MCL not be allowed to serve drinking water until it is corrected. Currently, transient public water systems must currently monitor for total coliforms, nitrate and nitrite. In addition, transient public water systems using surface water or ground water under the direct influence of surface water must comply with the treatment technique requirements of the SWTR. EPA is also considering proposing requiring any non-community water system that is not operated year round monitor for: fecal coliforms, nitrate and nitrate, and that monitoring required to show treatment technique compliance (*e.g.*, *Cryptosporidium*) no more than 30 days prior to beginning operation for that season. EPA requests comment on what time frame the monitoring should be completed prior to beginning operation (*i.e.*, 10 or 15 days).

3. Number and Size of Ground Water Systems

Nationally, SDWIS indicates that there are approximately157,000 public water systems that use ground water solely (SDWIS, 1997). Slightly more than 13,000 additional systems use surface water. SDWIS only describes any system that uses any amount of surface water as a surface water system. SDWIS therefore, does not have information on the number of systems that mix ground water and surface water. Under the SDWA and for purposes of the Regulatory Flexibility Act (RFA) analysis, EPA defines a small system as serving fewer than 10,000 people. According to SDWIS (1997), 96.6% of the 42,413 CWSs and virtually all of the NCWSs that use ground water serve fewer than 10,000 persons and thus are "small." Collectively, 99% of systems serve fewer than 10,000 people. About 97% of the systems (152,555) serve 3,300 people or fewer (totaling over 31 million people nationally). The purpose of these requirements would be to prevent any endangerment to public health that might occur if these short-term, high volume providers dispense drinking water that is untested and potentially contaminated.

4. Location of Ground Water Systems

Ground water systems are located in all 50 States, many tribal lands and most United States territories. The number of ground water systems varies substantially by State. The largest numbers of ground water systems are in the States of Wisconsin, Michigan, Pennsylvania, New York and Minnesota. These five States, each with over 8,000 ground water systems, account for over 50,698 ground water systems—one third of the total number in the U.S. By contrast, Hawaii (126), Kentucky (287), Rhode Island (430), and the United States territories (<254) have the fewest ground water systems (See Table I–1).

5. Ownership of Ground Water Systems

For ground water CWSs, 36% are publicly operated, 35% are owned and operated by private entities whose primary business is providing drinking water, and 29% are ancillary water systems which are operated by entities whose primary business is not providing drinking water, but do so to support their primary business (*e.g.*, mobile home park operators). The distribution of ownership type, however, varies significantly with the size of the system. For example, over 90% of the ground water systems serving less than 100 people are privately owned or are ancillary systems. For systems serving over 100,000 people, only 16% are privately owned and none are ancillary systems.

TABLE I–1.—NUMBER OF GROUND WATER SYSTEMS AND POPULATIONS SERVED BY STATE AND SYSTEM TYPE

State/territory	CWSs		TNCWSs		NTNCWSs	
	Number of systems	Population served	Number of systems	Population served	Number of systems	Population served
Alabama	345	1,283,469	123	11,170	46	21,182
Alaska	511	342,722	906	97,647	0	0
American Samoa	10	48,692	0	0	0	0
Arizona	783	1,308,843	602	120,126	216	100,317
Arkansas	480	1,003,145	442	22,521	57	13,528
California	2,831	14,223,977	3,698	1,301,671	1,018	359,096
Colorado	548	927,917	1,061	153,454	133	34,884
Commonwealth of the Northern Marianas	30	50,769	7	620	6	3,039
Connecticut	537	311,771	3,360	2,980,181	641	121,664
Delaware	225	173,460	215	57,634	86	24,840
District of Columbia	0	0	0	0	0	0
Florida	2,019	13,132,468	3,660	304,865	1,119	286,055
Georgia	1,465	1,484,860	663	127,661	291	80,240
Guam	6	20,220	0	0	2	770

TABLE I–1.—NUMBER OF GROUND WATER SYSTEMS AND POPULATIONS SERVED BY STATE AND SYSTEM TYPE—Continued

State/territory	CWSs		TNCWSs		NTNCWSs	
	Number of systems	Population served	Number of systems	Population served	Number of systems	Population served
Hawaii	109	1,247,315	3	1,125	14	7,437
Idaho	658	579,778	1,033	125.873	265	68,195
Illinois	1,255	2,606,104	3,715	413,000	446	142,655
Indiana	806	1,826,820	2,984	327,229	693	158,102
Iowa	1,033	1,239,902	639	78,653	133	35,715
Kansas	601	747,169	110	4,481	67	23,602
Kentucky	124	271,630	83	9,374	80	21,620
Louisiana	1,211	2,707,805	482	115,804	234	88,070
Maryland	448	519,289	2,509	93,757	495	142,171
Massachusetts	360	1,396,430	863	209,476	229	67,650
Michigan	1,185	1,602,792	8,930	1,187,331	1,718	344,654
Minnesota	919	2,074,843	6,963	252,602	672	49,514
Mississippi	1,253	2,586,680	169	28,006	126	89,416
Missouri	1,194	1,638,152	1,040	138,894	227	76,360
Montana	554	267,597	1,011	140,745	215	38,504
Nebraska	616	811,112	584	22,241	189	26,219
Nevada	250	187,509	273	55,792	91	28,497
New Hampshire	621	262,371	1,012	181,949	421	77,505
New Jersey	516	2,339,500	2,955	346,484	1,009	274,758
New Mexico	600	1,235,920	506	74,256	149	38,101
New York	1,940	4,396,557	5,742	853,533	693	248,223
North Carolina	1,900	1,271,804	5,373	542,400	655	198,136
North Dakota	258	239,874	215	16,910	22	2,349
Ohio	1,129	3,555,876	3,545	533,921	1,116	276,441
Oklahoma	556	671,287	302	34,172	123	20,419
Oregon	677	622,157	1,390	233,477	332	67,531
Pennsylvania	1,788	1,567,696	7,017	922,336	1,251	480,328
Puerto Rico	207	623,958	4	765	43	36,426
Rhode Island	59	127,854	300	48,875	71	25,246
South Carolina	550	671,878	577	54,837	248	71,239
South Dakota	367	250,742	243	42,949	25	3,072
Tennessee	193	1,312,996	503	61,504	58	11,010
Texas	3,613	6,150,001	1,378	245,171	748	253,468
Tribes	685	330,466	0	0	82	20,833
Utah	335	583,506	439	79,371	52	20,969
U.S. Virgin Islands	0	0	0	0	0	0
Vermont	346	154,521	718	523,079	1	25
Virginia	1,199	584,779	1,911	443,920	772	312,422
Washington	2,092	2,299,340	1,498	283,735	287	70,009
West Virginia	297	304,888	644	47,313	182	39,318
Wisconsin	1,117	1,947,016	9,704	731,781	1,049	214,561

D. Effectiveness of Various Best Management Practices in Ground Water Systems

There are numerous sanitation practices, called best management practices (BMPs), to prevent, identify and correct contamination in a water supply. These practices relate to well siting, well construction, distribution system design and operations. Examples of BMPs that form a barrier to ground water contamination include drilling into a protected aquifer; siting a well away from sources of contamination; identifying and controlling contamination sources; and disinfection. BMPs that form a barrier to well contamination include well casing, well seals, and grouting the well. Distribution system BMPs include disinfection; maintaining positive pressure; flushing water mains; and adopting cross connection control programs. Surveillance BMPs such as sanitary surveys are conducted to identify weaknesses in the barriers.

EPA recognizes that BMPs can and do contribute significantly to the safety of drinking water; however, the effectiveness of each individual practice can be difficult to measure. Two studies, State Ground Water Management Practices—Which Practices are Linked to Significantly Lower Rates of Total Coliform Rule Violations? (US EPA, 1997d) and the Analysis of Best Management Practices for Community Ground Water Systems (Association of State Drinking Water Administrators, or ASDWA, 1998), were conducted to examine the relative effectiveness of BMPs in reducing microbial contamination of ground water systems. The EPA study compared BMP implementation at the State level to total coliform MCL violation rates of community ground water systems over a four year period. The ASDWA study compared BMP implementation to detections of both total and fecal coliform in community ground water systems over a two year period.

A third study was conducted by EPA, Ground Water Disinfection and Protective Practices in the United States, (US EPA, 1996a) to review State practices and requirements for the protection of drinking water that has ground water as its source.

1. EPA Report on State Ground Water Management Practices

In the EPA study, State Ground Water Management Practices—Which

Practices are Linked to Significantly Lower Rates of Total Coliform Rule Violations? (US EPA, 1997d), 12 BMPs were compared to the MCL violation rate for total coliform in community water systems by State. The 12 State BMPs were taken from the EPA report Ground Water Disinfection and Protective Practices in the United States (US EPA, 1996a). The study used total coliform MCL violation data in SDWIS for community water systems for Fiscal Years 1993 through 1996. In the study, pairwise and stepwise linear regression analyses were used to determine if there was a statistically significant difference in the TCR MCL violation rates between those States that practice a particular BMP and those that do not. From this perspective, BMPs associated with lower violation rates are considered effective. The 12 BMPs included in the study were well construction codes, well/pump disinfection requirements, sanitary surveys, disinfection of new/repaired mains, cross connection controls, operator certification, minimum setback distances, EPA approved State Wellhead Protection Programs, periodic flushing of mains, wellhead monitoring, hydrogeologic criteria, and disinfection.

Six of the 12 State management practices were unsuitable for pairwise analysis because these practices were present in nearly all States. Therefore, a comparison of TCR MCL violation rates in States with and without these practices could not be made. The BMPs for which analysis were not done were: well construction codes, well/pump disinfection requirements, sanitary surveys, disinfection of new/required mains, cross connection controls, and operator certification. However, these six management practices were evaluated as part of the 1998 Best Management Practices Survey conducted by ASDWA. -

Using a pairwise statistical analysis, two of the remaining six practices, disinfection and hydrogeologic criteria, showed a significant statistical relationship (at a .01 and a .05 level of confidence, respectively) in lowering the statewide median TCR violation rates, with disinfection showing the strongest relationship. In this analysis, disinfection is defined as the maintenance of at least a chlorine residual or its equivalent at the entry point or in the distribution system. The report focused its analysis on disinfection practices among 20 States, comparing the 10 highest disinfecting States with the 10 lowest disinfection States. Specifically, the 10 States with the highest percentage of disinfected CWSs had an average MCL violation rate of 16% over the four year period, versus a 33% violation rate for the ten States with the lowest disinfection rates. States that require hydrogeologic criteria for well siting and construction decisions had significantly lower median MCL violation rates than States that do not use these criteria (15.4% vs. 24.6%). The other four practices, minimum setback distances from pollution sources, EPA approved Wellhead Protection Programs, periodic flushing of the distribution system, and wellhead monitoring, did not show a significant relationship in lowering TCR violation rates at the State level. The report does not provide information on the statistical significance of these results.

The four year time frame for the statistical analyses was chosen as a more accurate reflection of the effectiveness of statewide management practices given the high degree of variability in the TCR violation rate from year to year. Different trends emerge when annual rates are compared. There is not enough data to determine if the year to year variability, shown in the FY 96 data, correlates to a change in State management practices.

In a second analysis, stepwise linear regression was used on the six best management practices to further explain the variability among States in their reported TCR MCL violation rates. This analysis examines both the simultaneous effect of several BMPs on the State TCR MCL violation rate and evaluates which of the practices may explain the variability in the TCR violation rate among States. Ascertaining how much of the State-to-State variability can be explained by each of the practices is an important question given that the TCR requirements are the same for all States. The results of this analysis indicate that disinfection is the single largest factor in explaining the difference in the TCR violation rate among States. In general, the higher the rate of disinfection, the lower the rate of TCR MCL violations.

Uncertainties associated with this analysis were: (1) Whether a State's BMP requirements are fully implemented at the system level; (2) what effect the six State BMPs not analyzed had on violation rates; (3) the degree of voluntary implementation of BMPs; and (4) the effect of not including State practices required only under certain circumstances. Nonetheless, this data on State management practices indicates that there is a significant association between disinfection and a lower TCR MCL violation rate.

2. ASDWA Analysis of BMPs for Community Ground Water Systems

In the ASDWA study, The Analysis of Best Management Practices for Community Ground Water Systems (ASDWA, 1998), a working group selected 28 BMPs that represent four major areas of plant operations and developed and distributed a survey to all 50 State drinking water programs. Each State was asked to select eight systems in each of the three following categories: (1) Systems with no detections of total coliform; (2) systems with total coliform detections only; and (3) systems with both total coliform and fecal coliform (or *E. coli*) detections. For each system, the State was asked to report which of 28 BMPs listed were used by the system during a two year period (1995 and 1996). Thirty-six States responded to the survey, each completing up to 24 individual system surveys, providing data for 812 systems.

The survey results were analyzed using both descriptive statistics and two statistical models—pairwise and logistical regression. The descriptive statistics illustrate the characteristics of a system but cannot isolate the effect of a particular BMP from the effects of other BMPs. The statistical models were used to describe the relationship between implementation of individual or a group of BMPs and a reduction in total or fecal coliform detections.

A pairwise association analysis (*i.e.*, comparing a system that implements a particular BMP to one that does not) was used to determine if the use of a BMP reduced the percentage of positive total coliform samples. The analysis determined that a significant association was found between 21 of the 28 BMPs and systems with no total coliform detections. The two BMPs with the strongest correlation to fewer total coliform detections were correction of deficiencies identified by the sanitary survey and operator certification (ASDWA, 1998).

Using pairwise analysis for systems with fecal coliform (based only on those systems with at least one positive total coliform sample), the study found a significant association for eight of the twenty-eight BMPs. These eight BMPs include: system wells constructed according to State regulations, routine disinfection after well or pump repair, treatment for purposes other than disinfection, system maintaining acceptable pressure at all times, water distribution tanks are designed according to State requirements, systems are in compliance with State permitting requirements, systems have corrected deficiencies noted by the State

and system and operators receive routine training and education. According to the results, fewer BMPs are found to be significant in this analysis than the total coliform analysis. These results are expected given that the analysis of fecal coliform and *E. coli* only evaluate systems with at least one total coliform positive detection. Fecal coliform and *E. coli* tests are more specific to organisms found in human and animal feces, whereas total coliform tests indicate the presence of a broader class of enteric organisms. For this reason, there are fewer data points to model the association of BMPs with fecal coliform. Therefore, this analysis sets apart only the BMPs significant in preventing or eliminating fecal contamination.

Using the logistical regression technique, three BMPs were associated with a significant reduction of total coliform-positive samples: (1) Maintaining a disinfectant residual; (2) operator training; and (3) correcting deficiencies identified by the State as part of a sanitary survey. The two BMPs associated with a significant reduction of fecal coliform/*E. coli*-positive samples were treatment for purposes other than disinfection, *e.g.*, iron removal, and operator training. Another analysis was constructed using Logit models for four categories of BMPs to consider the effects of BMPs in groups rather than individually. Out of the four categories (Source Protection/ Construction, Treatment, Distribution System, and Management and Oversight), the Management and Oversight category showed the most significant association with reduced coliform detections.

The ASDWA survey also evaluated the effectiveness of BMPs with regard to system size. For systems serving less than 500 persons, correction of deficiencies identified by the State, and regular training and education of operators were the most significant in reducing microbial contamination. Routine disinfection after well or pump repair had the greatest significance among systems serving between 501 and 3,300 persons, while maintaining a disinfection residual had the greatest significance among systems serving between 3301 and 10,000 persons.

Overall, this study found that the percentage of systems implementing BMPs is highest among systems with no total coliform detections. In addition, systems that routinely educate and train their operators were more likely to implement other BMPs than systems with no regular training. Similarly, those systems that practice disinfection (contact time or maintain disinfection residual) were more likely to implement other BMPs than systems that do not disinfect. Observations about the implementation of BMPs suggests that many BMPs are interrelated, therefore, it is difficult to isolate the effect of an individual BMP.

3. EPA Report on Ground Water Disinfection and Protective Practices

The purpose of the EPA study, Ground Water Disinfection and Protective Practices in the United States, (US EPA, 1996a) was to compile and assess State regulations, guidance, codes, and other materials pertaining to protection of public health from microbial contamination in public water systems using ground water.

The information compiled included the following:

- Wellhead/ground water protection information;
- Ground water disinfection requirements;
- Well siting and construction requirements/guidelines;
- Sanitary survey requirements/ guidelines;
- Distribution system protection requirements/guidelines; and
- Operator certification requirements.

The study found that there are widespread, but diverse requirements for the protection of drinking water that has ground water as its source. Few of these protective practices are used by all States and there is a variety of interpretations of the same practice. For example, 47 States specify minimum setback distances from sources of microbial contamination but show a wide range of setback distances for the same type of contaminant source; 49 States drinking water programs require disinfection of some sort, but when and where disinfection is required varies considerably; and of the 48 States that have well construction codes, 21 States do not require consideration of hydrogeological criteria in the approval of the siting of a well.

Overall, the study found that although many States appear to require similar BMPs, the nature, scope, and detail of these requirements varies considerably at the national level.

E. Outreach Activities

1. Public Meetings

As part of the 1986 amendments to the Safe Drinking Water Act (SDWA) Section 1412(b)(8), Congress directed EPA to promulgate a national primary drinking water regulation (NPDWR) requiring disinfection as a treatment technique for all public water systems, including those served by surface water and ground water. In 1987, EPA began developing a rule to cover ground water systems. This effort included a preliminary public meeting on the issues in 1990 (see 55 FR 21093, May 22, 1990, US EPA, 1990a). In 1992, EPA circulated a strawman draft for comment (see 57 FR 33960, July 31, 1992) (US EPA, 1992a).

From 1990 to 1997, EPA conducted technical discussions on a number of issues, primarily to establish a reasonable means of establishing whether a ground water source was vulnerable to fecal contamination and thus pathogens. This effort was accomplished through *ad hoc* working groups during more than 50 conference calls with participation of EPA Headquarters, EPA Regional offices, States, local governments, academicians, and trade associations. In addition, technical meetings were held in Irvine, California in July 1996, (US EPA, 1996c) and in Austin, Texas in March 1997 (US EPA, 1997e).

The SDWA was amended in August 1996, and as a result, several statutory provisions were added establishing new drinking water requirements. Specifically, Congress required under section 1412(b)(8) that EPA develop regulations specifying the use of disinfectants for ground water systems "as necessary." These amendments established a new regulatory framework that required EPA to set criteria for States to determine whether ground water systems need to disinfect. In December 1997, EPA held its first of a series of stakeholder meetings to present a summary of the findings resulting both from technical discussions held since 1990 and from information generated by internal EPA working groups with the intention of developing disinfection criteria for ground water systems.

EPA held a preliminary Ground Water Rule meeting on December 18 and 19, 1997, in Washington, DC for the purpose of engaging all interested stakeholders in the analysis of data to support the GWR. The two day meeting covered discussions on the implications of the data, solicited further data from stakeholders, and reviewed EPA's next steps for rule development, data analysis and stakeholder involvement.

Since December 1997, EPA has held GWR stakeholder meetings in Portland, OR, Madison, WI, Dallas, TX, Lincoln, NE, and Washington, DC along with three early involvement meetings with State representatives. In addition, EPA has received valuable input from small system operators as part of an Agency outreach initiative under the Small Business Regulatory Enforcement Fairness Act. See section VI for more

information on the SBREFA process. Taken together, these stakeholder meetings have been crucial both in obtaining feedback and getting additional information as well as in guiding the Agency's consideration and development of different regulatory components.

The Agency's goal in developing the GWR is to reduce the risk of illness caused by microbial contamination in public water systems relying on ground water. The series of GWR stakeholder meetings were beneficial in assisting EPA in understanding how State strategies fit together as part of a national strategy. For more information see the (Stakeholders Meeting Summary, Resolve, July 27, 1998).

Portland, OR, GWR Stakeholder Meeting

There were four different regulatory approaches presented in the first of a series of stakeholder meetings held in Portland, OR, in May 1998: the Barrier Assessment Approach, the Existing State Practices Approach, the Setback Approach, and the Checklist Approach (Stakeholder Meetings Summary, Resolve, July 27, 1998). All approaches address, to varying degrees, three main areas: minimum program requirements or baseline measures, identification of high risk wells, and corrective action. Discussions on the potential approaches centered around determining triggers that could place a well in a high priority category and which minimum set of BMPs should be implemented at high risk wells.

Madison, WI GWR Stakeholder Meeting

There were three approaches presented in a June 9, 1998, GWR stakeholder meeting held in Madison, WI: Status Quo Approach, Baseline Approach, and Disinfection Approach. Regulatory approaches were revised in response to stakeholder input from the earlier GWR stakeholder meetings, representing a continuum of requirements, from Existing Status Quo to mandatory disinfection for all ground water systems. EPA emphasized that existing occurrence data does not appear to support mandatory disinfection across the board, but that the Agency would still appreciate stakeholder input on a range of options. The approaches presented were based on monitoring, inspections, BMPs and disinfection.

Dallas, TX GWR Stakeholder Meeting

A third GWR meeting on June 25, 1998 in Dallas, TX, provided slight modifications to the regulatory approaches, but for the most part the regulatory approach remained unchanged from the Madison meeting held in early June. EPA continued to emphasize the need to identify and strengthen the potential barriers to contamination. Among the three approaches, (Status Quo, Progressive and Universal Disinfection) the Progressive approach was considered the more viable regulatory option to ensure public health protection among public water systems.

Early Involvement Meetings

ASDWA held three early involvement meetings (EIMs) on the GWR. The first EIM followed the May 5, 1998 stakeholder meeting in Portland, OR. The second EIM meeting was held in Washington, DC on July 14 and 15, 1998 and the third meeting was held in Chicago, IL on April 7 and 8, 1999. Representatives from 12 States, four EPA Regions, ASDWA and EPA Headquarters participated in the May 6 and 7, 1998 meeting in Portland, OR. The second EIM involved 10 State representatives, ASDWA, and EPA Headquarters. The third EIM included one Region, seven State representatives, ASDWA and EPA Headquarters. The purpose of the meetings was to review the findings and comments from the stakeholder meetings and to work together to further refine GWR regulatory options. EPA and States discussed a range of issues including risk, exposure, strategies for identifying high risk systems, occurrence data, and regulatory implementation barriers.

2. Review and Comment of Preliminary Draft GWR Preamble

EPA developed a preliminary draft preamble reflecting a wide range of input from numerous stakeholders across the country including four public meetings, three EIMs with State representatives, in addition to valuable input received from small system operators as part of the outreach process established by SBREFA.

To facilitate the rule development process, the preliminary draft preamble was made available to the public via the Internet through EPA's website site on February 3, 1999. Approximately 300 copies were mailed to participants of the public meetings or to those who requested a copy. EPA welcomed any comments, suggestions, or concerns reviewers had on either the general direction or the technical basis of the proposal. EPA closed the email box on February 23, 1999 and continued to receive written comments through the mail through March 17, 1999. Because this was an informal process, EPA did not prepare a formal response to the comments. Nonetheless, the Agency carefully reviewed and evaluated all comments and technical suggestions and greatly appreciated the input and feedback provided by these outreach efforts.

Eighty individual comment letters were received. Commenters included: State and local government representatives, trade associations, academic institutions, businesses and other Federal agencies. Microbial monitoring received the most individual comments. Sanitary survey, sensitivity assessment and treatment issues were next, respectively.

II. Public Health Risk

The purpose of this section is to discuss the health risk associated with pathogens in ground waters. More detailed information about pathogens may be found in three EPA drinking water criteria documents for viruses (US EPA 1985a; 1999b; 1999c), three EPA criteria documents for bacteria (US EPA 1984a, b; 1985b) and the GWR Occurrence and Monitoring Document (US EPA, 1999d). EPA requests comment on all the information presented in this section, and the potential impact of proposed regulatory provisions on public health risk.

A. Introduction

Enteric viral and bacterial pathogens are excreted in the feces of infected individuals. Many bacterial pathogens can infect both humans and animals. Bacterial pathogens that infect humans can also be found in animal feces. In contrast, enteric viruses that are human pathogens generally only infect humans, and thus are only found in human feces. These organisms are able to survive in sewage and leachate derived from septic tanks (septage) and sewer lines. When sewage and septage are released into the environment, they are a source of fecal contamination. Fecal contamination is a very general term that includes all of the organisms found in feces, both pathogenic and non-pathogenic, as well as chemicals.

Fecal contamination of ground water can occur by several routes. First, fecal contamination can reach the ground water source from failed septic systems, leaking sewer lines, and from land discharge by passage through soils and fissures. Twenty-five million households in the United States use conventional onsite wastewater treatment systems, according to the 1990 Census. These systems include systems with septic systems and leach fields. A national estimate for failure rates of these systems is not available; however, a National Small Flows Clearinghouse survey reports that in

1993 alone, 90,632 failures were reported. (USEPA, 1997f). The volume of septic tank waste, alone, that is released into the subsurface has been estimated at one trillion gallons per year (Canter and Knox, 1984). This contamination may eventually reach the intake zone of a drinking water well. Second, fecal contamination from the surface may enter a drinking water well along the casing or through cracks in the sanitary seal if it is not properly constructed, protected, or maintained. Third, fecal contamination may also enter the distribution system when cross connection controls fail or when negative pressure in a leaking pipe allows contaminant infiltration.

Biofilms in distribution systems may harbor bacterial pathogens, especially the opportunistic pathogens that cause illness primarily in individuals with weakened immune systems. These bacterial pathogens may have entered the distribution system as part of fecal matter from humans or other animals. Biofilms may also harbor viral pathogens (Quignon *et al.*, 1997), but, unlike some bacterial pathogens, viruses do not grow in the biofilm. However, a biofilm may protect the viruses against disinfectants and help them survive longer.

Although not the basis for today's proposed rule, there are additional waterborne pathogens that EPA is currently evaluating. These include bacterial pathogens that may be free-living in the environment, and thus not necessarily associated with fecal contamination. These pathogens include *Legionella* (causes Legionnaires Disease and Pontiac Fever), *Pseudomonas aeruginosa*, and *Mycobacterium avium-intracellulare*. Many of these bacteria can colonize pipes of the distribution system and plumbing systems and may play a role in causing waterborne disease that is currently under study. EPA recognizes the potential risk of such organisms, but believes that more research needs to be conducted before they can be considered for regulation. Also, the Agency is aware that *Giardia* and *Cryptosporidium* have occurred in ground water systems (GWSs) (Hancock *et al.*, 1998), causing outbreaks in such systems (Solo-Gabriele and Neumeister, 1996). However, by definition under § 141.2 ground waters with significant occurrence of large diameter pathogens such as *Giardia* or *Cryptosporidium* are considered ground water under the direct influence of surface water and are already subject to the SWTR and IESWTR. The Agency is also not addressing in the GWR the important issue of toxic or carcinogenic chemicals in the GWR. This issue is instead covered in other regulations that address chemicals.

In order to assess the public health risk associated with drinking ground water, EPA has evaluated information and conducted analysis in a number of important areas discussed in more detail later. These include: (1) Recent waterborne disease outbreak data; (2) dose-response data and other health effects data from a range of pathogens; (3) occurrence data from ground water studies and surveys; (4) an assessment of the current baseline ground water protection provided by existing regulations; and (5) an analysis of risk.

B. Waterborne Disease Outbreak Data

The purpose of this section is to present a detailed review of waterborne disease outbreaks associated with ground waters. Outbreak characterization is useful for indicating relative degrees of risk associated with different types of source water and systems.

The Centers for Disease Control and Prevention (CDC) maintains a database of information on waterborne disease outbreaks in the United States. The database is based upon responses to a voluntary and confidential survey form that is completed by State and local public health officials. CDC defines a waterborne disease outbreak as occurring when at least two persons experience a similar illness after ingesting a specific drinking water (Kramer *et al.*, 1996). Data from the CDC database appears in Tables II–1, II–2, II–3, and II–4.

The National Research Council strongly suggests that the number of identified and reported outbreaks in the CDC database (both for surface and ground waters) represents a small percentage of actual waterborne disease outbreaks (Safe Water From Every Tap, National Research Council, 1997; Bennett *et al.*, 1987; Hopkins *et. al.*, 1985 for Colorado data). In practice, most waterborne outbreaks in community water systems are not recognized until a sizable proportion of the population is ill (Perz *et al.*, 1998; Craun 1996), perhaps 1% to 2% of the population (Craun, 1996). Some of the reasons for the lack of recognition and reporting of outbreaks, most of which were noted by the National Research Council (1997), are as follows:

- Some States do not have active disease surveillance systems. Thus, States that report the most outbreaks may not be those in which the most outbreaks occur.
- Even in States with effective disease surveillance systems, health officials may not recognize the occurrence of small outbreaks. In cities, large outbreaks are more likely to be recognized than sporadic cases or small outbreaks in which ill persons may consult different physicians. Even so, health authorities did not recognize the massive outbreak (403,000 illnesses) of waterborne cryptosporidiosis that occurred in Milwaukee, WI, in 1993, until the disease incidence was near or at its peak (MacKenzie *et al.*, 1994). The outbreak was recognized when a pharmacist noticed that the sale of over-the-counter diarrheal medicine was very high and consequently notified health authorities.
- Most cases of waterborne disease are characterized by general symptoms (diarrhea, vomiting, *etc.*) that cannot be distinguished from other sources (*e.g.*, food).
- Only a small fraction of people who develop diarrheal illness seek medical assistance.
- Many public health care providers may not have sufficient information to request the appropriate clinical test.
- If a clinical test is ordered, the patient must comply, a laboratory must be available and proficient, and a positive result must be reported in a timely manner to the health agency.
- Not all outbreaks are effectively investigated. Outbreaks are included in the CDC database only if water quality and/or epidemiological data are collected to document that drinking water was the route of disease transmission. Monitoring after the recognition of an outbreak may be too late in detecting intermittent or a one-time contamination event.
- Some States do not always report identified waterborne disease outbreaks to the CDC. Reporting outbreaks is voluntary.
- The vast majority of ground water systems are non-community water systems (NCWSs). Outbreaks associated with NCWSs are less likely to be recognized than those in community water systems because NCWSs generally serve nonresidential areas and transient populations.

There is also the issue of endemic waterborne disease. Endemic waterborne disease may be defined as any waterborne disease not associated with an outbreak. A more precise definition is the normal level of waterborne disease in a community. Under this definition, an outbreak would represent a spike in the incidence of disease. Based on this definition, the level of endemic waterborne disease in a community may be quite high. For example, 14%-40% of the normal gastrointestinal illness in a community in Quebec was associated

with drinking treated water from a surface water source (Payment *et al.*, 1997). Significant levels of endemic disease could also be associated with ground waters. Because endemic waterborne disease may be a significant and substantially preventable source of health risk, under the directive of the 1996 SDWA Amendments, EPA is jointly pursuing with CDC a multi-city study of waterborne disease occurrence in an effort to provide greater understanding of this risk. EPA believes that some meaningful percentage of the nationwide occurrence of endemic waterborne disease is in ground water systems (GWSs). EPA believes that the prudent policy of prevention embodied in this proposal with regard to identified sources of substantial microbial risk to GWSs gains further justification as a counter to the endemic occurrence of waterborne disease. EPA solicits comment and any data that can increase knowledge of these endemic risks, in particular any studies on such risk in GWSs.

CDC Waterborne Disease Outbreak Data

Outbreak data collected by CDC are presented in Tables II–1, II–2 , II–3, and II–4. Table II–1 provides outbreak data for all public water systems (surface and ground water). Table II–2 shows sources of waterborne disease outbreaks for GWSs. Table II–3 identifies the etiology of waterborne outbreaks in GWSs. Table II–4 shows causes associated with waterborne disease outbreaks and illnesses in GWSs.

According to CDC, between 1971 and 1996 a total of 643 outbreaks and 571,161 cases of illnesses were reported (see Table II–1); however, the total includes 403,000 cases from a single surface water outbreak caused by *Cryptosporidium* in Milwaukee, WI in 1993. Excluding the Milwaukee outbreak from the data set, 642 outbreaks and 168,161 cases of illness were reported during the same period of time. Ground water sources were associated with 371 (58%) of the total outbreaks and 16% of the associated illness (54% of the illness if the Milwaukee outbreak is excluded). In comparison, surface water sources were associated with 216 (33%) of the total outbreaks and 82% of the associated illness (40% of the illness if the Milwaukee outbreak is excluded). Although the data in Table II–1 indicate that NCWSs using ground water had twice as many outbreaks as CWSs using ground water, this may reflect the fact that there are over twice as many NCWSs as CWSs.

The outbreak data indicate that the major deficiency in ground water systems was source water contamination—either untreated or inadequately treated ground water (see Table II–2). Contaminated source water was the cause of 86% of the outbreaks in ground water systems. Contamination due to source water was the cause of 68% of the outbreaks for CWSs, while for NCWSs it was 92%. Distribution system deficiencies were associated with 29% of the outbreaks in CWSs and in five percent of the NCWSs.

Of the 371 outbreaks in ground water systems, 91 (25%) were associated with specific viral or bacterial pathogens, while 22 (6%) were associated with chemicals (see Table II–3). Etiologic agents were not identified in 232 (63%) outbreaks. The diversity of disease agents is similar to that of surface water, with a variety of protozoa, viruses, and bacteria. As stated previously, a ground water with *Cryptosporidium* or *Giardia* is, by definition, a "ground water under the direct influence of surface water", and is thus subject to the microbial treatment requirements of a surface water system (*i.e.*, SWTR or IESWTR). According to CDC's data, bacterial pathogens were responsible for more outbreaks (57) than were viral pathogens (34). However, EPA suspects that many, perhaps a majority, of the outbreaks where an agent was not determined (232) were virus-caused, given the fact that it is generally more difficult to analyze for viral pathogens than bacterial pathogens. The fecal bacterial pathogen, *Shigella*, caused far more reported outbreaks (eight percent) than any other single agent.

Table II–4 shows outbreak data since 1991, the year in which the TCR became effective. Untreated ground water and inadequate treatment were collectively associated with 73% of the outbreaks in ground water systems between 1991–1996.

Large outbreaks are rarely associated with ground water systems because most ground water systems are small. However, one large outbreak occurred in Georgetown, TX, in 1980 (Hejkal *et al.*, 1982) where 7,900 people became ill. Coxsackievirus and hepatitis A virus were found in the raw well water in a karst hydrogeologic setting; the outbreak was the result of source water contamination. Another occurred in 1965, in Riverside, CA, where about 16,000 illnesses resulted from exposure to *Salmonella typhimurium* in the source water (Boring, 1971).

Most of the outbreaks were caused by agents of gastrointestinal illness. Normally, the disease is self-limiting and the patient is well within one week or less. However, in some cases, deaths have occurred. In 1989, four deaths (243 illnesses) occurred in Cabool, MO, as a result of distribution system contamination by *E. coli* 0157:H7 (Swerdlow *et al.*, 1992; Geldreich *et al.*, 1992). In 1993, seven deaths (650 illnesses) occurred in Gideon, MO, as a result of distribution system contamination by Salmonella typhimurium (Angulo, 1997). Both cases involved ground water systems. Waterborne disease in ground water systems has also caused serious illness such as hemolytic uremic syndrome (six reported cases in two outbreaks), which includes kidney failure, especially in children and the elderly. Two cases of hemolytic uremic syndrome were reported during the Cabool outbreak, the affected individuals being three and 79 years of age. Deep wells are not immune from contamination; for example, an outbreak of gastroenteritis caused by the Norwalk virus (900 illnesses) was associated with a 600-foot well (Lawson *et al.*, 1991).

Collectively, the data indicate that outbreaks in ground water systems are a problem and that source contamination and inadequate treatment (or treatment failures) are responsible for the great majority of outbreaks. The outbreaks are caused by a variety of pathogens, most of which cause short term gastrointestinal disease.

TABLE II–1.—COMPARISON OF OUTBREAKS AND OUTBREAK-RELATED ILLNESSES FROM GROUND WATER AND SURFACE WATER FOR THE PERIOD 1971–1996 [1] [2]

Water source	Total outbreaks[1]	Cases of illnesses	Outbreaks in CWSs	Outbreaks in NCWSs	Total CWS[4]	Total NCWS[4]
Ground	371 (58%)	90,815 (16%)	113	258	43,908	112,940
Surface	216 (33%)	469,721[2] (82%)	142	43	10,760	2,848
Other	56 (9%)	10,625 (2%)	29	19	.....	.....

TABLE II–1.—COMPARISON OF OUTBREAKS AND OUTBREAK-RELATED ILLNESSES FROM GROUND WATER AND SURFACE WATER FOR THE PERIOD 1971–1996 [1] [2]—Continued

Water source	Total outbreaks[1]	Cases of illnesses	Outbreaks in CWSs	Outbreaks in NCWSs	Total CWS[4]	Total NCWS[4]
All Systems[3]	643 (100%)	571,161 (100%)	284	320	54,668	115,788

[1] Modified from Craun and Calderon, 1994, plus 1995–1996 data.
[2] Includes 403,000 cases of illness from a single outbreak in Milwaukee, Wisconsin, 1993.
[3] Includes outbreaks in CWSs + NCWSs + Private wells.
[4] Safe Drinking Water Information System, 1998.

TABLE II–2.—SOURCES OF WATERBORNE DISEASE OUTBREAKS, PUBLIC GROUND WATER SYSTEMS, 1971–1996 [1,2].

Type of contamination	Total	Percent of total	CWSs	Percent of total	NCWSs	Percent of total
Source	274	86	53	68	221	92
Untreated	150	47	20	26	130	54
Disinfected	122	38	31	40	91	38
Filtered	2	1	2	3	0	0
Distribution System	35	11	23	29	12	5
Unknown Cause	9	3	2	3	7	3
Total	318	100	78	100	240	100

[1] Source water could not be identified for 29 CWSs and 19 NCWSs with outbreaks, and thus these systems are not included in the table.
[2] Excludes outbreaks caused by protozoa and chemicals.

TABLE II–3.—ETIOLOGY OF OUTBREAKS IN GROUND WATER SYSTEMS, 1971–96, CWSS AND NCWSS

Causative agent	Outbreaks	Percent
Undetermined	*232*	*63*
Chemical	*22*	*6*
Giardia	[1] 21	6
Cryptosporidium	[1] 4	1
E. histolytica	1	<1
Total Protozoa	*26*	*7*
Hepatitis A	18	5
Norwalk Agent	16	5
Total Virus	*34*	*9*
Shigella	30	8
Campylobacter	10	3
Salmonella, non-typhoid	10	3
E. coli	4	1
S. typhi	1	<1
Yersinia	1	<1
Plesiomonas shigelloides	1	<1
Total Bacteria	*57*	*15*
Total	*371*	*100*

[1] Ground waters with *Giardia* and *Cryptosporidium* are regulated under the SWTR and IESWTR. These systems would likely not be considered ground water systems for purposes of this rule.

TABLE II–4.—CAUSES OF OUTBREAKS IN GROUND WATER SYSTEMS, 1991–1996

Cause	Number of outbreaks	Cases of illness	Percent of outbreak-related illnesses
Untreated Ground Water	18	2924	51
Distribution System Deficiency	6	944	17
Treatment Deficiency	17	1260	22
Miscellaneous, Unknown Cause	3	568	10
Total	44	5696	100

[1] Excludes protozoa and chemicals.

C. Ground Water Occurrence Studies

The purpose of this section is to present data on the occurrence of waterborne pathogens and indicators of fecal contamination in ground water supplying PWS wells. These data are important to GWR development because they provide insight on: (1) The extent to which ground water may be contaminated; (2) possible fecal indicators for source water monitoring under the GWR; and (3) a national estimate of ground water pathogen occurrence. In addition, determining the occurrence of microbial contaminants in ground water sources of drinking water is necessary to yield a quantified national estimate of public health risk.

EPA has reviewed data from13 recent or on-going studies of pathogen and/or fecal indicator occurrence in ground waters that supply PWSs. While most of these studies were not designed to yield a nationally representative sample of ground water systems, one of the studies (Abbaszadegan *et al.*, 1999, or the "AWWARF study") was later expanded to include a nationally representative range of hydrogeologic settings. This study was used as the basis of EPA's quantitative assessment of baseline risk from viral contamination of ground water, which is also a component of the quantitative benefits assessment for the proposed rule. Short narratives on each of the studies are provided in the next sections. The study design and results for each study are summarized in Table II–6, at the end of the narratives. The Agency decided not to combine the data from these studies, because of the different method protocols and scopes.

Each occurrence study investigated a combination of different pathogenic and/or indicator viruses and bacteria. Indicator viruses and bacteria may be non-pathogenic but are associated with fecal contamination and are transmitted through the same pathways as pathogenic viruses and bacteria. The samples analyzed in each study were tested for viral pathogens such as enteroviruses (a group of human viruses also referred to as "total cultureable viruses") and/or bacterial pathogens such as *Legionella* and *Aeromonas*. Several studies used the polymerase chain reaction (PCR) as part of the method for determining the presence of pathogenic viruses. Bacterial indicators of fecal contamination tested included enterococci (or fecal streptococci, which are closely related), and fecal coliforms (or *E. coli*, which is closely related), and *Clostridium perfringens*. Most studies tested for total coliforms, which are not considered a direct fecal indicator since they also include coliforms that live in soil. Viral indicators of fecal contamination were all bacteriophage, which are viruses that infect bacteria. Among the bacteriophage tested were somatic coliphage and/or male-specific coliphage, both of which infect the bacterium *E. coli*. Bacteroides phage were tested in two studies and *Salmonella* phage in one study.

While this section presents a summary of each study, a more detailed explanation of one study (Abbaszadegan *et al.*, 1999) (AWWARF Study) is provided, as it is the broadest study in scope. The hydrogeology of individual wells is mentioned in addition to the microbial results, because EPA considers hydrogeology an important factor in source water contamination. Hydrogeology is discussed in greater detail in section III.B.

1. Abbaszadegan et al. (1999) (AWWARF Study)

Of the 13 studies, the AWWARF study sampled the largest number of wells, examined the widest array of well and system characteristics, and tested sites in 35 States across the U.S., located in hydrogeologic settings representative of national hydrogeology. The objectives of the AWWARF study were to: (1) Determine the occurrence of virus contamination in source water of public ground water systems; (2) investigate water quality parameters and occurrence of microbial indicators in ground water and possible correlation with human viruses; and (3) develop a statistically-based screening method to identify wells at risk of fecal contamination. A summary of AWWARF results are presented in Tables II–5 and II–6.

Many of the initial sites were selected to evaluate the effectiveness of a method based on the reverse-transcriptase, polymerase chain reaction (RT–PCR) technique to detect pathogenic viruses in ground water. Sites for this portion of the study were selected based on the following criteria: (1) Ground water sites with high concentrations of minerals, metals, or TOC; (2) sites with a previous detection of any virus or bacteria in the ground water source; (3) sites with potential exposure to contaminants due to agricultural activities near the well, industrial activities near the well, or septic tanks near the well; and (4) sites with different pH values, temperatures, depths, production capacities and aquifer types. Sites were selected for the virus occurrence project based upon their geological characteristics to balance out the range of geologies so that the sites in aggregate more closely matched the national geologic profile of ground water sources. Sites for the virus occurrence study were selected from an initial mailing to 500 utilities that currently disinfect their water; 160 utilities with 750 wells volunteered to be included in the study. In total, 448 wells were sampled for the study. AWWARF excluded sites from the investigation if: (1) It was known to be under the influence of surface water; (2) the well log records were not available; or (3) it was considered poorly constructed.

EPA subsequently compared nitrate concentrations from a national database of nitrate concentrations in ground water (Lanfear, 1992) with nitrate data measured in the AWWARF study wells. The purpose of the comparison was to determine if there was any statistically significant difference between the nitrate levels in the AWWARF wells as compared with the national distribution of nitrate concentration data. Nitrate was chosen for this comparison because there is a large, national database available. Each data set contained 216 samples selected so that proportionately, wells of equal depth were analyzed in each comparison. The national data were selected randomly from a database of more than 100,000 wells; all available AWWARF data were used. In analyzing the data, EPA noted that the national data is biased by multiple sampling of many shallow monitoring wells in farming regions leading to a few wells having exceptionally high nitrate levels. In order to minimize the impact of these wells on the analysis, EPA chose a small random subset comparable in size to the sample in the AWWARF study. Thus, the data are not directly comparable with PWS wells. Census data were used to divide the national nitrate database into urban and rural components. The analysis showed that the AWWARF wells had nitrate concentrations that were not significantly different from the national data or from the urban and rural components. Thus, using nitrate concentration as a surrogate, EPA concludes that, by this measure, the AWWARF wells are nationally representative.

All samples were collected by the systems. AWWARF provided a sample kit containing all needed equipment and a video illustrating the details of appropriate sampling and storage procedures. A total of 539 samples were collected from 448 sites in 35 States. The preliminary results indicate that of the 448 wells sampled, about 64% were located in unconsolidated aquifers, 27% in consolidated aquifers including consolidated sedimentary strata, and 9% in unknown geology. Unconsolidated aquifers are made of

loosely packed (uncemented) particles, such as sand grains or gravel, while consolidated aquifers are comprised of compacted (cemented) particles or crystalline rock (*e.g.*, granite, limestone). As discussed further in section III.B., the degree and type of consolidation may affect the transport of pathogens from a source of fecal contamination to the well. The percentages of sites sampled from these geologic settings are similar to those of national ground water production from unconsolidated and consolidated hydrogeologic settings (modified by AWWARF, from United States Geological Survey (USGS) Circular 1081, 1990). The data indicate that 174 sites (39%) were within 150 feet of a known sewage source, and an additional 127 sites (28%) were within 550 feet of a known sewage source. There is no comparable data on the distribution nationally of wells relative to sewage sources. EPA notes however, that the proximity to these sources is not inconsistent with State standards across the country. For example, 41 States have setback distances (the minimum distance between a source of contamination and a well) that are less than or equal to 100 feet for sources of microbial contaminants. Only five States appear to require setback from all sewage sources of more than 200 feet. The preliminary results also indicated that a total of 25 sites were sampled more than once. Most sites were from systems that serve greater than 3,300 people, and almost all systems maintain a disinfectant residual.

In the study, systems collected at least 400 gallons (1,512 liters) of water and concentrated it using a filter-adsorption and elution method. The concentrated samples were then sent to the researchers for analysis. The presence of enteroviruses was determined by two procedures: a cell culture assay and a procedure using the RT–PCR technique. The RT–PCR technique was also used to determine the presence of hepatitis A virus, rotavirus, and Norwalk virus. The researchers also tested each well for total coliforms, enterococci, *Clostridium perfringens*, somatic coliphage, and male-specific coliphage to establish their relationship with enterovirus and to get a better indication of the percentage of fecally contaminated wells.

Preliminary results indicated that fecal contamination occurs in a subset of PWS wells (see Table II–5). The investigators detected pathogenic viruses, either by cell culture or RT–PCR analyses, in a significant percentage of samples.

TABLE II–5.—PRELIMINARY RESULTS OF AWWARF STUDY

Assay	Percent of wells positive (number positive/samples analyzed)
Enteroviruses (cell culture)	4.8% (21/442)
Bacterial Indicators	15.1%
Total coliforms	9.9% (44/445)
enterococci	8.7% (31/355)
Clostridium perfringen spores	1.8% (1/57)
Coliphage Indicators	20.7%
Male-specific coliphage (*Salmonella* WG–49 host)	9.5% (42/440)
Somatic coliphage (*E. coli* C host)	4.1% (18/444)
Somatic and male-specific coliphage (*E. coli* C–3000 host)	10.8% (48/444)
PCR	31.5%
Norwalk viruses (PCR)	0.96% (3/312)
Enteroviruses (PCR)	15.9% (68/427)
Rotaviruses (PCR)	14.6% (62/425)
Hepatitis A viruses (PCR)	7.2% (31/429)

2. Lieberman et al., (1994, 1999) (EPA/AWWARF Study)

The study objectives included the following: (1) develop and evaluate a molecular biology (PCR) monitoring method; (2) obtain occurrence data for human enteric viruses and *Legionella* (a bacterial pathogen) in ground water; and (3) assess the microbial indicators of fecal contamination. These objectives were accomplished by sampling vulnerable wells nominated by States to confirm the presence of fecal indicators (Phase I) and then choosing a subset of these for monthly sampling for one year (Phase II).

In Phase I, well vulnerability was established using historical microbial occurrence data and waterborne disease outbreak history, known sources of human fecal contamination in close proximity to the well, and sensitive hydrogeologic features (*e.g.*, karst). Ninety-six of the 180 potentially vulnerable wells were selected for additional consideration. Selected wells were located in 22 States and 2 US territories. Additional water quality information was then successfully obtained for 94 of the wells through use of a single one liter grab sample which was subsequently tested for several microbial indicators (see Table II–6). The wells from Phase I served as the well selection pool for Phase II sampling.

In Phase II, 23 of the Phase I wells were selected for monthly sampling for one year. Seven additional wells were selected from a list of state-nominated wells for a total of 30 wells, located in 17 States and 2 US territories. The additional seven wells were based on other criteria, including historical water quality data, known contaminant sources in proximity to the well, hydrogeologic character or to replace wells that were no longer available for sampling. Samples were analyzed for enteroviruses, *Legionella*, enterococci, *E. coli*, *Clostridium perfringens*, total coliforms, somatic coliphage, male-specific coliphage and Bacteroides phage. For each sample analyzed for enteric viruses and bacteriophages, an average of approximately 6,000 liters of water were filtered and analyzed by cell culture.

Twenty samples from seven wells were enterovirus positive and were speciated by serotyping. Coxsackievirus and echovirus, as well as reovirus, were identified. The range in virus concentration in enterovirus-positive samples was 0.9–212 MPN/100 liters (MPN, or most probable number, is an estimate of concentration).

The hydrogeologic settings for the seven enterovirus-positive wells were

karst (3), a gravel aquifer (1), fractured bedrock (2), and a sandy soil and alluvial aquifer (1). The karst wells were all positive more than once. The gravel aquifer was also enterovirus-positive more than once, with 4 of 12 monthly samples positive.

3. Missouri Ozark Aquifer Study #1

The purpose of this study was to determine the water quality in recently constructed community public water system wells in the Ozark Plateau region of Missouri. This largely rural region is characterized by carbonate aquifers, both confined and unconfined, with numerous karst features throughout. A confining layer is defined in this study as a layer of material that is not very permeable to ground water flow and that overlays an aquifer and acts to prevent water movement into the aquifer.

The US Geological Survey, working with the Missouri Department of Natural Resources, selected a total of 109 wells, in both unconfined and confined aquifers (Davis and Witt, 1998, 1999). In order to eliminate poorly constructed wells from the study, most of the selected wells had been constructed within the last 15 years. Wells were also selected to obtain good coverage of the aquifer and to reflect the variability in land use. All wells were sampled twice, in summer and winter. Evidence of fecal contamination was found in a number of wells. Thirteen wells had samples that were PCR-positive for enterovirus.

4. Missouri Ozark Aquifer Study #2

The purpose of this study is to determine the water quality in older (pre-1970) CWS wells in the Ozark Plateau region of Missouri to supplement the Missouri Ozark Aquifer Study #1, by Davis and Witt (1998, 1999). This largely rural region is characterized by carbonate aquifers, both confined and unconfined, with numerous karst features throughout.

The US Geological Survey, working with the Missouri Department of Natural Resources, sampled a total of 106 wells (Femmer, 1999), in both unconfined and confined aquifers. Wells (all of which were constructed before 1970) were selected for monitoring to obtain good coverage of the aquifer, and to reflect the variability in land use. Priority was given to wells that had completion records, well operation and maintenance history and wells currently being used. Each well was sampled once (during the spring). No wells were enterovirus-positive by cell culture.

5. Missouri Alluvial Aquifer Study

The purpose of this study was to determine water quality in wells located in areas that were subjected to recent flooding. The wells are located primarily in the thick, wide alluvium of the Missouri and Mississippi rivers. Sampling (117 samples) occurred during the period of March through June 1996. Twelve wells served as control wells (uncontaminated) and were sited in "deep rock" aquifers or upland areas. A total of 64 wells were sampled.

Many of the wells had been flooded. Fifty-five were affected by a flood in 1995. In addition, some of the wells sampled had been flooded around the surface well casing prior to the sampling event, and several were flooded at the time of sampling (Vaughn, 1996).

6. Wisconsin Migrant Worker Camp Study

The purpose of this study was to determine the quality of drinking water in the 21 public ground water systems serving migrant worker camps in Wisconsin (US EPA, 1998a). These transient, non-community water systems are located in three geographic locations across the State. Each well was sampled monthly for six months, from May through November, 1997. The study conducted sampling for male-specific coliphage, total coliforms and *E. coli*. When detections of coliforms occurred, the specific type of coliform was further identified (speciated). One total coliform positive sample was identified to contain *Klebsiella pneumoniae*. Along with the microbial indicators, nitrate and pesticides were also measured.

Other factors were compared to the microbial and chemical sampling results of the study. Well construction records were available for 14 of the wells. The mean casing depth was 109 feet (range 40 to 282 feet) and the mean total well depth was 155 feet (range 44 to 414 feet). Most of these 14 wells are also reported to terminate in a sand or sandstone formation.

Investigators detected male-specific coliphage in 20 of 21 wells during the six-month sampling period, but never detected *E. coli*. In addition, four wells had nitrate levels that exceeded the EPA MCL for nitrate.

7. EPA Vulnerability Study

The purpose of this study was to conduct a pilot test of a new vulnerability assessment method by determining whether it could predict microbial monitoring results (U.S. EPA 1998b). The vulnerability assessment assigned low or high vulnerability to wells according to their hydrogeologic settings, well construction and age, and distances from contaminant sources. A total of 30 wells in eight States were selected to represent ten hydrogeologic settings. Selection was based on the following criteria: (1) Wells representing a variety of conditions relevant to the vulnerability predictions; (2) wells with nearby sources of potential fecal contamination; and (3) wells with sufficient well and hydrogeologic information available.

Samples were taken and tested for enteroviruses (both by cell culture and PCR), hepatitis A virus (HAV) (by PCR), rotavirus (by PCR), Norwalk virus (by PCR), and several indicators (total coliforms, enterococci, male-specific coliphage, and somatic coliphage). The only positive result was one PCR sample positive for HAV.

8. US-Mexico Border Study

The purpose of this study was to determine water quality in wells sited in alluvium along the Rio Grande River between El Paso, Texas and the New Mexico border (U.S. EPA, in preparation). The 17 wells selected were perceived to be the most vulnerable, based on well depth, chloride concentration and proximity to contamination sources, especially the Rio Grande River.

The wells tested are relatively shallow and all serve less than 10,000 people. One well serves 8,000 people, while seven wells serve fewer than 100 people. Well depths range from 65 feet to 261 feet, but most are about 150 feet deep. This signifies that water was collected from the middle aquifer, a shallow but potable aquifer. Wells shallower than 65 feet contain chloride concentrations prohibitively high for drinking water.

Samples were collected from each well and tested for enteroviruses (by cell culture), somatic coliphage, and male-specific coliphage. None of the sites were positive for any of the viruses tested.

9. Whittier, CA, Coliphage Study

The purpose of this study was to determine the presence of fecal contamination in all wells located within 500 feet down-gradient of a water recharge infiltration basin (Yanko *et al.*, 1999). The 23 wells were sampled once per month for six months.

The wells are sited in similar hydrogeologic settings, although they vary in age and depth. The hydrogeologic setting is primarily a thick layer of unconsolidated sand, with lesser amounts of other sized grains. About 30% of the recharge volume to

the wells is reclaimed water. Wells were all constructed between 1919 and 1989 and produce water from depths ranging from 60–888 feet.

The wells were sampled monthly for a six month period. The samples were tested for total coliforms and indicators of fecal contamination, including male specific coliphage, somatic coliphage, and *E. coli*. Coliphage were found in all wells, and repeatedly in 20 of the 23 wells.

10. Oahu, HI Study

The purpose of this study was to establish a water quality monitoring program to assess the microbial quality of deep ground water used to supply Honolulu (Fujioka and Yoneyama, 1997). A total of 71 wells were sampled, 32 of which were sampled for viruses and 39 of which were sampled for bacteria. The wells are located in carbonate or basalt aquifers.

Each of the wells was tested for several pathogens and indicators of fecal contamination. Bacterial samples taken from 39 wells (79 samples) were tested for total coliforms, fecal streptococci, *Clostridium perfringens*, heterotrophic bacteria (by m-HPC), and *Legionella* (by PCR). Sample volumes were 100 mL for *C. perfringens* and heterotrophic bacteria, and both 100 mL and 500 mL for coliforms and fecal streptococci. For FRNA coliphage (male-specific coliphage), one liter samples from 32 wells (35 samples) were tested by membrane adsorption-elution method, while 24 wells (24 samples) were tested by an enrichment technique developed by Yanko. None of the wells were coliphage-positive, and only one sample each was positive for *E. coli* and fecal streptococci.

11. New England Study

The purpose of this study was to: (1) Determine the prevalence of enteric pathogens in New England's public water supply wells; (2) assess the vulnerability of different systems; and (3) evaluate various fecal indicators.

Wells were selected based on the following criteria: (1) Must have constant withdrawal throughout the year; (2) must be near septic systems, (3) should have, if possible, a history of violations of the MCL for total coliforms or elevated nitrate levels; and (4) must not have direct infiltration by surface water (Doherty, 1998).

Wells were nominated, characterized, selected and sampled by regulatory staff of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The selection process considered wells in different hydrogeologic settings. Of the 124 total wells, 69 (56%) were located in unconfined aquifers, 31 (25%) were located in bedrock aquifers, 10 (8%) were located in confined aquifer hydrogeologic settings, and 14 (11%) were located in unknown aquifer settings. Each well was sampled quarterly for one year. Enterococci were identified in 20 of 124 wells (16%) and in 6 of 31 (19%) bedrock aquifer wells. Two wells were enterovirus-positive using cell culture methods, both in unconsolidated aquifers. One of these two wells is 38 feet deep and the other well is 60 feet deep. Final results from this study are not yet available.

12. California Study

The purpose of this research is two-fold: (1) To assess the vulnerability of ground water to viral contamination through repeated monitoring, and (2) to assess the potential for bacteria and coliphages to serve as indicators of the vulnerability of ground water to viral contamination (Yates 1999).

Eighteen wells were tested monthly for human enteroviruses (by cell culture (direct RT–PCR, Immunomagnetic separation reverse transcriptase (IMS–RT–PCR) and integrated cell culture RT–PCR) and PCR), HAV (by PCR), rotaviruses (by PCR), somatic and male-specific coliphage, and total coliforms and fecal streptococci. The depth of the wells is variable, but is on the order of about 200 feet (the deeper the well, the less likely contamination). There are some intermittent confining layers.

Of the 230 samples tested for enteroviruses, 6 samples from 6 of the 18 wells were cell culture positive for enteroviruses. Final results from this study are not yet available.

13. Three State PWS Study (Wisconsin, Maryland and Minnesota)

The purpose of the three-state study is to characterize the extent of viral contamination in PWS wells by testing wells in differing hydrogeologic regions and considering contamination over time (Battigelli, 1999). Wells were sampled quarterly for one year in Wisconsin (25 wells), Minnesota (25 wells), and will be sampled in Maryland (up to 35 wells).

Three wells in Wisconsin were positive for enteroviruses by cell culture. Final results for this study are not yet available.

TABLE II–6.—GROUND WATER MICROBIAL OCCURRENCE STUDIES/SURVEYS

Study	Number of PWS wells sampled and location	Sampling frequency/volume	Indicators monitored (number of POS. wells/number of wells total, unless otherwise indicated)	Pathogenic viruses, *Legionella* (number of POS. wells/number of wells total, unless otherwise indicated)
1. AWWARF Study.	448 wells; 35 States.	Sampled once (25 wells sampled twice); 539 samples total, not all analyses conducted on all samples. Sampling volumes: 1512L eluated for virus analyses (5 liter equivalent for RT–PCR, 600L for cell culture), Coliphage 15L, Bacteria 200 mL.	Male-sp. coliphage, host *Salmonella* WG–49 (42/440); Somatic coliphage, host *E. coli C* (18/444); Coliphage, host *E. coli* C–3000 (48/444); Total coliform (44/445); enterococci (31/355); *C. perfringens* (1/57).	*Cell Culture:* Enterovirus (21/442); *PCR:* Rotavirus (62/425), Hepatitis A virus (31/429), Norwalk virus (3/312), Enterovirus (68/427).
2a. EPA/AWWARF Phase I Study.	94 wells; 22 States plus PR and USVI.	One sample, 1 L	Somatic coliphage 5/94; 1*; Total coliform 31/94; 9*; *E. coli* 18/94; 5*; enterococci 17/94; 3*; *C. perfringens* 4/94; 0*; *indicates number of wells positive in Phase I which were not positive or not sampled in Phase II.	

TABLE II–6.—GROUND WATER MICROBIAL OCCURRENCE STUDIES/SURVEYS—Continued

Study	Number of PWS wells sampled and location	Sampling frequency/volume	Indicators monitored (number of POS. wells/number of wells total, unless otherwise indicated)	Pathogenic viruses, *Legionella* (number of POS. wells/number of wells total, unless otherwise indicated)
2b. EPA/ AWWARF—Phase II Study.	30, of which 23 were from Phase I; 17 States plus PR and USVI.	Monthly for one year; Average volume filtered: 6,037 L; Microscopic Particulate Analysis (MPA) data available for each well.	Somatic coliphage (16/30); Male specific coliphage (6/30); *Bacteroides* bacteriophage (6/30); Somatic *Salmonella* bacteriophage (6/30); Total coliform (24/30); enterococci (21/30); *C. perfringens*(10/30); *E. coli* (15/30); *E. coli* H7:O157 (0/7).	*Cell Culture*. Enterovirus (7/30); *PCR*: polio. entero, Hepatitis A, Norwalk, rota (results not available), (300+ samples from 30 wells; several wells cell culture positive multiple times); *Legionella* sp. (14/30), *Legionella pneumophila* (6/30).
3. Missouri Ozark Plateau Study #1 (Davis and Witt, 1999).	109 wells	Two samples/well, 25 wells sampled once for tritium, 200–300 L ground water filtered at the well head.	Somatic coliphage (1/109); Male specific coliphage (10/109); Fecal streptococci (1/109); Fecal coliform (2/109); *E. coli* (0/109).	*Cell Culture*: Enterovirus (0/109); *PCR*: Enterovirus (13/109).
4. Missouri Ozark Plateau Studies #2 (Femmer, 1999) (pre-1970 wells).	106 wells	One sample, 200–300 L filtered at the well head.	Somatic coliphage (3/106); Male specific coliphage (3/106); Fecal streptococci (8/106); Fecal coliform (8/106); *E. coli* (9/106).	Study in progress; *Cell Culture*: Enterovirus (0/106).
5. Missouri Alluvial Study.	64 wells	Sampling occurred during a four month period. Some sampling done during flooding.	Somatic coliphage (1/81); Male specific coliphage (1/81); *Bacteroides* bacteriophage (1/81); Total coliform (33/81); Fecal coliform (5/81); Fecal streptococci (12/81).	*Cell Culture*: Enterovirus (1//81).
6. Wisconsin Migrant Worker Camp Study.	21 wells	Monthly: Bacteria—6 mos.; Phage—5 mos.; Bacteria—100 mL; Phage—1L.	Male specific coliphage (20/21); Total coliform (14/21); *E. coli* (0/21); *K. pneumoniae* (1/21).	
7. EPA Vulnerability Study.	30 wells in 8 States.	Each well visited once. Two 1L grab samples and 1500–L sample Equiv. vol. 650L for enterovirus, 100 mL for bacteria, 10 mL to 100L for coliphage, PCR?.	Male specific coliphage (0/30); Somatic coliphage (2/24; large volume); Total coliform (4/30); enterococci (0/30).	*Cell Culture*: enterovirus (0/30); *PCR*: HAV (1/30), Rota (0/30), Norwalk (0/30), enterovirus (0/30).
8. US-Mexico Border Study (TX and NM).	17 wells	3 (300–1000 gallon) samples/well	Male specific coliphage (0/17); Somatic coliphage (0/17).	*Cell Culture*: Enterovirus (0/17).
9. Whittier, CA, Coliphage Study.	23 wells	Once a month for 6 months; 4L samples.	Male specific coliphage (18/23); Somatic coliphage (23/23); Total coliform (4/23); *E. coli* (0/23).	
10. Oahu, Hawaii Study.	Virus—32 wells Bacteria—39 wells.	Each well sampled 1–4 times; total 79 samples, Virus—1–L; *C. perfringens*, HPC—0.1L; Coliforms, fecal strep—0.1L and 0.5L.	Male specific coliphage (0/32); Somatic coliphage (0/32); Total Coliform (3/39); *E. coli* (1/39); Fecal Streptococci (1/39); *C. perfringens* (0/39).	*Legionella* sp. (PCR; 15/26), *Legionella pneumophila* (PCR; 1/27).
11. New England Study.	124 wells; 6 States.	Each well sampled four times over one year; Up to 1500–L sample for virus.	Study in progress; Male specific coliphage (4/79); Somatic coliphage (1/70); Total coliform (27/124); Aeromonas hydrophila (19/122); *C. perfringens* (6/119); *E. coli* (0/124); enterococci (20/124).	Study in progress; *Cell Culture*: Enterovirus (2/122); *PCR*: Enterovirus (results not available).
12. California Study.	18 wells	14 of 18 wells sampled 12 to 22 times (monthly); Average sample volume 1784 L (range 240–3331 L) 1 l grab sample for indicators; (Coliphage analyzed using 10 mL grab samples, 1–L enrichment samples, IMDS filter eluates and filter concentrates).	Study in progress; Male specific coliphage: (hosts *E. coli* FAMP, S. *typhimurium* WG–49) (4/18); Somatic coliphage: host *E. coli* 13706 (13/18); Total coliform (7/18); Fecal streptococci (0/18).	Study in progress; *Cell Culture*: enterovirus (6/18); *PCR*: HAV (0/18), Rota (0/18), enterovirus (direct RT–PCR) (6/18), IMS–RT–PCR (10/18), Integrated *Cell Culture* PCR enterovirus (4/18)).
13. Three-State Study (Wisconsin, Maryland, Minnesota).	50 wells (25 from MN, 25 from WI, additional wells from MD).	Each well sampled four times over one year.	Study in progress; Somatic coliphage; Male specific coliphage; Total coliform; enterococci; *C. perfringens*; *E. coli*.	Study in progress; *Cell Culture*: enterovirus (3/25).

D. Health Effects of Waterborne Viral and Bacterial Pathogens

To assess the public health risk associated with a waterborne pathogen, or group of pathogens, both occurrence data and health effects data are needed. The previous section discussed the occurrence in ground water of pathogens and indicators of fecal contamination. This section discusses the health effects associated with waterborne pathogens. first viral agents and then bacterial.

Viral Pathogens

Table II–7 and II–8 list viral and bacterial pathogens that have caused waterborne disease in ground waters. Unlike some bacterial pathogens, viruses cannot reproduce or proliferate outside a host cell. Viruses that infect cells lining the human gut are enteric viruses. With a few exceptions, viruses that can infect human cells typically cannot infect the cells of other animals and vice versa. This contrasts with many bacterial pathogens, which often have a broader host range. Some enteric viral pathogens associated with water may infect cells in addition to those in the gut, thereby causing mild or serious secondary effects such as myocarditis, conjunctivitis, meningitis or hepatitis. There is also increasing evidence that the human body reacts to foreign invasion by viruses in ways that may also be detrimental. For example, one hypothesis for the cause of adult onset diabetes is that the human body, responding to coxsackie B5 virus infection, attacks pancreatic cells in an auto-immune reaction as a result of similarities between certain pancreas cells and the viruses (Solimena and De Camilli, 1995).

When humans are infected by a virus that infects gut cells, the virus becomes capable of reproducing. As a result, humans shed viruses in stool, typically for only a short period (weeks to a few months). Shedding often occurs in the absence of any signs of clinical illness. Regardless of whether the virus causes clinical illness, the viruses being shed may infect other people directly (by person-to-person spread, contact with infected surfaces, *etc.*) and is referred to as secondary spread. Waterborne viral pathogens thus may infect others via a variety of routes.

TABLE II–7.—SOME ILLNESSES CAUSED BY FECAL VIRAL PATHOGENS

Enteric virus	Illness
Poliovirus	*Paralysis*.
Coxsackievirus A	*Meningitis*, fever, respiratory disease.
Coxsackievirus B	*Myocarditis*, congenital heart disease, rash, fever, *meningitis*, encephalitis, *pleurodynia*, diabetes melitis, *eye infections*.
Echovirus	*Meningitis*, encephalitis, *rash, fever, gastroenteritis*.
Norwalk virus and other caliciviruses	*Gastroenteritis*.
Hepatitis A virus	*Hepatitis*.
Hepatitis E virus	*Hepatitis*.
Small round structured viruses (probably caliciviruses)	*Gastroenteritis*.
Rotavirus	*Gastroenteritis*.
Enteric Adenovirus	Respiratory disease, *eye infections*, gastroenteritis.
Astrovirus	*Gastroenteritis*.

(Data from the 1994 Encyclopedia of Microbiology, *Underline*indicates disease causality rather than association)(Lederberg, 1992).

Bacterial Pathogens

Bacterial pathogens may be primary pathogens (those that can cause illness in most individuals) or secondary or opportunistic pathogens (those that primarily cause illness only in sensitive sub-populations). Unlike most primary pathogens, some opportunistic bacterial pathogens can colonize and grow in the biofilm in water system distribution lines. Some waterborne bacterial agents cause disease by rapid growth and dissemination (*e.g., Salmonella*) while others primarily cause disease via toxin production (*e.g., Shigella, E. coli* O157, *Campylobacter jejuni*). *Campylobacter, E. coli* and *Salmonella* have a host range that includes both animals and humans; *Shigella* is associated with humans and some other primates (Geldreich, 1996). As noted previously, some waterborne bacterial pathogens can survive a long time outside their hosts.

Most of the waterborne bacterial pathogens cause gastrointestinal illness, but some can cause severe illness too. For example, *Legionella* causes Legionnaires Disease, a form of pneumonia that has a fatality rate of about 15%. It can also cause Pontiac Fever, which is much less severe than Legionnaires Disease, but causes illness in almost everyone exposed. A few strains of *E. coli* can cause severe disease, including kidney failure. One strain, *E. coli* O157:H7 has caused several waterborne disease outbreaks since 1990. It is a prime cause of bloody diarrhea in infants, and can cause hemorrhagic colitis (severe abdominal cramping and bloody diarrhea). In a small percentage of cases, hemorrhagic colitis can lead to a life-threatening complication known as hemolytic uremic syndrome (HUS), which involves destruction of red blood cells and acute kidney failure. From 3% to 5% of HUS cases are fatal (CDC, 1999), and most commonly found in young children and the elderly. Some of the opportunistic pathogens can also cause a variety of illnesses including meningitis, septicemia, and pneumonia (Rusin *et al.*, 1997).

TABLE II–8.—SOME ILLNESSES CAUSED BY MAJOR WATERBORNE BACTERIAL PATHOGENS

Bacterial pathogen	Illnesses
Campylobacter jejuni	Gastroenteritis, meningitis, associated with reactive arthritis and Guillain-Barre paralysis.
Shigella species	Gastroenteritis, dysentery, hemolytic uremic syndrome, convulsions in young children, associated with Reiters Disease (reactive arthropathy).
Salmonella species	Gastroenteritis, septicemia, anorexia, arthritis, cholecystitis, meningitis, pericarditis, pneumonia, typhoid fever.

TABLE II–8.—SOME ILLNESSES CAUSED BY MAJOR WATERBORNE BACTERIAL PATHOGENS—Continued

Bacterial pathogen	Illnesses
Vibrio cholerae	Cholera (dehydration and kidney failure).
Escherichia coli (several species)	Gastroenteritis, hemolytic uremic syndrome (kidney failure).
Yersinia entercolitica	Gastroenteritis, acute mesenteric lymphadenitis, joint pain.
Legionella species	Legionnaires Disease, Pontiac Fever

(Data from the 1994 Encyclopedia of Microbiology, Underline indicates disease causality rather than association)(Lederberg, 1992).

E. Risk Estimate

1. Baseline Risk Characterization

This section provides an estimate of the number of people that may be at risk of microbial illness associated with consumption of fecally contaminated drinking water in populations served by ground water systems. EPA has prepared estimates of the numbers of people at risk of viral illness (and possibly death) from three conditions in which fecal contamination may be introduced to ground water systems: fecal contamination in the source water of systems without disinfection; fecal contamination in the source water of systems with inadequate (less than 4-log as discussed later) or failed disinfection; and fecal contamination of the distribution system.

The first condition in which EPA characterizes the baseline risk is for source contaminated ground water systems which do not have disinfection treatment. EPA characterizes the risk to consumers in these systems in five steps: (1) Calculating the population served by undisinfected systems using ground water sources; (2) determining the occurrence of the pathogens of concern in these systems; (3) assessing the exposure to the pathogens of concern; (4) determining the pathogenicity (likelihood of infection) based on dose-response information for each of the pathogens characterized; and (5) calculating the number of illnesses among the population served resulting from consumption of water containing the pathogens.

EPA then estimates additional illnesses resulting from systems with inadequate or failed disinfection treatment and fecally contaminated source water, and systems in which fecal contamination is introduced into the distribution system. These additional illnesses are estimated based on the causes of contamination which lead to waterborne disease outbreaks reported to the CDC in ground water systems from 1991 to 1996. To estimate these additional illnesses, EPA calculated the ratio of the outbreak illnesses in systems with inadequate or failed disinfection treatment to outbreak illnesses in systems without any disinfection, and the ratio of outbreak illnesses in systems with distribution system contamination to outbreak illnesses in systems without any disinfection.

2. Summary of Basic Assumptions

This risk assessment uses a number of assumptions to arrive at an estimate of the number of people at risk of illness or death due to consumption of water from systems with fecal contamination. Some of these assumptions are necessary because data in these areas simply does not exist.

The feasibility of performing a risk analysis on each and every microbial contaminant is diminished when considering the wide range of different microbial contaminants that exist, and that detection methods for all of these contaminants do not exist. Therefore, the risk assessment assumes that the only people exposed to viral contamination are the people served by those wells which test positive for the two viruses used in the risk assessment model, and the exposed population will be exposed to the virus concentration throughout the entire year. The assumption that the population is exposed only to viruses which are accurately described by the model viruses may lead to an underestimation of exposure.

The model viruses which were chosen to act as surrogates for all viruses fall into two categories; those viruses which have low-to-moderate infectivity but relatively severe health effects, and those viruses which have high infectivity but relatively mild health effects. Exposure to viruses that do not fall into these categories may result in an underestimate or overestimate of risk. Risks are not directly quantified for bacterial contaminants because EPA does not have sufficient data to directly model bacterial risk. However, EPA has adjusted its risk estimate for viral illness to approximate for the risk of bacterial illness.

The simplifying assumptions used in this risk assessment, as well as assessing the exposure in only the positive wells, yields an estimated average risk that EPA assumes is a best estimate of the actual risk given available data.

3. Population Served by Untreated Ground Water Systems

EPA estimates there are 44,000 community ground water systems (CWS) serving 88 million people; 19,000 non-transient, non-community ground water systems (NTNCWS) serving five million people; and 93,000 transient non-community ground water systems (TNCWS) serving 15 million people (SDWIS, 1997a). Of these systems, EPA estimates that 68% percent of CWSs are disinfected (CWSS, 1997) (US EPA, 1997c). Larger CWSs are more likely to practice disinfection than are smaller CWSs (*e.g.*, 81% of CWSs serving more than 100,000 people are disinfected while 45% of systems serving less than 100 people disinfect. Estimates of treatment for noncommunity water systems are not as detailed. However, based upon information from State drinking water programs, EPA estimates 28% of NTNCWS and 18% of TNCWS disinfect (US EPA, 1996a).

Based upon the number of people served by ground water systems, and the percentage of systems which disinfect, EPA estimates that 18 million people are served untreated ground water from CWSs, four million people are served untreated water from NTNCWSs, and 13 million people are served untreated water from TNCWSs. There is a potential for double or triple counting of the same people within these estimates since a number of people may be served ground water from more than one of the system type categories. For example, a person may consume water from a CWS at home, and a NTNCWS at work or a TNCS while on vacation. EPA has addressed the potential for double counting in the analysis by assuming that individuals do not consume water from each system type every day (see section V).

4. Pathogens Modeled

EPA is concerned about ground water systems which are fecally contaminated since drinking water in these systems may contain pathogenic viruses and/or bacteria. A wide number of viral and bacterial pathogens have been associated with waterborne disease in ground water systems. However, there are inadequate data for EPA to

characterize the risk attributable to each pathogen because detection methods are not available for all pathogens. Additionally, detection methods which are available may be insensitive and incapable of detecting the presence of viruses at very low concentrations. However, even at low concentrations, viruses in drinking water can result in infection. To the extent that detection methods do not exist for a particular pathogen, there may be a resultant underestimation of the risk of illness and death.

In this analysis, EPA estimates the number of illnesses annually associated with two types of pathogenic viruses found in fecally contaminated ground water. These two types of viruses are designated as Type A and Type B viruses for this analysis. Type A viruses represent those viruses which are highly infective, yet have relatively mild symptoms (*e.g.*, gastroenteritis). For this analysis, rotavirus is used as a surrogate for all Type A viruses because rotavirus has been detected in drinking water sources, dose-response data have been prepared for rotavirus and rotavirus has been implicated as the etiologic agent in incidents of waterborne disease. Type B viruses represent those viruses which have low-to-moderate infectivity, yet have potentially more severe symptoms (*e.g.*, myocarditis), and are represented by echovirus. Echovirus also has available dose-response data (Regli *et al*, 1991) and has been implicated in a waterborne disease outbreak (Haefliger *et al.*, 1998).

The risk assessment used model viruses as surrogates of the actual viruses present. As a result, the risk assessment provides an estimation of risks. The additional risks from other viruses may be higher or lower depending on their occurrence or pathogenicity. For example, if the risk assessment estimated the risks from exposure to Norwalk virus (a Type A virus), using rotavirus as a surrogate, the morbidity rate may be higher for adults than the rate assumed in the model. An outbreak in an Arizona resort in 1989 was believed to be caused by a Norwalk-like virus. This agent may have been responsible for an outbreak which caused illness in 110 out of 240 guests of all ages (Lawson *et al*, 1991), a 46% morbidity rate. This is much higher than the morbidity rate of 10% for Type A virus among people older than two. National occurrence data do not exist for many of the other pathogens that may occur in drinking water; therefore, EPA has limited its estimation of risk to only those viral pathogens for which occurrence data and dose response data are available.

Occurrence studies show a significant occurrence of bacterial indicators in ground water wells; for example, almost 9% percent of the wells sampled in the AWWARF study tested positive for the presence of enterococci (Abbaszadegan *et al.*, 1999). However, EPA cannot directly estimate national illnesses from bacterial pathogens such as *Salmonella*, due to a lack of occurrence data for those pathogens. EPA believes that the majority of waterborne illnesses due to unknown etiological agents are caused by viruses because viruses move more readily in the ground, remain viable longer and are more infectious than bacteria. Also, more methodologies exist for the identification of bacterial pathogens than for viral pathogens and therefore bacterial pathogens are more likely to be identifiable. The CDC data shows that for every 100 viral or unknown etiological agent illnesses there were 20 bacterial illnesses. Therefore, EPA estimates that the number of viral illnesses can be increased by 20% to account for bacterial illnesses in ground water systems.

5. Microbial Occurrence and Concentrations

EPA reviewed the ground water viral occurrence data (see discussion of occurrence studies in section II. C.) to develop estimates of: the portion of ground water sources which are contaminated with viruses, the period of time in which the wells are contaminated, and the concentration of viruses within the contaminated wells. EPA believes that improperly constructed wells may have significantly higher virus occurrence and concentrations than properly constructed wells (wells which do not comply with State well construction codes). Improperly constructed wells are likely to have more pathways for the introduction of viruses and less natural filtration by the overlying hydrogeologic material. Therefore, the exposure and risks from consumption of water from improperly constructed wells will most likely be higher. As a result, the exposure and risks should be assessed separately for properly and improperly constructed wells in order to develop a range reflecting national conditions.

EPA determined that the study conducted by AWWARF represents conditions in properly constructed wells and the EPA/AWWARF (Lieberman *et al.*, 1994, 1999) study represents conditions in improperly constructed wells. EPA selected the AWWARF study as representative of properly constructed wells (*e.g.*, wells with casing and grout to confining layers, sanitary seals, *etc.*) because it excluded wells of improper construction and the wells sampled were representative of hydrogeologic conditions for water supply wells in the United States. However, the wells selected may not have been representative of the probability of fecal contamination in ground water wells nationally. As noted in section II.C.1., one-third of the wells in this study were originally selected for the purpose of evaluating the effectiveness of the PCR method based on criteria that may over represent high risk wells. The remaining two-thirds were selected to balance the sample with wells that were representative of hydrogeologic conditions for drinking water wells nationally. EPA requests comment and data which would help assess the representativeness of the wells in the AWWARF study sample. However, EPA believes that the AWWARF study data represents the best currently available data on occurrence of viral pathogens in properly constructed wells and has thus used it as the basis of baseline incidence estimates.

EPA selected the EPA/AWWARF study to be representative of wells of improper construction because it sampled wells which were determined to be vulnerable to contamination. The EPA/AWWARF study considered wells as vulnerable based on one or more of the following considerations: hydrogeology, well construction, State nominations, microbial sampling results, close proximity to known sources of fecal contamination, and water quality history. For the purposes of the risk assessment, all wells determined to be vulnerable were used as surrogates for improperly constructed wells. The results from this study may over estimate the risks from improperly-constructed wells generally, since it included only wells that were deliberately selected through a several step process to be highly vulnerable to contamination (see section II.C.2.). EPA estimated that 83% of systems have properly constructed wells based upon data from ASDWA's Survey of Best Management Practices for Community Ground Water Systems (ASDWA, 1998).

The AWWARF study data include viral cell culture assay results which detect the presence of viable enterovirus (including echovirus and other Type B viruses) in the samples. Twenty-one of the 442 wells sampled (4.8%) tested positive for the Type B viral cell culture. EPA determined that this data can be used to estimate the percentage of properly constructed wells which are contaminated at a given point in time with Type B viruses. The AWWARF

study data also include rotavirus PCR results which indicate that 62 of the 425 (14.6%) wells sampled contained rotavirus genetic material. EPA determined that the PCR results may be an overestimation of the portion of wells with viable Type A viruses since PCR methods do not distinguish between viable and non-viable viruses. To calculate the portion of PCR positive wells which contain viable viruses EPA compared the enterovirus (Type B) cell culture results to the enterovirus (Type B) PCR analysis and found that for every enterovirus cell culture positive well, there were 3.3 PCR enterovirus positive wells. EPA estimated that the 1/3.3 rotavirus PCR wells contained viable virus, and therefore 4.4% (14.6%/3.3) of all properly constructed wells were contaminated with Type B viruses at any one time. Viral and bacterial indicator data indicate there are a greater percentage of wells in the study which were fecally contaminated than contained the viral pathogens at the time of sampling. For example, almost 16% of all wells tested positive for viral cell culture, male specific coliphage or enterococci.

The EPA/AWWARF study sampled wells vulnerable to contamination monthly for a one year period and found that 6.0% of the samples tested positive for enterovirus (Type B) cell culture. Since cell culture methods are not available for rotavirus (the representative of Type A viruses), the EPA/AWWARF study tested samples using PCR methods for the presence of rotavirus to estimate the occurrence of Type A viruses in improperly constructed wells. However, the PCR data is still under review by researchers and unavailable for consideration in this analysis. EPA therefore based the estimate of occurrence of viable Type A viruses in improperly constructed wells on the ratio of viable Type A virus in the AWWARF study (4.4%) to Type B viruses in the AWWARF study (4.7%). Applying this ratio (4.4%/4.7%) to the percentage of improperly constructed wells containing Type B viruses (6.0%), EPA estimates the percentage of improperly constructed wells with Type A virus contamination is 5.5%.

EPA estimated Type A and Type B virus concentrations are 0.36 viruses/100L for properly constructed wells based on the mean enterovirus concentration in the AWWARF study. EPA also estimated Type A and Type B virus concentrations to be 29 viruses/100L for improperly constructed wells based on the mean enterovirus concentration in EPA/AWWARF study. Although these studies determined the concentrations of enteroviruses (Type B viruses) only, for the purposes of this analysis EPA assumed the concentrations of Type A viruses and Type B viruses were equivalent.

6. Exposure to Potentially Contaminated Ground Water

EPA developed estimates of the population potentially exposed to viral pathogens based upon the estimates of population served by undisinfected systems and the portions of those systems which are estimated to be virally contaminated. In CWS, 18 million people are served undisinfected ground water. Assuming 17% of wells serving these people are improperly constructed (and 83% are properly constructed) from the results of the ASDWA BMP Survey (ASDWA, 1997), and Type A viruses occur in 4.4% of properly constructed wells and 5.5% of improperly constructed wells, the population potentially exposed to Type A viruses in CWS is 842,000. Similar calculations can be conducted to obtain the population exposed to Type A viruses in NTNCWS, as well as Type B viruses in all ground water systems. EPA's estimates of the population potentially exposed to the viruses are presented in Table II–9. Many of the people exposed to the Type A viruses are also exposed to the Type B viruses, therefore these number cannot be added.

TABLE II–9.—POPULATION POTENTIALLY EXPOSED TO VIRALLY CONTAMINATED DRINKING WATER IN UNDISINFECTED GROUND WATER SYSTEMS

System type	Population potentially exposed to type A virus	Population potentially exposed to type B virus
CWS	842,000	918,000
NTNCWS ..	175,000	191,000
TNCWS	567,000	619,000

To estimate the risk of illness from consumption of undisinfected ground water, EPA estimated people consume an average 1.2 liters of water per day based upon the 1994–1996 USDA Continuing Survey of Food Intakes by Individuals (US EPA, 2000a). EPA accounted for the variability in consumption by modeling consumption as a custom distribution fit to age groups in the survey data. EPA also assumed that people consume water from CWSs 350 days per year; from NTNCWSs 250 days per year; and from TNCWSs 15 days per year. EPA notes that these assumptions may allow for some double counting of exposure, but EPA is not aware of data to allow a more refined breakdown of consumption. EPA requests comment on these assumptions.

7. Pathogenicity

After estimating the population potentially exposed to untreated (i.e., not disinfected) contaminated ground water and the amount of water consumed, the next step is to assess the pathogenicity of the viruses. Once viruses are consumed, the likelihood of infection and illness varies depending on the virus.

For this analysis, the likelihood of infection from ingestion of one or more Type A or Type B viruses are estimated based on dose response equations developed for rotavirus (Ward *et al.*, 1986) and echovirus (Schiff *et al.*, 1984), respectively. These equations estimate the annual probability of infection following consumption of a specified virus and are based on studies of healthy volunteers. The volunteers for these studies are typically between the ages of 20 and 50, and therefore, may underestimate the probability of infection in sensitive subpopulations (*e.g.*, children and elderly) and the immunocompromised (*e.g.*, nursing home residents and AIDS patients). Rotavirus dose-response information was used to represent Type A viruses, while echovirus dose-response information was used to represent Type B viruses.

Once a person becomes infected, the likelihood of illness (morbidity) varies, depending on the pathogen and the sensitivity of the consumer. For Type A viruses, EPA assumed the percent of people becoming ill once infected is 88% for children under the age of two (Kapikian and Chanock, 1996). EPA assumed a morbidity rate of 10% for all other populations based upon a study of a rotavirus outbreak (Foster *et al.*, 1980) and incidents of rotavirus in families with infants ill with rotavirus (Wenman *et al.*, 1979).

EPA assumed the percent of people infected with Type B viruses who become ill also varies with age: 50% for children five years of age and less, 57% for individuals between 5 and 16 years of age, and 33% for people older than 16. EPA estimated these age-specific morbidity values based on data from a community-wide echovirus type 30 epidemic (Hall *et al.*, 1970) and from the New York Viral Watch (Kogon *et al.*, 1969).

Secondary illnesses result from individuals being exposed to individuals who contracted the illness from drinking water. For this analysis, EPA estimates the additional number of

people who become ill as a result of secondary spread. For Type A viruses, EPA assumed that an additional 0.55 people will become ill from every child that becomes ill through consumption of drinking water. This assumption is based on a study of children under five years old, ill with rotavirus, who spread the illness to others in their households (Kapikian and Chanock, 1996). For Type B viruses EPA assumed that 0.35 additional people will become ill through secondary spread. This assumption was based on a review of various epidemiological studies for echovirus (Morens *et al.*, 1991). There is some uncertainty as to the exact rate of secondary spread for Type B viruses, so EPA has assumed that the secondary spread rates range from 0.11 to 0.55.

The probability that an ill person will die as a result of an illness is referred to as mortality. EPA expects Type A viruses to result in far fewer deaths than Type B viruses. EPA assumed a mortality rate for all age groups of 0.00073 percent. This assumption was based on an estimate of 20 rotavirus deaths per year out of 2,730,000 cases of rotavirus diarrhea in children 0–4 years old (Tucker *et al.*, 1998). EPA assumed the mortality rate for Type B viruses be 0.92 percent for infants one month or less. This assumption was based upon studies of hospitalized infants (Kaplan and Klein, 1983). For the rest of the population, EPA assumed that 0.04 percent of people ill from Type B viruses will die. These estimates may underestimate the number of infant deaths due to Type B viral illnesses, since Jenista et al. (1984) and Modlin (1986) reported a three percent case fatality rate for infants (one month or less) which is three times the value used in the model.

8. Potential Illnesses

EPA estimates, based upon the assumptions described earlier, that 98,000 viral illnesses each year are caused by consuming drinking water in undisinfected public ground water systems. EPA further estimates that nine of these people die each year.

EPA believes there are additional waterborne illnesses and deaths among consumers of drinking water from public ground water systems beyond those estimated due to contaminated source waters in undisinfected systems. Between 1991 and 1996 there were 1,260 waterborne outbreak illnesses reported to CDC which were attributed to microbial contamination of the source and inadequate or interrupted disinfection, and 944 waterborne illnesses reported to CDC which were attributed to distribution system contamination in ground water systems. In that same period there were 2,924 reported outbreak illnesses in source contaminated undisinfected system. This results in 0.43 (1,260/2,924) additional illnesses in source contaminated, ground water systems with failed disinfection for every illness from undisinfected, fecally contaminated ground water. Based on similar analysis, there are also 0.32 (944/2,924) additional illnesses due to distribution system contamination for every one illness due to source contamination in undisinfected ground water systems. (This ratio does not apply to transient noncommunity water systems, because they do not have distribution systems.) EPA assumed the ratios of the causes of reported outbreak illnesses is equal to the ratio of the causes of all waterborne illnesses. Therefore, EPA estimates, based upon these ratios, that an average of 42,000 additional illnesses and four additional deaths occur each year as a result of source contamination and inadequate or interrupted disinfection. EPA also estimates that an average of 28,000 additional illnesses and three additional deaths are caused each year by distribution system contamination. Table II–10 presents the estimates of viral illness and death under current conditions.

TABLE II–10.—ESTIMATES OF BASELINE VIRAL ILLNESS AND DEATH DUE TO CONTAMINATION OF PUBLIC GROUND WATER SYSTEMS

Cause of contamination	No. of type A virus illnesses	No. of type A virus deaths	No. of type B virus illnesses	No. of type B virus deaths	total illnesses types A & B	Total deaths types A & B
Source contamination/undisinfected system	78,000	1	20,000	8	98,000	9
Source contamination/disinfected system	34,000	.....	8,000	4	42,000	4
Distribution system contamination	22,000	.....	6,000	3	28,000	3
All Causes	134,000	1	34,000	14	168,000	16

Because of a lack of occurrence data for bacterial pathogens in ground water, risks from bacterial contamination of ground water sources and distribution systems are not quantified in this assessment. Although it is believed that viruses are more readily transported through the subsurface than bacteria (Sinton *et al.*, 1997), ground water system disease outbreaks caused by bacterial pathogens such as *Shigella*, *Salmonella* spp., and *Campylobacter* spp. and *E. coli* O157:H7 have been reported. For the period 1971–1996, 56 outbreaks, resulting in more than 10,000 illnesses and 11 deaths, were attributed to bacterial pathogen contamination of public ground water systems. More than 20% of these bacterial outbreaks occurred since 1991, and several outbreaks were attributed to gross fecal contamination of distribution lines.

As previously stated, there may be an additional 20% of illnesses caused by bacterial pathogens (in the absence of viral pathogens) in fecally contaminated ground water. Therefore, the numbers of illnesses and deaths presented in Table II–10 may underestimate the true numbers of annual illnesses and deaths by 20% (an estimated 34,000 additional illnesses and three additional deaths).

9. Summary of Key Observations

In conclusion, EPA believes that at any one point in time (most approximately 90 percent) ground water systems provide uncontaminated water. However, the risk characterization described herein indicates that a subset of ground water systems represent a potential risk to public health, which clearly supports the need to proceed with regulation of these systems. According to the assessment, EPA estimates that approximately 168,000 people are at risk to viral illness and 16 people are at risk of death, annually. It is noted that this analysis focuses primarily on the potential of gastrointestinal illness caused by exposure to viruses, therefore; the potential for additional illnesses from ground water contaminated only by pathogenic bacteria also exists and may account for an additional 34,000 illnesses and three deaths annually.

Therefore, the estimate of illnesses represents a potential underestimate of the actual illnesses attributed to consumption of water from ground water systems. Based on this analysis EPA believes that risk of microbial illness exists for a substantial number of people served by ground water systems. Consequently, EPA believes that the proposed regulatory provisions discussed later provide a meaningful opportunity for public health risk reduction.

10. Request for Comments

EPA seeks comment on the data, criteria and methodology used in the risk assessment, and where any different approaches may be appropriate. EPA also seeks comment on the assumptions used in this assessment, as well as the conclusions reached, and any additional data that commenters may be able to provide on occurrence, exposure, infectivity, morbidity, or mortality associated with microbial pathogens in ground water.

F. Conclusion

In EPA's judgment, the data and information presented in previous sections relating to outbreaks, occurrence, adverse microbial health effects, exposure, and risk characterization demonstrate that there are contaminants of concerns that exist in ground water at levels and at frequencies of public health concern. Moreover, as discussed in detail later, the Agency believes there are targeted risk-based regulatory strategies that provide a meaningful opportunity to reduce public health risk for a substantial number of people served by ground water sources.

EPA recognizes that there are particular challenges associated with developing an effective regulatory approach for ground water systems. These include first, the large number of ground water systems; second, the fact that only a subset of these systems appear to have microbial contamination (although a larger number are likely to be vulnerable); and third, that most ground water systems range from being small to very small in terms of population served. These factors combine to underscore the fact that a one-size-fits-all approach cannot work. This point was made repeatedly by participants in public stakeholder meetings across the country, and EPA agrees. The task therefore is to develop a protective public health approach which ensures a baseline of protection for all consumers of ground water and sets in place an increasingly targeted strategy to identify high risk or high priority systems that require greater scrutiny or further action.

III. Discussion of Proposed GWR Requirements

The information outlined earlier indicates that the primary causes of waterborne related illnesses are associated with source water contamination and untreated ground water, source water contamination and unreliable treatment, water system deficiencies, and a subset of waterborne disease outbreaks of unknown causes. The requirements and options proposed today address each of these areas through a multiple-barrier approach which relies upon five major components: periodic sanitary surveys of ground water systems requiring the evaluation of eight elements and the identification of significant deficiencies; hydrogeologic assessments to identify wells sensitive to fecal contamination; source water monitoring for systems drawing from sensitive wells without treatment or with other indications of risk; a requirement for correction of significant deficiencies and fecal contamination through the following actions: eliminate the source of contamination, correct the significant deficiency, provide an alternative source water, or provide a treatment which achieves at least 99.99 percent (4-log) inactivation or removal of viruses, and compliance monitoring to insure disinfection treatment is reliably operated where it is used.

A. Sanitary Surveys

1. Overview and Purpose

A key element of the multiple-barrier approach is periodic inspection of ground water systems through sanitary surveys. According to the Total Coliform Rule (TCR), a sanitary survey is an onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water (40 CFR 141.2). The Agency believes that periodic sanitary surveys, along with appropriate corrective actions, are indispensable for assuring the long-term quality and safety of drinking water. When properly conducted, sanitary surveys can provide important information on a water system's design and operations and can identify minor and significant deficiencies for correction before they become major problems. By taking steps to correct deficiencies exposed by a sanitary survey, the system provides an additional barrier to microbial contamination of drinking water.

The Agency proposes the following sanitary survey requirements: (1) States, or authorized agents, conduct sanitary surveys for all ground water systems at least once every three years for CWSs and at least once every five years for NCWSs; (2) sanitary surveys address all eight elements set out in the EPA/State Joint Guidance on sanitary surveys (outlined later in this section); (3) States provide systems with written notification which describes and identifies all significant deficiencies no later than 30 days of the on-site survey; and (4) systems consult with the State and take corrective action for any significant deficiencies no later than 90 days of receiving written notification of such deficiencies, or submit a schedule and plan to the State for correcting these deficiencies within the same 90 day period; and (5) States must confirm that the deficiencies have been addressed within 30 days after the scheduled correction of the deficiencies.

A ground water system that has been identified as having significant deficiencies must do one or more of the following: eliminate the source of contamination, correct the significant deficiency, provide an alternate source water, or provide a treatment which reliably achieves at least 99.99 percent (4-log) inactivation or removal of viruses before or at the first customer. Ground water systems which provide 4-log inactivation or removal of viruses will be required to conduct compliance monitoring to demonstrate treatment effectiveness. The ground water system must consult with the State to determine which of the approaches, or combination of approaches, are appropriate for meeting the treatment technique requirement. Ground water systems unable to address the significant deficiencies in 90 days, must develop a specific plan and schedule for meeting this treatment technique requirement, submit them to the State, and receive State approval before the end of the same 90-day period. For the purposes of this paragraph, a "significant deficiency" includes, : a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the State determines to be causing, or has the potential for causing the introduction of contamination into the water delivered to consumers.

Sanitary surveys provide a comprehensive and accurate record of the components of water systems, assess the operating conditions and adequacy of the water system, and determine if

past recommendations have been implemented effectively. The purpose of the survey is to evaluate and document the capabilities of the water system's sources, treatment, storage, distribution network, operation and maintenance, and overall management in order to ensure the provision of safe drinking water. In addition, sanitary surveys provide an opportunity for State drinking water officials or approved third party inspectors to visit the water system and educate operators about proper monitoring and sampling procedures, provide technical assistance, and inform them of any changes in regulations.

Sanitary surveys have historically been conducted by State drinking water programs as a preventative tool to identify water system deficiencies that could pose a threat to public health. In 1976, EPA regulations established, as a condition of primacy, that States develop a systematic program for conducting sanitary surveys, with priority given to public water systems not in compliance with drinking water regulations (40 CFR 142.10 (b)(2)). This primacy requirement did not define the scope of sanitary surveys or specify minimum criteria.

In 1989, the TCR included a provision that requires systems that serve 4,100 people or less and collecting fewer than five routine total coliform samples per month to conduct a periodic sanitary survey every five years, with an exception made for NCWS that use protected and disinfected ground water to conduct the survey every ten years. The TCR, however, does not establish what must be addressed in a sanitary survey or how such a survey should be conducted. The responsibility is on the system rather than the State for completing the sanitary survey (40 CFR 141.21(d)(2)). The TCR requires systems to use either a State official or an agent approved by the State to conduct the sanitary survey.

The IESWTR (63 FR 69478, December 16, 1998), established requirements for primacy States to conduct sanitary surveys for all systems using surface water or ground water under the direct influence of surface water. The rule also requires States to have the appropriate authority for ensuring that systems address significant deficiencies. The State must perform a survey at least once every three years for CWSs and every five years for NCWSs. These surveys must encompass the eight major areas defined by the EPA/State Joint Guidance (discussed in section 3).

This GWR proposal and the IESWTR differ in the requirements for a system to correct any significant deficiency. In the IESWTR, States are specifically required to have the appropriate rules or other authority to require systems to respond in writing to significant deficiencies outlined in a sanitary survey report within at least 45 days. A system, under this 45-day time frame, is required to notify the State in writing how and on what schedule it will address significant deficiencies noted in the survey. This GWR proposal differs from the IESWTR by proposing to require ground water systems to correct significant deficiencies and to do so within 90 days or seek a State approved schedule for plans requiring longer than 90 days.

2. General Accounting Office Sanitary Survey Investigation

In 1993, the US General Accounting Office (US GAO) investigated State sanitary survey practices. The US GAO found that many sanitary surveys were deficient, and that follow-up on major problems was often lacking. This investigation, which is described next, was published as a report, *Key Quality Assurance Program is Flawed and Underfunded* (US GAO 1993).

US GAO was directed by Congress to review State sanitary survey programs due to congressional concern that many States were cutting back on these programs, and thus undermining public health. Congress asked US GAO to determine in its report whether sanitary surveys are comprehensive enough to determine if a water system is providing safe drinking water and what the results indicate about water systems nationwide.

As part of this effort, GAO sent a detailed questionnaire to 49 States to attain a nationwide perspective on whether the States were conducting sanitary surveys, the frequency and comprehensiveness of the surveys, and what the survey results indicate about the operation and condition of water systems. To obtain more detailed information, the GAO also focused on 200 specific sanitary surveys conducted on CWSs in four States (Illinois, Montana, New Hampshire and Tennessee). This information was summarized in the GAO's report (US GAO 1993). The GAO report presented a number of key concerns, as discussed next.

Frequency Varies Among States and is Declining Overall. At least 36 States had a policy to conduct surveys of CWSs at intervals of three years or less; however, only 21 of these States were conducting surveys at this frequency. The remaining 15 States reported they were unable to implement this policy because their inspectors had other competing responsibilities that often took precedence over non-mandated requirements (*e.g.*, sanitary surveys). Overall, the frequencies of the surveys vary from quarterly to 10 years. According to the report, States have reduced the frequency of surveys since 1988, a downward trend that is expected to continue.

Comprehensiveness of Sanitary Surveys is Inconsistent. The report indicates that a comprehensive sanitary survey, as recommended in Appendix K of EPA's SWTR Guidance Manual (US EPA, 1990b), is frequently not conducted. Forty-five out of 48 States omitted one or more key elements defined in the 1990 guidance manual. The GAO noted wide variation among States in the comprehensiveness of their sanitary surveys. Some States, for example, omit inspections of water distribution systems and/or other key components or operations of water systems, others do not provide complete documentation of sanitary survey results. Based on a review of the 200 sanitary surveys, survey results which identify deficiencies were found to be inconsistently interpreted from one surveyor to another. In some cases, systems' deficiencies that could have been detected during a comprehensive survey may not be found until after water quality is affected and the root cause(s) investigated. By that time, however, consumers may already have ingested contaminated water (US GAO, 1993).

Limited Efforts to Ensure that Deficiencies are Corrected. The GAO found that follow-up procedures for deficiencies were weak. The detailed review of the four States' sanitary surveys indicated that deficiencies frequently go uncorrected. Of the 200 surveys examined, about 80% disclosed deficiencies and 60% cited deficiencies that had already been identified in previous surveys. Of particular concern was the GAO finding that smaller systems (serving 3,300 or less) are in greatest need of improvements. Small systems compose a significant majority of all ground water systems. Ninety-nine percent (approximately 154,000) of ground water systems serve fewer than 10,000 people and ninety-seven percent (approximately 151,000) serve 3,300 or fewer people.

Results Poorly Documented. The GAO also found variation in how States document and interpret survey results. Proper documentation would facilitate follow-up on the problems detected.

GAO recommended EPA work with States to establish minimum criteria on how surveys should be conducted and documented and to develop procedures

to ensure deficiencies are corrected. This proposal addresses these recommendations.

3. ASDWA/EPA Guidance on Sanitary Surveys

Recognizing the essential role of sanitary surveys and the need to define the broad areas that all sanitary surveys should cover, EPA and ASDWA prepared a joint guidance on sanitary surveys entitled EPA/State Joint Guidance on Sanitary Surveys (1995). The guidance identified the following eight broad components that should be covered in a sanitary survey: source, treatment, distribution system, finished water storage, pumps and pump facilities and controls, monitoring/reporting/data verification, water system management and operations, and operator compliance with State requirements. The EPA/State Joint Guidance does not provide detailed instructions on evaluating criteria under the eight elements; however, EPA has recently issued detailed supplementary information as technical assistance (April 1999, Guidance Manual for Conducting Sanitary Surveys of Public Water Systems)(US EPA, 1999e).

—Source. The water supply source is the first opportunity for controlling contaminants. The reliability, quality, and quantity of the source should be evaluated during the sanitary survey using available information including results of source water assessments or other relevant information. A survey should assess the potential for contamination from activities within the watershed as well as from the physical components and condition of the source facility.

—Treatment. The treatment phase should consider evaluation of the handling, storage, use and application of treatment chemicals if the system includes application of any chemicals. A review of the treatment process should include assessment of the operation, maintenance, record keeping and management practices of the treatment system.

—Distribution System. Given the potential for contamination to spread throughout the distribution system, a thorough inspection of the distribution network is important. Review of leakage that could result in entrance of contaminants, monitoring of disinfection residual, installation and repair procedures of mains and services, as well as an assessment of the conditions of all piping and associated fixtures are necessary to maintain distribution system integrity.

—Finished Water Storage. A survey of the storage facilities is critical to ensuring the availability of safe water, and the adequacy of construction and maintenance of the facilities.

—Pumps/Pump Facilities and Controls. Pumps and pump facilities are essential components of all water systems. A survey should verify that the pump and its facilities are of appropriate design and properly operated and maintained.

—Monitoring/Reporting/Data Verification. Monitoring and reporting are needed to determine compliance with drinking water provisions, as well as to verify the effectiveness of source protection, preventative maintenance, treatment, and other compliance-related issues regarding water quality or quantity.

—Water System Management/Operations. The operation and maintenance of any water system is dependent on effective oversight and management. A review of the management process should ensure continued and reliable operation is being met through adequate staffing, operating supplies, and equipment repair and replacement. Effective management also includes ensuring the system's long-term financial viability.

—Operator compliance with State requirements. A system operator plays a critical role in the reliable delivery of safe drinking water. Operator compliance with State requirements includes state-specific operation and maintenance requirements, training and certification requirements, and overall competency with on-site observations of system performance.

4. Other Studies

As previously described (see section I.D.2.), ASDWA examined 28 different BMPs to determine the effectiveness of each BMP in controlling microbial contamination. Within this study, 91.4% of systems surveyed had implemented a sanitary survey within the previous five years. The ASDWA survey found no significant association with systems that conducted sanitary surveys and no total coliform detections. The insignificance of the association between sanitary surveys and the detection of bacteria may be due to the fact that State sanitary surveys are designed to identify problems (ASDWA, 1998). However, correction of sanitary survey deficiencies was correlated with lower levels of total coliform, fecal coliform, and *E. coli*.

EPA conducted a survey published in Ground Water Disinfection and Protective Practices in the United States (US EPA 1996a), which confirmed the GAO finding that considerable variability among States exists with regard to the scope and comprehensiveness of sanitary surveys.

The Environmental Law Reporter (ELR), a private database of State and Federal statutes and regulations, provides some information on current State regulations for ground water systems. According to the ELR, only the State of Washington does not require sanitary surveys under the TCR requirement at 40 CFR 141.21(d). However, most State regulations found in the ELR are general in nature and do not specifically address the eight EPA/State Joint Guidance sanitary survey components. State regulations vary considerably in terms of types of systems surveyed, the content of the survey, and who is designated to conduct the surveys (*e.g.*, a sanitarian). The database indicates that the majority of States (46 out of 50) do not specifically require systems to correct deficiencies. Significantly, a number of States do not appear to have legal authority to require correction of deficiencies. The ELR findings contained in the Baseline Profile Document for the Ground Water Rule (US EPA, 1999f) indicate that many sanitary survey provisions do not appear in State regulations. The GAO report confirmed that many States incorporated sanitary survey requirements into policy, thereby undercutting their legal enforceability.

5. Proposed Requirements

EPA proposes to require periodic State sanitary surveys for all ground water systems specifically addressing all of the applicable sanitary survey elements noted earlier, regardless of population size served.

With regard to the frequency of sanitary surveys, EPA proposes to require the State or a state-authorized third party to conduct sanitary surveys for all ground water systems at least once every three years for CWSs and at least once every five years for NCWSs. This approach would be consistent with the requirements of the IESWTR. CWSs would be allowed to follow a five-year frequency if the system either treats to 4-log inactivation or removal of viruses or has an outstanding performance record in each of the applicable eight areas documented in previous inspections and has no history of TCR MCL or monitoring violations since the last sanitary survey. A State must, as part of its primacy application, include how it will decide whether a system has outstanding performance and is thus eligible for sanitary surveys at a reduced frequency.

The Agency believes that periodic sanitary surveys, along with appropriate corrective measures, are indispensable for ensuring the long-term safety of drinking water. By taking steps to correct deficiencies exposed by a sanitary survey, the system provides an additional barrier to pathogens entering the drinking water.

The definition of a sanitary survey used in the GWR differs from the definition of a sanitary survey in 40 CFR 141.2 by a parenthetical clause. For the purpose of Subpart S, a sanitary survey is "an onsite review of the water source (identifying sources of contamination by using results of source water assessments or other relevant information where available), facilities, equipment, operation, maintenance and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water." This reflects a recommendation by the 1997 M/DBP Federal Advisory Committee Act that sanitary inspectors should use source water assessments and other information where available as part of the overall evaluation of systems. This change in definition reflects the value of Source Water Assessment and Protection Programs (SWAPPs) required by Congress in the 1996 SDWA amendments and the importance of utilizing information generated as a result of that activity.

EPA is also proposing to require that State inspectors, as part of each sanitary survey, evaluate all applicable components defined in the EPA/State Joint Guidance on Sanitary Surveys and identify any significant deficiencies. Some stakeholders have suggested the comprehensiveness of sanitary surveys be tailored based upon system size and type. EPA requests comment on whether this would be an appropriate approach and if so, what factors or criteria should be considered in tailoring the scope or complexity of the sanitary survey.

Individual components of a sanitary survey may be separately completed as part of a staged or phased State review process as part of ongoing State inspection programs within the established frequency interval. In its primacy package, a State which plans to complete the sanitary survey in such a staged or phased review process must indicate which approach it will take and provide the rationale for the specified time frames for sanitary surveys conducted on a staged or phased approach basis.

EPA proposes to regard the requirements for sanitary surveys under the GWR as meeting the requirements for sanitary surveys under the TCR (40 CFR 141.21). The reason for this is that the frequency and criteria of a sanitary survey under the GWR is more stringent than that for the TCR. For example, the TCR does not define a sanitary survey as precisely as the GWR, which requires an evaluation of eight elements. In addition, the frequency of the sanitary survey under the TCR for CWSs is every five years, compared to three years (at least initially) under the GWR. Also, the TCR requires a survey every ten years for disinfected NCWSs using protected ground waters, as compared to every five years under the GWR. The scope of the systems that must conduct a sanitary survey also differs; under the TCR only systems that collect fewer than five routine samples per month and serve less than 4,100 persons are required to undergo a sanitary survey, compared to all ground water systems under the GWR. Given that the proposed sanitary survey requirements under the GWR are more stringent than those under the TCR, EPA notes that a survey under the TCR cannot replace one conducted under the GWR, unless that survey meets the criteria specified in the GWR.

As part of today's rule, a "significant deficiency" as identified by a sanitary survey includes: A defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the State determines to be causing, or has the potential for causing the introduction of contamination into the water delivered to consumers. This is a working definition developed by the EPA GWR workgroup.

The Agency proposes to require the State to provide the system with written notification which identifies and describes any significant deficiencies found in a sanitary survey no later than 30 days after completing the on-site survey. States would not be required, in this rule, to provide the system with a complete sanitary survey report within the 30 days of completing the on-site survey. Rather, this rule requires that, at a minimum, the State provide the system a written list which clearly identifies and describes all significant deficiencies as identified during the on-site survey.

EPA proposes to require a system to: (1) Correct any significant deficiencies identified in a sanitary survey as soon as possible, but no later than 90 days of receiving State written notification of such deficiencies, or (2) to submit a specific schedule and receive State approval on the schedule for correcting the deficiencies within the same 90-day period. The system must consult the State within this 90-day period to determine the corrective action approach appropriate for that system, consistent with the State's general approach outlined in their primacy package. In performing a corrective action, the system must eliminate the source of contamination, correct the significant deficiency, provide an alternate source water, or provide a treatment which reliably achieves at least 99.99 percent (4-log) inactivation or removal of viruses before or at the first customer. Ground water systems which provide 4-log inactivation or removal of viruses will be required to conduct compliance monitoring to demonstrate treatment effectiveness. There are cases in which one or more of the corrective actions listed previously may be inappropriate for the nature of the problem, and in these cases only appropriate corrective actions must be taken. For example, a system with a significant deficiency in the distribution system should not install treatment at the source water as the corrective action; that system should correct the problem in the distribution system. There may also be fecal sources that a State does not identify as a significant deficiency, however the State may choose to use their authority to require source water monitoring to monitor the influence of that fecal source. Ground water systems which provide 4-log inactivation or removal of viruses will be required to conduct compliance monitoring to demonstrate treatment effectiveness. States must confirm that the deficiency has been corrected, either through written confirmation from systems or a site visit by the State, within 30 days after the 90-day or scheduled correction of the deficiency. Systems providing 4-log inactivation or removal of viruses need not undergo a hydrogeologic sensitivity assessment or monitor their source water for fecal indicators.

As noted earlier, States would be required to have the appropriate rules or other authority to: (1) Ensure that public ground water systems correct any significant deficiencies identified in the written notification provided by the State (including providing an alternative source or 4-log inactivation or removal of viruses); and (2) ensure that a public ground water system confirm in writing any significant deficiency corrections made as a result of sanitary survey findings.

The requirements in today's rule do not preclude a State from enforcing corrective action on any significant deficiencies whether or not they are identified through a sanitary survey.

EPA is also proposing to require States, as part of their primacy application, to indicate how they will

define what constitutes a significant deficiency found in a sanitary survey for purposes of this rule. EPA believes that this requirement would provide the State sufficient latitude to work within their existing programs in addressing significant deficiencies yet provide facilities and the public with clear notice as to what kinds of system conditions constitute a significant deficiency. EPA recognizes the importance of enabling States the flexibility to identify and define sanitary survey deficiencies in broad categories under this requirement (*e.g.*, unsafe source, improper well construction, *etc.*).

Also, in its primacy application, States must specify if and how they will integrate SWAPP susceptibility determinations into the sanitary survey or the definition of significant deficiencies.

Based upon input from a number of State and EPA Regional office experts, significant deficiencies of ground water systems may include but are not limited, to the following types of deficiencies:

—Unsafe source (*e.g.*, septic systems, sewer lines, feed lots nearby);
—Wells of improper construction;
—Presence of fecal indicators in raw water samples;
—Lack of proper cross connection control for treatment chemicals;
—Lack of redundant mechanical components where chlorination is required for disinfection;
—Improper venting of storage tank;
—Lack of proper screening of overflow pipe and drain;
—Inadequate roofing (*e.g.*, holes in the storage tank, improper hatch construction);
—Inadequate internal cleaning and maintenance of storage tank;
—Unprotected cross connection (*e.g.*, hose bibs without vacuum breakers);
—Unacceptable system leakage that could result in entrance of contaminants;
—Inadequate monitoring of disinfectant residual and TCR MCL or monitoring violations.

6. Reporting and Record Keeping Requirements

The GWR does not change the requirements on the system and the State to maintain reports and records of sanitary survey information as specified in 40 CFR 141.33(c) and 142.14(d)(1).

7. Request for Comments

EPA requests comment on all the information presented earlier and the potential impacts on public health and regulatory provisions of the GWR. In addition, EPA specifically requests comments on alternative approaches.

Alternative Approaches

a. Content of a Sanitary Survey

i. Grandfathering and Scope of Sanitary Survey

EPA requests comment on "grandfathering" of surveys conducted under the TCR if those surveys addressed all eight EPA/State Joint Guidance on Sanitary Surveys components. Under what circumstances should grandfathering be allowed? Are there circumstances under which grandfathering should be allowed even if the survey did not address all eight components?

EPA is seeking comment on the level of detail EPA should use in establishing the sanitary survey requirement which addresses the eight sanitary survey components.

ii. Definition of Significant Deficiency

EPA is also seeking comment on the proposed definition of "significant deficiencies." In this regard, EPA is requesting comment on whether or not the Agency should promulgate a minimum list of specific significant deficiencies for all States to use in their programs.

iii. Well Construction and Age

EPA considered specifying, in addition to sanitary survey elements, well construction deficiencies and well age as surrogate measures of well performance as part of the hydrogeologic sensitivity assessment (HSA) or as an independent component from the sanitary survey or HSA. EPA considered identifying older wells as those more likely to be contaminated because of degradation to the construction materials over time. EPA concluded that wells may have been constructed adequately to protect public health, but records to document such construction may no longer be available. Given these circumstances, EPA recognizes that down-hole test methods to evaluate well construction, as required for some hazardous waste disposal methods, is neither desirable nor feasible for PWS wells. In addition, EPA found that there were few data to support the concept that older wells were more likely to be contaminated. In fact, data from two studies encompassing more than 200 wells in Missouri suggest that newer wells were more likely to be contaminated than older wells (Davis and Witt, 1998, 1999 and Femmer, 1999). Thus, EPA decided not to include well construction and age as measures of the potential fecal hazard to PWS wells.

Almost all States have well construction standards, and trade associations, such as the American Water Works Association and the National Ground Water Association, have also provided recommendations for well construction. EPA recognizes the importance of designing, constructing and maintaining wells so as to maximize well life and yield and to minimize potential harmful contamination. Therefore, the Agency requests comment on whether well construction and age should be considered as a required element within a sanitary survey or specifically identified by States as a significant deficiency. EPA also requests comment on criteria for evaluating well construction and age.

b. Frequency

EPA believes that a sanitary survey cycle of at least once every three years for CWSs (with certain exceptions discussed previously) and at least once every five years for NCWSs most properly balances public health protection and State burden issues and is consistent with the frequency required for surface water systems. However, the Agency seeks comment on whether other alternative time cycles might be appropriate together with any applicable rationale that supports that alternative frequency cycle. Specifically, EPA requests comment on requiring States to conduct sanitary surveys for all ground water systems every five years. EPA also requests comment on allowing States to conduct sanitary surveys less often than once every 5 years if the system provides 4-log inactivation or removal. The Agency requests comment on the resource implications for States and small systems to perform these surveys with a frequency of 3–5 years.

In addition, the Agency seeks comment on requiring the State to conduct a sanitary survey for new systems prior to the system serving water to the public. This requirement would serve as an added public health measure to ensure new systems are in compliance with the GWR sanitary survey provisions.

c. Follow-Up Requirements

EPA requests comment on requiring States to schedule an on-site inspection as follow-up to verify correction of significant deficiencies, rather than allowing States to accept written certification from systems to verify the correction. EPA requests comment on alternative approaches for a State to verify that a significant deficiency has

been corrected. EPA notes that follow-up in this context only applies to significant deficiencies.

d. Public Involvement

EPA requests comment on including public involvement and/or meetings for certain systems to discuss the results of sanitary surveys. Congress wrote requirements for extensive public information and involvement in programs and decisions affecting drinking water safety throughout the 1996 amendments to SDWA. For example, in addition to the new requirement for CWSs to produce and distribute annually a Consumer Confidence Report, the public notice requirements for PWSs regarding violations of a national drinking water standard were made more effective, and States were required to "make readily available to the public" an annual report to the Administrator on the statewide record of PWS violations, see (SDWA 1414(c)(1)–(3)). Each State's triennial report to the Governor on the effectiveness of and progress under the capacity development strategy must also be available to the public. (See SDWA section 1420(c)(3)). EPA must make the information from the occurrence database "available to the public in readily accessible form." (See SDWA section 1445(g)(5)). The public must be provided with notice and an opportunity to comment on the annual priority list of projects eligible for State Revolving Fund (SRF) assistance that States will publish as a part of their SRF intended use plans (See SDWA section 1452(b)(3)(B)). States "shall make the results of the source water assessments * * * available to the public." (See SDWA section 1453(a)(7)). And, under several specific provisions of the SDWA as well as the Administrative Procedure Act, EPA generally must publish and make regulations, and a number of guidance and information documents, available for public notice and comment.

These requirements, and others like them, are integral to both the philosophy and operation of the amended SDWA. They reflect Congress' view that public confidence in drinking water safety and informed support for any needed improvements must rest on full disclosure of all significant information about water system conditions and quality, from source to tap.

The 1996 SDWA Amendments, and EPA's implementation of them, consistently provide for such disclosure and involvement by means that are informative, timely, understandable, and practicable for each size group of PWSs subject to them. EPA believes that the principles of public information and involvement must apply with equal validity to the GWR, and is considering including in the final rule provisions to apply these principles, for disclosure and involvement. EPA believes that the following approach meets both tests and principles, but solicits comment on alternative means of doing so.

EPA requests comment on what approaches might be practicable, not burdensome and workable to involve the public in working with their system to address the results of their system's sanitary survey. Specifically, EPA requests comment on requiring ground water CWSs to notify their consumers, as part of the next billing cycle, of the completion of any sanitary survey, and any significant deficiency(s) and corrective action(s) identified. The system would also have to make information concerning the sanitary survey available to the public upon request. Alternatively, the system might be required to notify customers of the availability of the survey only, and provide copies on request, or include information about the survey in the annual Consumer Confidence Report (CCR). EPA requests comment on whether this approach should be extended to transient and nontransient NCWSs as well. EPA also requests comment on what approaches might be practicable, not burdensome and workable to involve the public in working with their system to address the results of their system's sanitary survey.

B. Hydrogeologic Sensitivity Assessment

1. Overview and Purpose

Occurrence data collected at the source from public ground water systems suggest that a small percentage of all ground water systems are fecally contaminated. Because of the large number of ground water systems (156,000), the GWR carefully targets the high priority systems and has minimal regulatory burden for the remaining low priority systems. The GWR screens all systems for priority and only requires corrective action for fecally contaminated systems and systems with significant deficiencies. Thus, the challenge of the hydrogeologic sensitivity assessment is to identify ground water wells sensitive to fecal contamination. The assessment supplements the sanitary survey by evaluating the risk factors associated with the hydrogeologic setting of the system. EPA believes requiring hydrogeologic sensitivity analysis for all non-disinfecting ground water systems will reduce risk of waterborne disease by identifying systems with incomplete natural attenuation of fecal contamination. EPA bases the following requirements on: CDC outbreak case studies, USGS studies of ground water flow, State vulnerability maps, and US National Research Council reports on predicting ground water vulnerability.

For the purposes of this rulemaking, EPA intends the term "well" to include any method or device that conveys ground water to the ground water system. The term "well" include springs, springboxes, vertical and horizontal wells and infiltration galleries so long as they meet the general applicability of the GWR (see section 141.400). The GWR does not apply to PWSs that are designated ground water under the direct influence of surface water; such systems are subject to the SWTR and IESWTR. EPA requests comment on this definition of "well."

The hydrogeologic sensitivity assessment is a simple, low burden, cost-effective approach that will allow States to screen for high priority systems. Systems that are situated in certain hydrogeologic settings are more likely to become contaminated. EPA believes that a well obtaining water from a karst, fractured bedrock or gravel hydrogeologic setting is sensitive to fecal contamination unless the well is protected by a hydrogeologic barrier. A State may add additional sensitive hydrogeologic settings (*e.g.*, volcanic aquifers) if it believes that it is necessary to do so to protect public health. A hydrogeologic barrier is defined as the physical, biological and chemical factors, singularly or in combination, that prevent the movement of viable pathogens from a contaminant source to a public supply well. In this proposal, a confining layer is one example of a hydrogeologic barrier. The strategy is for a State to consider hydrogeologic sensitivity first. If ground water systems not treating to 4-log inactivation of viruses are located in sensitive hydrogeologic settings, then the strategy allows the State to consider the presence of any existing hydrogeologic barriers that act to protect public health. If a hydrogeologic barrier is present, then the State can nullify the determination that a system is located in a sensitive hydrogeologic setting. If no suitable hydrogeologic barrier exists, then the GWR requires the system to conduct monthly fecal indicator source water monitoring. Finally, for those systems where monitoring results are positive for the presence of fecal indicators, under the proposed GWR, States may require systems to eliminate

the source of contamination, correct the significant deficiency, provide an alternate source water, or provide a treatment which reliably achieves at least 99.99 percent (4-log) inactivation or removal of viruses before or at the first customer. GWSs which provide 4-log inactivation or removal of viruses will be required to conduct compliance monitoring to demonstrate treatment effectiveness.

The States have experience implementing a wide variety of methods suitable for identifying hydrogeologically sensitive systems. Also, the States may collect hydrogeologic information through their SWAPP (see section I.B.) that is useful for the hydrogeologic sensitivity assessments under the GWR. EPA believes that it would be beneficial if the States coordinate their SWAPP analysis with the GWR. By using the information generated in the SWAPP for the GWR hydrogeologic sensitivity assessment, States can effectively reduce the burden associated with this requirement.

EPA-approved vulnerability assessments conducted for the purpose of granting waivers under the Phase II and Phase V Rules may also serve as sources of hydrogeologic information useful to the State in assessing the hydrogeologic sensitivity of its GWSs under the GWR. Under the Phase II (56 FR 30268, July 1, 1991d)(US EPA,1991) and Phase V (57 FR 31821, July 17, 1992)(US EPA,1992b) Rules, monitoring waivers may be granted to individual systems for specific regulated chemicals (*e.g.*, PCBs and cyanide). Monitoring frequencies may be reduced or eliminated by the State if the system obtains a waiver based on previous sampling results and/or an assessment of the system's vulnerability to each Phase II and V contaminant. This evaluation must include the sampling results of neighboring systems, the environmental persistence and transport of the contaminant(s) under review, how well the source is protected by geology and well design, Wellhead Protection Assessments, and proximity of potential contamination sites and activities.

2. Hydrogeologic Sensitivity

Sensitive hydrogeologic settings occur in aquifer types that are characterized by large interconnected openings (void space) and, therefore, may transmit ground water at rapid velocities with virtually no removal of pathogens. Sensitive aquifers may be present at or near the ground surface or they may be covered by overlying aquifers or soils. An aquifer is sensitive, independent of its depth or the nature of the overlying material, because average water velocities within that aquifer are rapid. This allows microbial contaminants to be transported long distances from their source at or near the surface and especially in the absence of a hydrogeologic barrier. In the following paragraphs, each sensitive aquifer type is briefly characterized. It is often difficult to determine the actual contaminant removal capabilities of an aquifer and the and ground water velocities within an aquifer. Consequently, the aquifer rock type can be a surrogate measure in the hydrogeologic sensitivity assessment. All soil and rocks have void space, but aquifers have the largest interconnected void space. The voids are filled with water that is tapped by a well. Without these interconnections, the water could not flow to a well. In those aquifers with the largest interconnected void space, ground water velocities can be comparable to the velocity of a river, and the rate of travel can be measured in kilometers per day (US EPA, 1997b). Compared to velocities in fine-grained granular aquifers (aquifers that are not considered sensitive under the GWR), ground water velocities in fractured media are large (Freeze and Cherry, 1979). Sensitive aquifers allow fecal contaminants to travel rapidly to a well, with little loss in number due to inactivation or removal.

In the GWR, three aquifer types are identified as sensitive: (1) Karst aquifers, (2) fractured bedrock aquifers, and (3) gravel aquifers. Each aquifer type is characterized by the differing nature and origin of the interconnected void space. These distinctions are important to hydrogeologists identifying these aquifer types. To meet the requirements of the hydrogeologic sensitivity assessment of the GWR, it is sufficient for States to identify the aquifer type supplying a system. Karst, fractured bedrock and gravel aquifer types are at high risk to fecal contamination by virtue of their capability to rapidly transmit fecal contamination long distances over short time periods.

Several means can be used to evaluate wells to determine if they are located in one of the three sensitive hydrogeologic settings proposed under the GWR. For example, hydrogeologic data are available from published and unpublished materials such as maps, reports, and well logs. The United States Geologic Service (USGS), U.S. Department of Agriculture's Natural Resource Conservation Service, USGS Earth Resources Observation System Data Center, the EPA Source Water Assessment and Protection Program and Wellhead Protection Program, State geological surveys, and universities have substantial amounts of regional and site-specific information. The USGS has published a national karst map (USGS, 1984) on which States can locate karst settings. Karst and other aquifers may also be identified on finer scale maps published by States or counties. For example, the State of Kentucky contains substantial karst terrain, documented in complete geologic maps at the scale of one inch: 2000 feet (7.5 minute quadrangles).

States can base assessments on available information about the age and character of the regional geology, regional maps and rock outcrop locations. For example, in a karst setting, the State may have some additional information such as: (1) Observations of typical karst features such as sinkholes and disappearing streams; (2) well driller logs which noted the presence of limestone or crystalline calcite (a mineral that grows into openings in rock) or a drop in the drill string as it penetrated a karst opening; or (3) geologic reports (or unpublished geological observations) which identify the presence of limestone in rock outcrops in the vicinity of the well.

(a) Karst Aquifers

Karst aquifers are aquifers formed in soluble materials (limestone, dolomite, marble and bedded gypsum) that have openings at least as large as a few millimeters in radius (EPA 1997b). Over geologic time periods, infiltrating precipitation (especially acid rain) moving through the aquifer has enlarged, by dissolution, the small openings that existed when the rock was formed. In mature karst terrain, characterized by relatively pure limestone located in regions with high precipitation, caves or caverns are formed in the subsurface, often large enough for human passage. Ground water has the potential to flow rapidly through karst because the void spaces are large and have a high degree of interconnection. In addition to the openings created by solution removal, karst aquifers, like all consolidated geologic formations, also contain fractures that transmit ground water. The size of these fractures may be small, but the fractures may also be more numerous than solution-enhanced openings. The fractures may or may not have a high degree of interconnection, and the degree of interconnection is a primary factor that controls the velocity of the ground water.

Quinlan (1989) suggests that about 20 percent of the U.S. is underlain by limestone or dolomite which may be karst aquifers. East of the Mississippi River, almost forty percent of the U.S. is underlain by limestone, dolomite or marble that may be karst aquifers (Quinlan, 1989). Karst areas are often identified by the formation of sinkholes at the ground surface. A sinkhole forms when the roof of a cave collapses and the material that was overlying the cave is dissolved or otherwise carried away by streams flowing through the cave. Sinkholes may also form or become enlarged as the direct result of vertical ground water flow dissolving the rock material to form a vertical passageway. Sinkholes represent direct pathways for fecal contamination to enter the aquifer from the surface. The surface topography may also be characterized by dry stream valleys in regions of high rainfall, by streams that flow on the ground surface but suddenly sink below ground to flow within a cave and by large springs where underground streams return to the surface. The degree of karst development in Missouri has been defined by Davis and Witt (1998) as primary and secondary karst: primary containing more than ten sinkholes per 100 square miles and secondary karst containing between one and ten sinkholes per 100 square miles. Other features suitable for identifying karst aquifers are described in EPA (1997b).

The most direct method for ground water velocity determinations consists of introducing a tracer substance at one point in the ground water flow path and observing its arrival at other points in the path, usually at monitoring wells (Freeze and Cherry, 1979). Using tracer studies, ground water velocities in karst aquifers have been measured as high as 0.5 kilometers (km) per hour (US EPA, 1997b). In Florida, ground water velocities surrounding a well have been measured at several hundred meters (m) per hour (US EPA, 1997b). At Mammoth Cave, Kentucky, ground water velocities have been measured at more than 300 m per hour (US EPA, 1997b). In a confined karst aquifer in Germany, ground water traveled 200 m in less than 4 days (Orth *et al.*, 1997). In the Edwards Aquifer, Texas, Slade *et al.*, (1986) reported that dye traveled 200 feet in ten minutes. The water level in one well (582 feet deep with a water table 240 feet deep) began rising within one hour after a rainfall (Slade *et al.*, 1986). These data suggest that ground water flows extremely rapidly through karst aquifers. Because ground water flows rapidly through karst aquifers, these aquifers are considered to be hydrogeologically sensitive aquifers under the GWR.

(b) Fractured Bedrock

Bouchier (1998) characterizes a fractured bedrock aquifer as an aquifer which has fractures that provide the dominant flow-path. Although all rock types have fractures, the rock types most susceptible to fracturing are igneous and metamorphic rock types (US EPA, 1991c).

Freeze and Cherry (1979) report void space as high as 10 percent of total volume in igneous and metamorphic rock. These rock types readily become fractured in the shallow subsurface as a result of shifts in the Earth's crust. Most fractures are smaller than one millimeter (mm) in width but each fracture's capability to transmit ground water varies significantly with the width of the fracture. A one mm fracture will transmit 1,000 times more water than a 0.1 mm fracture, provided that other factors are constant (*e.g.*, hydraulic gradient) (Freeze and Cherry, 1979). Data presented in Freeze and Cherry (1979) suggest that the first 200 feet beneath the ground surface produces the highest water yields to wells. These data suggest that the fractures are both more numerous and more interconnected in the first 200 feet interval. The rate of ground water travel in fractured rock can be estimated through the results of tracer tests. Malard *et al.*, (1994) report that dye traveled 43 m in a fractured aquifer in two hours. Becker *et. al.*, (1998) report that water traveled 36 m in about 30 minutes. Therefore, ground water may travel as quickly as several hundreds of meters per day in fractured bedrock, comparable to travel times in karst aquifers.

Aquifers that are comprised of igneous or metamorphic rock are often fractured bedrock aquifers, and their size is typically larger than a few tens or hundreds of square miles in area. EPA (1991c) has compiled a map showing the distribution of fractured bedrock aquifers in the U.S. Because ground water flows rapidly through fractured bedrock aquifers, these aquifers are considered to be hydrogeologically sensitive aquifers under the GWR.

(c) Gravel Hydrogeology

Gravel aquifers are deposits of unconsolidated gravel, cobbles and boulders (material larger in size than pebbles). Due to the large grain sizes of gravel aquifers, ground water travels rapidly within these aquifers with little to no removal or filtration of contaminants from the ground water. Such gravel aquifers are typically produced by catastrophic floods, physical weathering by glaciers, flash-floods at the periphery of mountainous terrain or at fault-basin boundaries. For example, glacial flooding has produced the Spokane-Rathdrum Prairie aquifer which extends from Spokane, Washington to Coeur d'Alene, Idaho. Another gravel aquifer is associated with glacial flooding along the Umatilla River in Milton-Freewater, Oregon. The boulder zone in the Jacobs Sandstone and Baraboo Quartzite near Baraboo, Wisconsin may represent another example. Typically, these aquifers are small.

Gravel aquifers are generally not alluvial aquifers. Alluvial aquifers, associated with typical river processes, normally have high proportions of sand mixed with the gravel. Sand or finer materials provide a higher probability of microorganism removal by the aquifer particles (Freeze and Cherry, 1979), and, therefore, greater public health protection. Because ground water flows rapidly through gravel aquifers, these aquifers are considered to be hydrogeologically sensitive aquifers under the GWR.

3. Hydrogeologic Barrier

The second part of the hydrogeologic sensitivity assessment is determining the presence of a hydrogeologic barrier. Under the GWR, the States perform an initial screen for hydrogeologic sensitivity by determining whether a PWS utilizes a fractured bedrock, karst or gravel aquifer. States would then examine systems located in these sensitive aquifers and determine whether a hydrogeologic barrier is present. A hydrogeologic barrier consists of physical, chemical, and biological factors that, singularly or in combination, prevent the movement of viable pathogens from a contaminant source to a public water supply well. If the State determines that a hydrogeologic barrier is present, the hydrogeologic setting is no longer considered sensitive to fecal contamination. If no such barrier is present or if insufficient information is available to make such a determination, the system would be identified as a sensitive system.

It is difficult to describe a single, detailed methodology for identifying a hydrogeologic barrier that can be used on a national basis. Geological and geochemical conditions, climate, and land uses are highly variable throughout the United States. In its primacy application, each State seeking consideration of a proposed hydrogeologic barrier under the rule may identify an approach for

determining the presence of a hydrogeologic barrier that addresses its own unique set of these variables (*e.g.*, geological and geochemical conditions, climate, and land uses). In determining the presence of a hydrogeologic barrier, the State should evaluate specific characteristics of the hydrogeologic setting, discussed in more detail in the following paragraphs.

Examples of characteristics to be considered in determining the presence of a hydrogeologic barrier include, but are not limited to: (1) Subsurface vertical and horizontal ground water travel times or distances sufficiently large so that pathogens become inactivated as they travel from a source to a public water supply well, or (2) unsaturated geological materials sufficiently thick so that infiltrating precipitation mixed with fecal contaminants is effectively filtered during downward flow to the water table.

A confining layer is one type of hydrogeologic barrier EPA has identified which can result in sufficient protection in many settings. A confining layer may protect sensitive aquifers from fecal contamination. It is defined as a layer of material that is not very permeable to ground water flow which overlies an aquifer and acts to prevent water movement into the aquifer (US EPA, 1991b). Confined aquifers are bounded by confining layers and, therefore, generally occur at depth, separated from the water table aquifer at the surface. Confining layers are typically identified by the high water pressures in the underlying aquifer. Where present, a confining layer will separate an aquifer of high pressure from an overlying aquifer of lower pressure. The high water pressure in a confined aquifer can force water to flow naturally (without pumping) to heights greater than the ground surface, as in an artesian well. The confining layer is comprised of fine-grained materials such as clay particles, either as an unconsolidated layer or as a consolidated rock (*e.g.*, shale). The small size of clay particles restricts the movement of water across or through the clay layer. Freeze and Cherry (1979) determined that water would take almost 10,000 years to pass through a 10 meters-thick unfractured layer of silt and clay deposited at the bottom of a glacial lake, such as the layers present in the northern part of the United States and the southern part of Canada. Therefore, the presence of a confining layer can provide public health protection.

However, confining layers may be breached and, therefore, unprotective. Breaches may be natural (*e.g.*, partly removed by erosion, sinkholes, faults, and fractures) or caused by humans (*e.g.*, wells, mines, and boreholes). For example, an unplugged, abandoned well that breaches the confining layer is capable of providing a pathway through the confining layer, allowing water and contaminant infiltration into ground water. A thicker, unpunctured confining layer is considered most protective of the underlying aquifer. The State should consider such confined aquifer characteristics in determining the adequacy of a confining layer as a hydrogeologic barrier.

EPA proposes to use the presence of a confining layer that is protective of the aquifer to act as a hydrogeologic barrier and nullify a sensitivity determination. Where the confining layer integrity is compromised by breaches or if the aquifer appears at the surface near the water supply well, the State shall determine if the layer is performing adequately to protect the well, and, therefore, public health. EPA estimates approximately 15 percent of undisinfected ground water system sources will be determined to be hydrogeologically sensitive (see RIA section 6.2.1.1).

4. Alternative Approaches to Hydrogeologic Sensitivity Assessment

EPA recognizes that the States have substantial experience characterizing hydrogeology. Most States require some hydrogeologic information for reasons such as to delineate wellhead protection areas, manage ground water extraction or assess ground water contamination. EPA recognizes that there is no single approach for identifying systems at risk from source water contamination. In the GWR, a selected subset of hydrogeologic settings (karst, fractured bedrock and gravel aquifers) is hydrogeologically sensitive. These hydrogeologic settings are identified through regional and local maps that show the general distribution of these settings. Other approaches considered by EPA to identify sensitive systems, but not selected, require additional data that may not be available to all States. In the following paragraphs, alternative methods to identify sensitive systems are discussed, including the data requirements for implementing each approach.

(a) Horizontal Ground Water Travel Time

Horizontal ground water travel time is the time that a water volume requires to travel through an aquifer from a fecal contamination source to a well. Viruses are longer lived than bacteria. Therefore, the ground water travel time should allow sufficient virus die-off to take place such that the concentration of viruses in the well water would be at or below a 1 in 10,000 annual risk level (Regli *et. al.*, 1991). However, travel time determinations are site specific, and some methods are expensive and/or difficult to perform. Therefore, EPA is not prescribing a particular travel time as a hydrogeologic sensitivity assessment criterion under the GWR. Travel time information may be useful for evaluating hydrogeologic barrier performance, and States may make use of this information where available.

Ground water travel time measurement methods include conservative tracer tests (*e.g.*, dyes, stable isotopes), and travel time calculations. Conservative tracer tests may be used in all aquifer types including karst and fractured bedrock, as well as porous media aquifers. Tracer tests are expensive and difficult to perform. Ground water travel time calculations are only suitable for porous media aquifers. Because travel time methods are site-specific and their associated levels of uncertainty vary, EPA is not prescribing one travel time number or method to be used nationally.

In evaluating whether to require a specific ground water travel time, EPA recognized that there are three problems with requiring this method for all States. First, all ground water travel time calculations require measurement of the aquifer porosity (void space). Aquifer porosity data are rare and usually must be estimated based on the aquifer character (*e.g.*, sand, or sand and gravel). Second, ground water travel time calculations require knowledge of the distance traveled and water velocity; however, calculating travel time is complicated because ground water does not travel in a straight line. The ground water's flow path can be nearly straight, as in the case of cavernous karst or it can be very convoluted as found in fractured media. Third, the ground water travel time value represents the average travel time of a large water volume moving toward a well. Some water arrives more quickly than the average. Because viruses and bacteria are small in size their charge effects become important. As a result, some fecal contaminants may take the fastest path from source to well and arrive faster than the average water volume. Fecal contaminants introduced into an aquifer may or may not be channeled into flow paths that move faster than the average water volume. Thus, a calculation of the average ground water travel time is not as protective as the calculation of the first arrival time of the

ground water volume. Because of the additional uncertainty in calculating first arrival times, average travel times must be augmented with a safety factor. Travel time data, where available, may assist States in evaluating hydrogeologic barriers for localities where all sources of fecal contamination have been identified.

(b) Setback Distance

A setback distance is the distance between a well and a potential contamination source. Many States already use setback distances around a well as exclusion zones in which septic tanks are prohibited.

EPA compiled data on State sanitary setback distances for PWS wells. EPA found that there is little uniformity among the States. State setback distances from septic tanks or drain fields for new PWS wells range from 50 to 500 feet. Moreover, some States have differing setback distances depending on the well type (*e.g.*, CWS versus NTNCWS and TNCWS), the well pumping rate (*e.g.*, greater or less than 50 gallons per minute) or the microbial contaminant source type (*e.g.*, 50 feet from a septic tank and 10 feet from a sewer line).

EPA considered using a strategy that included the setback distance as an element in determining the potential fecal hazard to systems. In this strategy, wells located near contamination sources are at risk. EPA concluded that it would be difficult to implement this strategy on a national scale for two reasons. First, the differing State setback distance requirements suggests that there is substantial disagreement among the States about an appropriate setback distance. Second, any setback distance selected for use in the GWR must be sufficiently large so as to protect a well from fecal contamination. The complexity of the processes that govern virus and bacterial transport in ground water and the variability of ground water velocity in sensitive hydrogeologic settings make it difficult, if not impossible, for EPA to specify setback distances that will be protective of public health for all hydrogeologic settings. Thus, EPA concluded that there was insufficient scientific data to mandate national setback distances in the GWR.

(c) Well and Water Table Depth

Well depth is the vertical distance between the ground surface and the well intake interval or the bottom of the well. Water table depth is the vertical distance between the ground surface and the water table. Infiltrating ground water can require substantial time to reach a deep well or a deep water table because precipitation infiltrating downward to the water table and vertical ground water flow within an aquifer are typically slow, and thus the long infiltration path to a deep well or water table provides opportunities for inactivation or removal of pathogens and is protective against source water contamination.

EPA considered identifying well depth and water table depth as alternative hydrogeologic sensitivity methods. Two key pieces of information would then be needed for each well: (1) Aquifer measurements that describe its capability to vertically transmit ground water and (2) measurements from the soil and other material overlying the water table that describe its capability to transmit infiltrating precipitation mixed with fecal contamination. EPA believes that few data are available to describe vertical ground water flow or infiltration on a national level. Thus, EPA concluded that there was insufficient data available to determine a well depth at which there exists a fecal contamination risk for all systems on a national scale.

5. Proposed Requirements

(a) Assessment Criteria

Today's proposal provides that States shall identify high priority systems through a hydrogeologic sensitivity assessment. In this assessment, wells located in karst, fractured bedrock or gravel hydrogeologic settings are determined to be sensitive. The information provided in previous paragraphs shows that the wells located in these hydrogeologic settings are potentially at risk of fecal contamination because ground water velocities are high and fecal contamination can travel long distances over a short time. A hydrogeologic barrier can protect a sensitive aquifer, and if present, can nullify the sensitivity determination. In its primacy application, a State shall identify its approach to determine the presence of a hydrogeologic barrier. For example, a State may choose to consider a specific depth, hydraulic conductivity, and the presence of improperly abandoned wells. For systems with one or more wells that potentially produce ground water from multiple aquifers, the State shall identify its approach to making separate hydrogeologic sensitivity determinations and, if appropriate, hydrogeologic barriers identifications, for each well. For example, a State may choose to consider a specific depth and hydraulic conductivity, improperly abandoned wells. The system shall provide to the State or EPA, at its request, any pertinent existing information that would allow the State to perform a hydrogeologic sensitivity analysis. The hydrogeologic sensitivity assessment does not necessarily require an on-site visit by the State, provided the State has adequate information (geologic surveys, *etc.*) to make the assessment without a site visit.

Discussions of proposed monitoring requirements for hydrogeologically sensitive systems are found in section III.D., and corrective action requirements are found in section III.E.

(b) Frequency of Assessment

The States, or their authorized agent, shall conduct one hydrogeologic sensitivity assessments for each GWS that does not provide treatment to 4-log inactivation or removal of viruses. States shall conduct the hydrogeologic sensitivity assessment for all existing CWSs no later than three years after publication of the final rule in the **Federal Register** and for all existing NCWSs no later than five years after publication of the final rule in the **Federal Register**. States shall complete the hydrogeologic sensitivity assessment prior to a new ground water system providing drinking water for public consumption. EPA requests comment on these time frames. Some stakeholders have indicated that an assessment for hydrogeologically sensitive areas (karst, gravel, fractured rock) of a State can be quickly performed at the State level. If such data can be quickly gathered and an assessment easily performed, EPA questions putting off the routine monitoring requirements and public health protection that it would bring for three or five years. EPA requests comment on requiring the State to perform the hydrogeologic sensitivity assessment within one year of the effective date of the final GWR.

(c) Reporting and Record Keeping Requirements

The State shall keep records of the supporting information and explanation of the technical basis for determinations of hydrogeologic sensitivity and of the presence of hydrogeologic barriers. The State shall keep a list of ground water systems which have had a sensitivity assessment completed during the previous year, a list of those systems which are sensitive, a list of those systems that are sensitive, but for which the State has determined a hydrogeologic barrier exists at the site sufficient for protecting public health, and a record of an annual evaluation of the State's program for conducting hydrogeologic sensitivity assessments.

6. Request for Comments

EPA requests comments on all the information presented earlier and the potential impacts on public health and the regulatory provisions of the GWR.

a. Routine Monitoring Without State Assessment

EPA requests comment on requiring systems to perform routine monitoring if the State fails to conduct a hydrogeologic sensitivity assessment. Under this provision, if the State fails to conduct a hydrogeologic sensitivity assessment within the time frame specified by the GWR, the systems would conduct fecal indicator monitoring once per month for every month they serve water to the public (see section § 141.403(d), microbial analytical methods). The time frame for completing sensitivity assessments for all existing CWSs is no later than three years after the date of publication of the final rule in the **Federal Register**, and the time frame for all existing NCWSs is no later than five years after the date of publication of the final rule in the **Federal Register**. The systems could discontinue monitoring only after the State conducts a hydrogeologic sensitivity assessment and determines that the systems are not sensitive, or if the systems initiate and continue treatment to achieve 4-log inactivation or removal of viruses.

b. Vulnerability Assessment

EPA requests comment on a detailed, on-site vulnerability investigation as an alternative to the Hydrogeologic Sensitivity Assessment. The alternative hydrogeologic investigation will assess the performance of all existing hydrogeologic barriers such as unsaturated zone thickness and composition (including the soil), the saturated zone thickness and composition above the well, intake interval, the frequency, duration and intensity of precipitation for all aquifer types, and will also require a detailed investigation of the well construction conditions by a certified well technician and a review of the well construction-related documentation from the sanitary survey and SWAPP assessment. The results of the detailed investigation must demonstrate that the existing hydrogeologic barriers, aquifer type and the well construction function to prevent the movement of viable pathogens from a contaminant source to a public water supply well. The demonstration may include ground water age dating, natural or artificial tracer test data, or ground water modeling results. See EPA 1998b for more information on vulnerability assessments.

c. Sandy Aquifers

EPA is proposing to require States to identify systems in karst, gravel and fractured rock aquifer settings as sensitive and these systems must perform routine source water monitoring. On March 13, 2000, the Drinking Water Committee of the Science Advisory Board (DWCSAB) reviewed this issue and made several recommendations to EPA concerning a draft of this proposal. EPA requests comment on two DWCSAB recommendations concerning the hydrogeologic sensitivity assessment. The committee recommended that all ground water sources be required to monitor for bacterial indicators and coliphage for at least one year—regardless of sensitivity determination. As an alternative approach, the committee recommended sand aquifers be included as sensitive settings. This recommendations was based on column studies of virus transport in soils that showed that viruses move rapidly through sandy soils and field studies of virus transport from septic tanks showing rapid movement into ground water from sandy coastal plains.

C. Cross Connection Control

EPA is concerned about introduction of fecal contamination through distribution systems; however, EPA has not proposed cross connection control requirements in the GWR. EPA will work with the Microbial/DBP FACA to consider whether cross connection control should be required in future microbial regulations, particularly during the development of the Long Term 2 ESWTR, in the context of a broad range of issues related to distribution systems. EPA will also request input from the FACA on whether to require systems to maintain disinfection residual throughout the distribution system. EPA seeks comments or additional supporting data related to cross connection control or other distribution system issues. In particular to cross connections, the Agency requests public comment on: (1) Whether EPA should require States and/or systems to have a cross connection control program, (2) what specific criteria, if any, should be included in such a requirement, (3) how often a program should be evaluated, (4) and whether EPA should limit any requirement to only those connections identified as a cross connection by the public water system or the State. The Agency also requests comment on what other regulatory measures EPA should consider to prevent contamination of drinking water in the distribution system.

D. Source Water Monitoring

1. Overview and Purpose

As previously stated, EPA recognizes that there are particular challenges associated with developing an effective regulatory approach for ground water systems. These include the large number of ground water systems that would be regulated, the fact that only a subset of these systems appear to have fecal contamination (although a larger number are likely to be sensitive), and that most ground water systems range from small to very small in terms of the population served. These factors combine to underscore the limitations of an across-the-board disinfection approach to regulation.

As part of the multiple-barrier approach, EPA proposes source water monitoring requirements that fulfill the need for a targeted risk-based regulatory strategy by identifying those systems with source water contamination and systems with high sensitivity to possible fecal contamination—specifically undisinfected systems located in hydrogeologically sensitive aquifers. EPA believes that the proposed requirements provide a meaningful opportunity to reduce public health risk for a substantial number of people served by ground water sources. This section provides detailed information on current monitoring requirements, monitoring data, indicators of fecal contamination, co-occurrence issues, and describes the proposed requirements.

EPA proposes the following source water monitoring requirements for systems that do not treat 4-log removal and/or inactivation of viruses: (1) A system must collect a source water sample within 24 hours of receiving notification of a total coliform-positive sample taken in compliance with the TCR, and test for the presence of *E. coli*, enterococci or coliphage; and (2) any system identified by the State as hydrogeologically sensitive through a sensitivity assessment (see § 141.403) must conduct routine monthly monitoring, during the months the system supplies water to the public, and analyze for *E. coli*, enterococci or coliphage. In either case, if any sample is fecal indicator-positive, the system would have to notify the State immediately and then the system must take corrective action.

Currently, all systems must comply with the TCR (see section I.B.1.) and the MCL for nitrates and nitrites. In

addition, CWSs and NTNCWSs must monitor at the entrance of the distribution system for 15 additional inorganic chemicals associated with an MCL (*e.g.*, antimony, arsenic) and sometimes other inorganic chemicals not associated with an MCL (calcium, orthophosphate, silica, sodium, sulphate; 40 CFR 141.23(b) and (c)). Systems will also have to comply with the Stage 1 DBPR, if they use a chemical disinfectant. CWSs must additionally monitor for certain organic chemicals and certain radionuclides. Ground water systems under the direct influence of surface water must satisfy the requirements of the SWTR and IESWTR.

Microbial monitoring plays an important role in detecting fecal contamination in source waters, as well as in assessing best management practices, including in-place disinfection adequacy and distribution system integrity. It is the most direct way to determine the presence of fecal contamination. However, because of limitations on sample volume, monitoring frequency, and the species of microorganisms that can reasonably be monitored, non-detection of a fecal indicator does not necessarily mean fecal contamination is absent (see Tables III–2 and 3).

2. Indicators of Fecal Contamination

Two approaches for determining whether a well is contaminated are to monitor for the presence of either specific pathogens or more general indicators of fecal contamination. Monitoring for individual pathogens, however, is impractical because the large number and variety of pathogens require extensive sampling and numerous analytical methods. This is a process which is extremely time-consuming, expensive, and also technically demanding. Moreover, methods are not available for some pathogens and pathogen concentrations in water are usually sufficiently small so as to require analysis of large-volume samples, which significantly increases analytical costs. For these reasons, EPA is focusing on indicators of fecal contamination as a screening tool rather than on individual pathogens themselves. The Agency is considering several promising fecal indicators: *E. coli*, enterococci, somatic coliphage, and male-specific coliphage. Because these indicators are closely associated with fecal contamination, EPA believes that even a single positive sample should require urgent State notification and other follow-up activities.

EPA considered three bacterial microorganisms as indicators of fecal contamination: *E. coli*, enterococci, and *C. perfringens*. *E. coli* and enterococci are both closely associated with fresh fecal contamination and are found in high concentrations in sewage and septage. Analytical methods are commercially available, simple, reliable, and inexpensive. *E. coli* is monitored under the TCR, and *E. coli* and enterococci are recommended by EPA as indicators for fecally contaminated recreational waters. A drawback is that these two groups may die out more quickly or be less mobile in the subsurface environment than some waterborne pathogens.

As with *E. coli* and enterococci, *C. perfringens* is common in sewage (about 10^6 organisms per liter) and is associated with fecal contamination. Methods of detection are commercially available, simple, reliable, and relatively inexpensive. *C. perfringens* forms protective spores (endospores), and these spores survive much longer in some environments than most pathogens. Thus, these spores may be present in old fecal contamination where fecal pathogens are no longer viable. EPA rejected *C. perfringens* as an indicator of fecal contamination for GWSs based on co-occurrence data showing that the organism is seldom present in ground water when other fecal indicators are present (Lieberman *et. al.*, 1999).

Enteric viruses, much smaller in size than bacteria such as *E. coli*, may be more mobile than bacteria because they can slip through small soil pores more rapidly. Thus, viral pathogens may sometimes be present in ground water in the absence of bacterial indicators of fecal contamination. However, other factors such as sorption to soil and aquifer particles are also important in affecting the relative transport of viruses and bacteria in ground water.

The coliphage are viruses that infect the bacterium *E. coli*. Because they do not often infect other bacteria, they (like *E. coli*) are closely associated with recent fecal contamination. Because they are viruses, their stability and transport within soil and under aquifer environmental conditions may be similar to the fate and transport of pathogenic viruses. There are two categories of coliphage—somatic coliphage and male-specific coliphage. The somatic coliphage are a heterogenous group that enters the cell wall of *E. coli*. The male-specific (also called the F-specific) phage are those that only enter through tiny hair-like appendages (pili) to the cell wall.

There are issues about using coliphage as an indicator of fecal contamination in small communities. Individuals do not consistently shed coliphage. For example, Osawa *et al.* (1981) found that only 2.3% of infected individuals shed male-specific phage. Thus, the occurrence of these viruses in small septic tanks, which is an important source of fecal contamination in ground water wells, is uncertain. The issue of frequency and abundance is important because a primary source of fecal contamination in wells is thought to be nearby leaking septic tanks.

To answer this question, EPA funded a study to determine (Deborde, 1998, 1999) the frequency and density of coliphage occurrence in household septic tanks. Deborde (1998) collected and analyzed a sample from each of 100 sites in the Northwest and from each of 12 sites in the Midwest (3), Southwest (3), Northeast (3), and Southeast (3). All 112 samples were analyzed for male-specific coliphage, while 33 were also analyzed for somatic coliphage. Table III–1 shows that male-specific coliphage are present in about one-third of the septic tank samples, while somatic coliphage are present in two thirds of the samples tested. However, when found, the male-specific coliphage are present at a slightly higher level. The number of possible people per household (and therefore the number of virus sources) varied from one to seven, with an average of 2.8. In the next phase of the study, Deborde (1999), selected ten of the 112 sites (five coliphage-positive, five coliphage-negative) and collected three quarterly samples from each. The data indicate that significant changes in density occur over time. For the male-specific phage, the number of positive sites was 40%, 60% and 40% for quarter 2, 3, and 4, respectively. For the somatic phage, the number of positive sites was 70%, 80% and 50% during these same three quarters. As in the first phase, somatic phage were detected more frequently and the male-specific phage were (when detected) more abundant.

The data indicate that household septic tanks often (50–80%) contain measurable levels of somatic coliphage, suggesting that the somatic coliphage may be an appropriate indicator of fecal contamination in nearby source waters. However, the male-specific coliphage were present in the septic tanks in slightly less than half the sites at any one time. Based on these data, male-specific phage may not be suitable for detecting fecal contamination in source waters if the most likely contamination source is a household septic tank.

TABLE III–1.—FREQUENCY AND DENSITY OF COLIPHAGE IN HOUSEHOLD SEPTIC TANKS, PRELIMINARY RESULTS (DEBORDE, 1998)

Coliphage	Presence	Density [1]
Male-specific.	36% (44/112)	9.7×10^5 PFU [1]/L
Somatic	67% (22/33)	1.3×10^5 PFU [1]/L

[1] Plaque-Forming Units (PFU).

Analytical methods for coliphage are available and are far less expensive than methods for pathogenic virus detection. However, the coliphage detection methods are still somewhat more expensive than those for the common indicator bacteria. EPA is in the process of funding the development of more sensitive, less expensive analytical methods for the somatic and male-specific coliphage.

EPA also considered methods using polymerase chain reaction (PCR) for identifying specific viruses. PCR amplifies the nucleic acid of the targeted virus, which then can be detected and identified by various procedures. An advantage of this method over those for coliphage is that it can identify the presence of specific viruses pathogenic to humans. Methods using PCR may be specific, sensitive, and much more rapid than other methods for pathogenic virus. However, current PCR technology cannot yet determine whether a virus is viable or infectious and is significantly more expensive than the culture methods for the above fecal indicators (currently about $250–300 per sample). EPA expects substantial reductions in this cost as the method is further developed. Nevertheless, in spite of the current limitations of PCR, a positive result in a ground water sample would strongly imply that a pathway exists for virus contamination of ground water.

EPA did not consider total coliform bacteria or heterotrophic bacteria as fecal indicators because both groups grow naturally in soil and water, and thus are not specific indicators of fecal contamination.

According to a survey of ground water data by the AWWARF study (see Table II–6), *C. perfringens* was only detected in one of 57 samples (1.8%). Thus, EPA eliminated this organism from consideration. See Tables III–2 and 3 for occurrence data on candidate indicators.

TABLE III–2.—PRESENCE/ABSENCE OF INDICATORS AT ENTEROVIRUS-POSITIVE SITES (GENERALLY, ONE SAMPLE/SITE)

Study	Number of positive enterovirus sites	Total coliforms (100 mL)	*E. coli or* fecal coliforms	Enterococci or fecal streptococci (100 mL)	Somatic phage (100 L)	F–specific phage (100 L)
AWWARF Study	22	4	NA	[1] 2	[2] 0	[2] 2 (3)
Missouri Alluvial Study	11	5	3	5	1	0
Missouri Ozark Plateau	10	0	0	0	0	2

[1] Only 11 enterovirus-positive sites tested.
[2] 15 liter samples.

TABLE III–3.—DATA FROM EPA/AWWARF STUDY. NUMBER OF TIMES INDICATOR WAS POSITIVE IN 12 MONTHLY SAMPLES AT ENTEROVIRUS-CONTAMINATED SITES [1]

Enterovirus-positive site (≥ 1/12 pos)	Total coliform-positive	*E. coli* positive	Enterococci-positive	Somatic coliphage-positive [2]	F–specific coliphage positive [2]
029	12	12	12	12	11
031	12	6	5	9	3
047	12	10	12	12	4
061	11	11	10	11	8
091	10	3	5	12	0
097	5	0	1	4	0
099	2	0	1	0	1
Total	64	42	46	60	27

[1] Sample volume: bacteria 300 mL; coliphage most between 10–100L; enterovirus: average of 6,037 L.
[2] Host for somatic coliphage: *E. coli* C; host for F-specific coliphage: WG49.

The data strongly shows that a single negative sample is usually not sufficient to demonstrate the absence of fecal contamination, and that repeated sampling is necessary. Based on the data, EPA does not believe that one fecal indicator is clearly superior to the others.

The coliphage sample volume in the studies in Table III–3 ranged from 10L to 100L (compared to 100–300 mL for the bacterial indicators). EPA believes that it would be unreasonable to expect systems to collect and transport these high water volumes. However, as stated earlier, several sensitive coliphage methods have been developed that can be used with a more reasonable volume (100–1000 mL).

Thus, for the reasons indicated earlier, EPA is proposing *E. coli,* coliphage and enterococci as appropriate monitoring tools for source water. Because these three fecal indicators are closely associated with fecal contamination, the Agency believes that a single source water positive *E. coli,* coliphage or enterococci sample is sufficient to consider the source water as fecally contaminated. Repeated sampling is proposed for routine monitoring (described in the next section) since it may take more than one sample to identify intermittent contamination. Additional support for this approach is provided by Christian and Pipes (Christian and Pipes, 1983), who found that coliforms follow a lognormal distribution pattern in small distribution systems (*i.e.,* coliforms are not uniformly distributed). EPA has no reason to suspect that this non-uniform pattern should be different in source waters. Only one additional sample is proposed after triggered monitoring (described in the next section) since the

sample is taken immediately after an indication of contamination.

The Agency recognizes that errors in sample collection and testing may contaminate a sample, and therefore would allow the State to invalidate such samples, on a case-by-case basis, in the same manner required under the TCR (141.21(c)(1)(i) and (iii) for invalidating total coliform samples. However, EPA believes that errors in sample collection rarely lead to contamination. This is based on a study by Pipes and Christian (Pipes and Christian, 1982), where water samplers and other individuals tried to contaminate 111 sample bottles containing 100-mL of sterile dechlorinated tap water by placing a finger into the mouth of each bottle and shaking the bottle vigorously for about 5 seconds. Only 5.4% of the samples were found to contain total coliforms.

Thus, the Agency believes that States should invalidate positive samples sparingly. Under the GWR, the State would be allowed to invalidate a positive source water sample if (1) the laboratory establishes that improper sample analysis caused the positive result or (2) the State has substantial grounds to believe that a positive result is due to a circumstance or condition which does not reflect source water quality, documents this in writing, and signs the document. In this case, another source water sample must be taken within 24 hours of receiving notice from the State.

3. Proposed Requirements

a. Routine Source Water Monitoring

EPA stated in the previous section on hydrogeology that a State would be required to determine the hydrogeological sensitivity of each system not treating to 4-log inactivation or removal of viruses. If the State determines that the well(s) serving such a system draws water from a sensitive aquifer, that system would be required to collect a source water sample each month that it provides water to the public and test the sample for the fecal indicator specified. If any sample contains a fecal indicator, the system would be required to notify the State immediately and address the contamination within 90 days unless the State has approved a longer schedule (see § 141.404).

Under the GWR, if a system detects no fecal indicator-positive samples after 12 monthly samples, the State would be allowed to reduce routine source water monitoring to quarterly. The State would be allowed, after the first year of monthly samples, to waive source water monitoring altogether for a system if the State determines that fecal contamination of the well(s) is highly unlikely, based on sampling history, land use pattern, disposal practices in the recharge area, and proximity of septic tanks and other fecal contamination sources. PWSs that do not operate year-round would need to conduct monthly sampling for more than one year to collect the twelve monthly samples. EPA requests comment on allowing such systems to monitor monthly for only one seasonal period when the system is in operation.

b. Source Water Sample After a Total Coliform-Positive Under the TCR

EPA proposes that when a non-disinfecting ground water system is notified that a sample is total coliform-positive under the TCR, that system would have to collect, within 24 hours of being notified, at least one source water sample. This requirement would be in addition to all monitoring and testing requirements under the TCR. The source water sample would be tested for either *E. coli*, coliphage or enterococci, as determined by the State. A system that chooses to first test for total coliforms in the source water, and then test any total coliform-positive culture for *E. coli* would meet the requirement.

If any sample is *E. coli*-positive, coliphage-positive or enterococci-positive, the system would be required to meet § 141.404. EPA believes that a total coliform-positive sample in the distribution system, followed by a fecal indicator-positive sample in the source water, indicates a serious contamination problem.

The Agency would allow the State to waive source water monitoring for any system, on a case-by-case basis, if the State determines that the total coliform-positive is associated solely with a distribution system problem. In this case, a State official would be required to document the decision, including the rationale for this decision, in writing, and sign the document.

c. Confirmation of Positive Source Water Sample

The Agency recognizes that false-positive results may occasionally occur with most microbial methods (*i.e.*, a non-target microbe is identified by the method as a target microbe). For example, the false-positive rate for *E. coli* is 7.2% for the E*Colite Test, 2.5% for the ColiBlue24 Test, and 4.3% for the membrane filter test using MI Agar.

Therefore, EPA would allow the State to invalidate a positive source water sample where a laboratory establishes that improper sample analyses caused the positive result or if the State has substantial grounds to believe that a positive result was due to a circumstance or condition that did not reflect source water quality and documents this in writing. For example, a State may invalidate a positive source water sample if a subsequent validation step for the same sample fails to confirm the presence of the fecal indicator being used. These provisions are consistent with the invalidation criteria under the TCR (40 CFR 141.21(c)).

EPA believes that, in the interest of public health, a positive sample by any of the methods listed in Table III–4 should be regarded as a fecal indicator-positive source water sample. This assumption is supported by the Pipes and Christian study (Pipes and Christian, 1982) study mentioned previously, which shows that sample collector handling error is rarely a cause of fecal contamination. Nevertheless, the Agency recognizes that contamination during sampling and analysis may occur, albeit rarely, and is proposing to allow the State to invalidate a fecal indicator-positive in a routine monitoring sample under certain circumstances in the manner described in this section. EPA is also proposing to allow confirmation of a fecal indicator-positive routine source water sample. Specifically, the rule would permit the State to allow a system to waive compliance with the treatment technique in § 141.404, after a single fecal indicator-positive source water sample on a case-by-case basis, if—

(1) The system collects five repeat source water samples within 24 hours after being notified of a source water-positive result;

(2) The system has the samples analyzed for the same fecal indicator as the original sample;

(3) All the repeat samples are fecal indicator-negative; and

(4) All required source water samples (routine and triggered) during the past five years were fecal indicator-negative.

Under this approach, a system would not necessarily have to comply with the specified treatment requirements on the basis of a single, isolated fecal indicator-positive sample if all additional monitoring showed that no problem exists. The Agency believes that this limited level of confirmation would not undermine public health protection. Conversely, the Agency believes that two fecal indicator-positive source water samples at a site provides strong evidence that the source water has been fecally contaminated.

The Agency is also proposing that a total coliform-positive sample in the

distribution system accompanied by a fecal indicator-positive source water sample be sufficient grounds for requiring compliance with the treatment requirements. The Agency argues that it would be unreasonable to expect a sample collector to accidently contaminate two samples taken at least one day apart, and also contends that the likelihood of a false-positive result occurring in both of two samples is much lower than in a single sample. Thus, the Agency believes that, in this circumstance, there is a significant probability that the source water is indeed fecally contaminated. Moreover, the Agency notes that, under the TCR, two consecutive total coliform-positive samples, one of which is *E. coli*-positive, is sufficient grounds for an acute violation of the MCL for total coliforms. For these reasons, EPA believes that it is reasonable to require a system with a total coliform-positive sample in the distribution system followed by a fecal indicator-positive source water sample to comply with the treatment requirements. However, EPA also recognizes that, by itself, a positive total coliform result is not always an indication of fecal contamination (even if the sample result is not a false positive). EPA requests comment on waiving compliance of the treatment techniques after a single positive triggered monitoring source water sample based upon five negative repeat samples as described previously in this section.

4. Analytical Methods

EPA proposes to approve the following methods (listed in 141.403), with the sample volume of 100 mL, for source water monitoring of *E. coli*, enterococci and coliphage. A system would have to use one of these methods. Most of the proposed analytical methods for *E. coli* for source water monitoring are consensus methods described in Standard Methods for the Examination of Water and Wastewater (19th and 20th ed.). The three *E. coli* methods that are not consensus methods are newly developed: MI agar (a membrane filter method), the ColiBlue 24 test (a membrane filter method) and the E*Colite test (a defined dehydrated medium to which water is added). EPA has already evaluated and approved these three methods for use under the TCR. Information about these methods is available in the **Federal Register** (63 FR 41134–41143, July 31, 1998; 64 FR 2538–2544, January 14, 1999) and in the EPAWater Docket. Of the three enterococci methods, two are consensus methods in Standard Methods; while the third (Enterolert) was described in a peer-reviewed journal article (Budnick *et al.*, 1996). The description for each of the proposed *E. coli* and enterococci methods state explicitly that the method is appropriate for fresh waters or drinking waters.

EPA is proposing the approval of two newly developed coliphage methods for detecting fecal contamination.

The Agency has conducted performance studies on the two proposed methods, using ten laboratories: a new two-step enrichment method and a single-agar layer method used for decades, but recently optimized for ground water samples. For the two-step enrichment method, using 100-mL spiked water samples (reagent water and ground water) and two *E. coli* hosts (CN–13 and F_{amp}), laboratories detected one plaque-forming unit (PFU) 60–90% of the time. For the optimized single-agar layer method, using the same water type and volume (but higher coliphage spike) and same two *E. coli* hosts, recoveries ranged from 61% to 178%, based upon a coliphage spike level determined by a standard double-agar layer test.

Based upon the results of performance testing, EPA believes that these two coliphage tests are satisfactory for monitoring ground water in compliance with this rule. The two test protocols and study results are available for review in EPA's Water Docket.

EPA is proposing requiring that systems collect and test at least a 100-mL sample volume. The Agency recognizes that a 1–L sample volume will provide ten times more sensitivity than a 100-mL sample. However, the Agency also understands that the greater sample volume would also weigh ten times more, and thus cost more to ship to a laboratory. Data exists that indicate more frequent smaller-volume samples are better in detecting fecal contamination than a smaller number of high volume samples (Haas,1993). AWWARF is funding a study on this issue, and data should be available shortly. The Agency requests comment on the most appropriate sample volume.

For any of the methods described previously, the maximum allowable time between ground water sample collection and the initiation of analysis in the certified laboratory, is 30 hours. This would be consistent with the TCR. The Agency would prefer a shorter time, but believes that a sizable percentage of small systems have difficulty getting their samples to a certified laboratory within 30 hours. In addition, unlike the SWTR where the density is measured, EPA is proposing in the GWR to require analysis for microorganism detection alone. The Agency believes that the detection of an organism is less sensitive to change than measurement of density, and thus a 30-hour transit time would be reasonable.

5. Request for Comments

EPA requests comments on proposed indicators of fecal contamination and analytical methods. In addition, EPA requests comments on the following alternative approaches.

(a) Source Water Samples after an MCL Violation of the TCR

EPA requests comment on requiring a system that violates the MCL for total coliforms, or detects a single fecal coliform/*E. coli*-positive sample under the TCR, to collect five source water samples, rather than a single source water sample as proposed. The Agency believes this alternative approach would be reasonable, given that both events are sufficiently important to require the system to notify the State (and, for a MCL violation, the public) as opposed to a single total coliform-positive sample which does not require notification. Under this approach, systems would be required to collect five source water samples within 24 hours for every MCL violation or positive *E. coli* or fecal coliform sample in the distribution system and test them for one of the EPA-specified fecal indicators. If any source water sample were positive, the system would have to treat or otherwise protect the drinking water. This monitoring requirement would be in addition to requirements under the TCR.

(b) Sampling of Representative Wells

EPA recognizes that most CWSs have more than one well, raising the question about whether the system would need to monitor all wells or just one representative well. One approach would be to require a system to sample all wells because this approach provides more reliable public health protection. However, the Agency notes that wells belonging to a system may vary in their sensitivity to fecal contamination.

If a system is drawing water from more than one well in a hydrogeologically sensitive aquifer, EPA believes that all such wells should be sampled routinely, unless the State can identify a single representative well or, the well (or subset of wells) sensitive to fecal contamination. If a system is required to collect a source water sample as a result of a total coliform-positive sample in the distribution system (triggered monitoring), EPA believes that all wells should be sampled, unless the State can identify a single representative well or the well (or

subset of wells) most vulnerable to fecal contamination. Alternatively, if the total coliform-positive sample was found in a part of the distribution system supplied by a single well, then it might be acceptable to sample that specific well alone. The Agency seeks comment on these alternatives and other approaches.

EPA recognizes that systems may have storage tanks or other water holding tanks between the wellhead and the distribution system. Therefore the Agency also requests comment on whether further definition is needed for exactly where source water samples should be taken; *e.g.*, at the well, the tank, or at any point before the water enters the distribution system. The Agency seeks comment on where source water samples should be collected.

(c) Distribution System Monitoring for Fecal Indicators

One alternative approach for distribution system monitoring is to augment total coliform/*E. coli* testing in the distribution system with one or more additional fecal indicators. For example, under this approach, a system would be required to monitor coliphage or enterococci at the same frequency as it monitors for total coliforms. This approach recognizes that fecal indicators differ in their effectiveness in detecting fecal contamination, and that this effectiveness may vary with environmental conditions. Thus, more than one fecal indicator should stand a greater likelihood of detecting fecal contamination than a single indicator (*i.e., E. coli* under the TCR). This approach would be more expensive for systems, but may be counterbalanced by the greater likelihood of detecting fecal contamination. EPA seeks comment on this monitoring approach.

(d) Persistent Monitoring Non-Compliers

EPA requests comment on defining a persistent non-complier of monitoring requirements and, specifically what any additional monitoring, public notification or treatment requirements should pertain to them.

(e) Monitoring of Disinfecting Systems

Some States currently require disinfected systems to monitor their source water to ensure that the system would be protected against the potential risk of fecal contamination in the event of a disinfectant failure. The Agency requests comment on requiring a disinfected system to test its source water periodically.

The Agency also requests comment on requiring all ground water systems (including those that disinfect to 4-log removal/ inactivation of viruses) to collect a source water sample after a total coliform-positive in the distribution system (triggered monitoring). Systems may want or need to change their disinfection practices or take other source water protection actions based on discovering that their source water is contaminated.

(f) Multiple Fecal Indicators

EPA is proposing to require ground water systems to monitor coliphage, *E. coli*, or enterococci, as determined by the State, in the source water. On March 13, 2000, the Drinking Water Committee of the Science Advisory Board (DWCSAB) made a few recommendations to EPA concerning a draft of this proposal.

The DWCSAB recommended unanimously, and the Agency is requesting comment on, requiring monitoring for both bacterial and viral indicators for both routine and triggered monitoring. Specifically, EPA is requesting comment on whether systems that must monitor their source water be required to monitor for both a bacterium (*E.coli* or enterococci) and virus (male specific and somatic coliphage). As discussed earlier, occurrence data show that fecal indicators differ in their scope and this may vary with environmental conditions. The DWCSAB noted that the scientific literature documents significant differences between transport and survival of bacteria and viruses. Coliphage and human viruses are smaller than bacterial indicators and thus under certain conditions may travel faster through the ground than bacteria; alternately, bacterial indicators are often at much higher concentrations in fecal matter than coliphage, and thus may be a more sensitive indicator than coliphage relatively near the contamination source. The use of both bacteria and coliphage indicators could provide better ability to detect fecal contamination and greater protection of human health. However it would also entail a higher probability of false positive results, and higher sampling costs to the systems.

The DWCSAB believed that the proposed indicators (*E.coli*, enterococci, and coliphage) are appropriate. The DWCSAB noted that both *E. coli* and enterococci are effective bacterial indicators. *E. coli* methods may be more familiar to many laboratories which may be advantageous. The enterococci may be somewhat hardier in terms of environmental persistence and perhaps more fecal specific. The media for enterococci is more selective and less subject to background growth with regards to the viral indicators. The DWCSAB recommended both somatic and male-specific coliphage be required when viral monitoring of the source water is conducted because they will detect a larger population of coliphage. The DWCSAB stated that laboratory methods are available to detect both coliphages and that they believe that a method can be made available to detect both coliphages on a single host (using a single host such as *E. coli* C3000) so that it would not be necessary to collect and test two samples for coliphage.

(g) Monitoring Frequency and Number of Samples To Identify Fecal Contamination

As stated previously, the proposed rule would require systems with sensitive wells to conduct monthly routine monitoring. The Agency believes that monitoring more frequently than monthly would increase the probability for detecting fecal indicator organisms sooner in a fecally contaminated well. However, the Agency also recognizes that more intensive monitoring could be overly burdensome to many small systems. Less than monthly monitoring would likely delay fecal contamination detection, and thus continue a possible health risk for a longer time. EPA concludes that monthly monitoring is the most appropriate balance between monitoring costs and prompt fecal contamination detection.

The total number of samples needed to determine whether a ground water is fecally contaminated depends on the fecal indicator used, the sample volume, and the level and duration of fecal contamination in the source water. Because the EPA/AWWARF study described in section II.C.2. monitored contaminated wells repeatedly, the results of this study were used to assess the likelihood (95%, 99%, 99.9% confidence) of detecting fecal contamination with different indicators, number of samples and level of fecal contamination actually in the ground water. The Agency then determined the minimum number of samples necessary to detect contamination, allowing for a small percentage of samples where fecal contamination is not detected. The EPA/AWWARF study operated in two phases. In Phase I, the EPA/AWWARF researchers identified a set of 93 wells thought to be vulnerable to fecal contamination. In Phase II, the researchers conducted further analysis, including monthly monitoring for virus and bacteria, on a subset of 23 of the Phase I wells which demonstrated total coliform and/or fecal bacteria contamination and on an additional 7

wells chosen for their unique physical or chemical characteristics.

From the wells tested in Phase II of the EPA/AWWARF study, seven sites tested positive for enterovirus in at least one sample of the twelve collected during the year. These seven waters are considered to be representative of ground water that are highly fecally contaminated at least part of the year. In such waters, a good indicator should be present in almost every sample, therefore, the number of non-detects should be very low. Combining the monthly results for these seven waters, there are 84 results for each indicator. Table III–5 shows the proportion of positives among the 84 results for each of four indicators.

TABLE III–5.—INDICATOR PERFORMANCE IN SEVEN HIGHLY-CONTAMINATED WATERS

Indicator	Samples positive (percent) (N=84)
E. coli	50
Enterococci	54.8
Somatic Coliphage	71.4
F-Specific Coliphage	32.1

N = number of samples.

If P is the probability of a positive sampling result (a detect) for a single indicator sample assay, then the probability of at least one positive result for N repeated independent samples is $1-(1-P)^N$. The probability of "N" non-detects is $(1-P)^N$. Table III–6 shows the probabilities of "N" non-detects for the same indicators as a function of the number of independent sample assays (N).

TABLE III–6.—PROBABILITY OF NON-DETECTS IN GROUND WATER THAT IS HIGHLY FECALLY CONTAMINATED AT LEAST PART OF THE YEAR (WHERE 'N' IS THE NUMBER OF INDEPENDENT ASSAYS)

Indicator [1]	Number of samples (N)								
	N = 1 (percent)	N = 2 (percent)	N = 4 (percent)	N = 6 (percent)	N = 12 (percent)	N = 24 (percent)	N* 5 percent	N*1 1 percent	N* 0.1 percent
E.coli	50	25	6.3	1.6	<0.1	<0.1	5	7	10
Enterococci	45.2	20.5	4.2	0.9	<0.1	<0.1	4	6	9
Somatic Coliphage	28.6	8.2	0.7	0.1	<0.1	<0.1	3	4	6
F-Specific Coliphage	67.9	46	21.2	9.8	<1.0	<0.1	8	12	18

Sample volume was 300 ml for *E. coli* and enterococci, 10–100L for coliphage
N* = Smallest number of samples for which the error rate is less than or equal to the specified percentage (5%, 1%, 0.1%).

Table III–6 shows that six to18 source water samples are needed, depending on the fecal indicator (and sample volume used), to determine with a 99.9% probability that a fecal indicator positive will be detected in ground water that is highly contaminated at least part of the year.

A similar analysis was conducted using the results for the 10 waters that tested positive for *E. coli* at least once (N=12), but negative for enterovirus. These waters were defined as moderately contaminated during at least part of the year. Because these waters probably do not contain enteroviruses at easily detectable levels, the incidence of waterborne disease is probably less. Table III–7 shows the probabilities of "N" non-detects for different numbers of independent sample assays (N).

TABLE III–7.—PROBABILITY OF NON-DETECTS IN GROUND WATER THAT IS MODERATELY FECALLY CONTAMINATED AT LEAST PART OF THE YEAR (WHERE 'N' IS THE NUMBER OF INDEPENDENT ASSAYS)

Indicator	Number of samples (N)								
	N = 1 (percent)	N = 2 (percent)	N = 4 (percent)	N = 6 (percent)	N = 12 (percent)	N = 24 (percent)	N* 5 percent	N* 1 percent	N* 0.1 percent
E.coli	71.7	51.4	26.4	13.5	1.8	<0.1	9	14	21
Enterococci	67.5	45.6	20.8	9.55	0.9	<0.1	8	12	18
Somatic	72.5	52.6	27.6	14.5	2.1	<0.1	10	15	22
F-Specific	96.7	93.4	87.3	81.6	66.6	44.3	89	136	204

Sample volume was 300 ml for *E. coli* and enterococci, 10–100L for coliphage
N* = Smallest number of samples for which the error rate is less than or equal to 5.0%, 1% and 0.1%.

Table III–7, shows that 8 to 89 samples are needed, depending on the indicator selected, to determine with a 95% probability that a fecal indicator positive will be detected in a well that is moderately contaminated at least part of the year.

Based on the data described previously and statistics, EPA concludes that, given a margin of safety for the analysis, 12 samples would be sufficient for determining the presence of fecal contamination in sensitive wells. For systems operating year round, 12 monthly samples will provide data throughout the year, increasing the likelihood of detecting the seasonal presence of fecal contamination.

EPA requests comment on the monitoring approach discussed previously and the analysis and the assumptions used.

(h) Triggered Monitoring in Systems Without a Distribution System

EPA believes that circumstances exist that might not require the collection of a source water sample after a total coliform-positive sample in the distribution system. For example, if an

undisinfected system does not have a distribution system, any sample taken for compliance with the TCR is essentially a source water sample. Therefore, the Agency is requesting comment on whether to allow States to waive "triggered" source water sampling for systems without distribution systems if the system is also taking TCR samples at least quarterly. If the total coliform-positive sample from the distribution system is fecal coliform- or *E. coli*-positive, the system would be required to meet the treatment technique. There might also be provisions for repeat sampling in this case.

(i) Routine Monitoring in Systems Without a Distribution System.

EPA requests comment on whether to allow States to substitute TCR monitoring for routine monitoring in hydrogeologically sensitive systems if the system does not have a distribution system and takes at least one total coliform sample per month under the TCR for every month it provides water to the public. Such a system would be monitoring source water under the TCR. The State would be allowed to reduce or waive monthly monitoring after twelve negative monthly samples. The rule would require a system that has a total coliform-positive sample that is also *E. coli* (or fecal coliform)-positive to meet the treatment requirements in § 141.404.

(j) Source Water Monitoring for All Systems

EPA is proposing to require source water monitoring requirements for systems that do not treat to 4-log inactivation or removal of viruses and have either a total coliform-positive sample taken in compliance with the TCR, or any system identified by the State as hydrogeologically sensitive. On March 13, 2000 the Drinking Water Committee of the Science Advisory Board (DWCSAB) reviewed this issue and made several recommendations to EPA concerning a draft of this proposal. The DWCSAB raised concerns that under this approach many untreated ground water systems will not be monitored at the source, particularly in light of available occurrence data indicating contamination between 4 and 31 percent of ground water systems, a number of which many not be located in hydrogeologically sensitive areas. DWCSAB unanimously recommended that all ground water systems monitor for both bacterial and viral indicators. EPA requests comment on whether routine source water samples should be required for all ground water systems that do not notify the State that they achieved 4-log inactivation or removal of virus. EPA also requests comment upon the appropriate frequency (monthly or quarterly) for routine monitoring if it were required for all systems. EPA also requests comment upon whether this monitoring should be performed in conjunction with sanitary surveys so as to provide data for the sanitary survey and to reduce the capacity burden on laboratories by taking advantage of the phased timing of sanitary surveys (every 3 years for CWSs and every 5 years for NCWs).

E. Treatment Techniques for Systems With Fecally Contaminated Source Water or Uncorrected Significant Deficiencies

1. Overview and Purpose

EPA proposes that a public ground water system with uncorrected significant deficiencies or fecally contaminated source water must apply a treatment technique or develop application for a longer State-approved treatment technique within 90 days of notification of the problem. Under the SDWA, the State may extend the 90 day deadline up to two additional years if the State determines that additional time is necessary for capital improvements (SDWA, 1412(b)(10)). As part of this requirement and in consultation with the State, systems must eliminate the source of contamination, correct the significant deficiency, provide an alternate source water, or provide a treatment which reliably achieves at least 99.99 percent (4-log) inactivation or removal of viruses before or at the first customer. Ground water systems which provide 4-log inactivation or removal of viruses will be required to conduct compliance monitoring to demonstrate treatment effectiveness.

EPA is proposing 99.99% (4-log) virus inactivation or removal as the minimum level of treatment since it is the level required of surface water systems under the SWTR and because, the World Health Organization (WHO) states that disinfection processes must achieve at least 4-log reduction of enteric viruses (WHO, 1996). Which treatment technique approach is chosen will depend on existing State programs, policies or regulations. States must describe in their primacy application the treatment technique they will require and under what circumstances. If the treatment technique is not provided within 90 days, or if it is not implemented by the system in accordance with schedule requirements, the system is in violation of the treatment technique requirements of the GWR.

States and systems can select a number of treatment technologies to achieve 4-log virus inactivation or removal. The treatment technologies which have demonstrated the ability to achieve 4-log virus inactivation are chlorine, chlorine followed by ammonia (chloramines), chlorine dioxide, ozone, ultraviolet radiation (UV) and anodic oxidation. Reverse osmosis (RO) and nanofiltration (NF) have demonstrated the ability to achieve 4-log removal of viruses.

The Agency is also proposing requirements for systems that treat to monitor the disinfection and State notification requirements any time a system fails to disinfect to 4-log inactivation or removal of viruses. As part of this proposal, systems serving 3,300 or more people per day must monitor the disinfection continuously. Systems serving fewer than 3,300 people per day must monitor the disinfection by taking daily grab samples. When a system continuously monitors chemical disinfection, the system must notify the State any time the residual disinfectant concentration falls below the State-determined residual disinfectant concentration and is not restored within four hours. When a system monitors chemical disinfection by taking daily grab samples the system must maintain the State-determined residual disinfectant concentration in all samples taken. If any sample does not contain the required concentration, the system must take follow-up samples every four hours until the required residual disinfectant concentration is restored. The system must notify the State any time the system does not restore the disinfectant concentration to the required level within 4 hours.

a. Background

A key element of the multiple-barrier approach is disinfection where fecal contamination or significant deficiencies are not or cannot be corrected. EPA recognizes that the GWR must provide system-specific flexibility due to the diverse configuration and variability of the numerous public ground water systems in operation and allow for State-specific flexibility. Therefore, the proposed treatment technique requirements are designed to support the multiple-barrier approach, yet provide flexibility to meet system-specific concerns.

EPA recognizes that States use varying approaches and that a State's preferred approach comes from extensive experience in dealing with uncorrected significant deficiencies and

contaminated source water. States may require systems to take differing approaches to providing treatment techniques, depending upon many factors, including the system's configuration, or State policies or regulations. Therefore, the proposed GWR attempts to build on the strengths of existing State programs, yet provide requirements which ensure safe drinking water for all consumers. Under the proposed GWR, States may require systems to eliminate the source of contamination, correct the significant deficiency, provide an alternate source water, or provide a treatment which reliably achieves at least 99.99 percent (4-log) inactivation or removal of viruses before or at the first customer. Ground water systems which provide 4-log inactivation or removal of viruses will be required to conduct compliance monitoring to demonstrate treatment effectiveness. For example, a State may have a policy or regulation requiring a system to consider an alternative source of safe drinking water before considering the use of disinfection. Alternatively, the State may require the system to disinfect to 4-log virus inactivation without first considering the use of corrective BMPs or alternative sources of safe drinking water. The approach the State will use to require a treatment technique for uncorrected significant deficiencies or fecally contaminated source water must be described in the State's primary enforcement application (primacy). EPA expects a State to build upon existing ground water programs to meet today's proposed regulations. In any case, systems which do not provide the appropriate State-determined treatment technique within the 90 day deadline, and do not have a State-approved plan in place for complying with the treatment technique requirement within 90 days, are in violation of the treatment technique requirements of the GWR.

b. Corrective Action Background Information

This section presents background information used by EPA to develop the proposed treatment technique requirements for ground water systems with uncorrected sanitary survey significant deficiencies or fecally contaminated source water. Specifically discussed is information related to current State treatment technique requirements, and the protectiveness of treatment techniques, as well as a discussion of disinfection as it relates to uncorrected significant deficiencies and fecally contaminated source water.

i. Alternative Sources of Safe Drinking Water

Limited data exists on the effectiveness of systems using an alternative source as a treatment technique against uncorrected significant deficiencies or fecally contaminated source water. However, since many States require a wide range of BMPs to be followed prior to placing an alternative source into service, it is believed that this treatment technique would be effective. In addition, some States require the local hydrogeology or sources of contamination to be considered for all new sources of drinking water, and would, therefore, provide some assurance that an alternative source as a treatment technique is effective. Several States require systems with source water contamination to provide an alternative source, if possible.

ii. Background Information on Eliminating the Source of Contamination

As with the effectiveness of providing alternative source water as a treatment technique for uncorrected significant deficiencies or fecally contaminated source water, limited data exists on the effectiveness of eliminating the source of contamination as a treatment technique. The report on the Analysis of Best Management Practices for Community Ground Water Systems Survey Data Collected by the Association of State Drinking Water Administrators (ASDWA, 1998) provides information on the effectiveness of BMPs in reducing total coliform positives, however, it does not address those BMPs used in response to a source water fecal contamination event. The report does show that when correcting significant deficiencies, a significant pairwise association exists in reducing both total and fecal coliform positive samples. A wide range of State requirements exist for the use of BMPs, with some States requiring the use of one or more BMPs in response to contamination events.

iii. Disinfection

Under today's proposal, disinfection is defined as the inactivation or removal of fecal microbial contamination. As noted earlier, corrective actions to met the GWR treatment technique includes disinfection. Chemical disinfection of viruses involves providing a dosage of a disinfectant for a period of time for the purposes of inactivating the viruses. For most treatment strategies, the level of inactivation achieved varies depending on the target microorganism, residual disinfectant concentration, ground water temperature and pH, water quality and the contact time. The CT value is the residual disinfectant concentration multiplied by the contact time. Specifically, the contact time is the time in minutes it takes the water to move between the point of disinfectant application and a point before or at the first customer during peak hourly flow. The concentration is the residual disinfectant concentration in mg/L before or at the first customer, but at or after the point the contact time is measured. A system compares the CT value achieved to the published CT value for a given level of treatment (*e.g.*, 4-log inactivation of viruses) to determine the level of treatment attained. As long as the CT value achieved by the system meets or exceeds the CT value needed to inactivate viruses to 4-log, the system meets the treatment technique requirement.

Four-log virus inactivation can also be achieved by UV disinfection, which differs from some other treatment technologies, in that providing a residual concentration is not possible. When using UV disinfection, a light dosage is applied to the water to target the attainment of IT values (measured in mWs/cm^2). IT is the light irradiance (measured in mW/cm^2) to which the target organisms are exposed, multiplied by the time for which the irradiance is applied (measured in seconds). A system compares the IT value achieved to the published IT value for a given level of treatment (*e.g.*, 4-log inactivation of viruses) to determine the level of treatment attained. Systems required to disinfect with UV disinfection under the GWR must provide 4-log inactivation of viruses at a minimum. As long as the system attains IT values necessary for 4-log virus inactivation, the system meets the treatment technique requirement.

Removal, in the context of treatment of microbially contaminated ground water, is the physical straining of the microbial contamination, and is usually accomplished through filtration. For the purposes of disinfection of microbially contaminated ground water, removal is accomplished by membrane processes. Membrane processes physically remove viruses from the water based on the size of the virus and the size of the membrane's pores. When the absolute size of the membrane's pores (the molecular weight cut-off, or MWCO) are substantially smaller than the diameter of the virus, removal of the virus can be achieved. Therefore, membrane filtration technologies with MWCO substantially less than the diameter of

viruses can be effective treatment technologies for 4-log virus removal.

iv. State Requirements

EPA used the Baseline Profile Document for the Ground Water Rule (USEPA, 1999f) to assess current State treatment technique requirements. The EPA survey Ground Water Disinfection and Protective Practices in the United States (US EPA, 1996a) was used where the Baseline Profile Document for the Ground Water Rule (USEPA, 1999f) lacked certain information. These data are important in illustrating the wide range of State requirements that exists in ground water systems. The GWR attempts to build on existing State practices and provide State flexibility to address system-specific concerns.

Based on an analysis of information in the Baseline Profile Document for the Ground Water Rule (USEPA, 1999f), there is great variability nationwide in State statutes, regulations, and policies for when and how systems must apply treatment techniques. The variability ranges from 11 States requiring across-the-board disinfection, several other States requiring systems to attempt to eliminate the real or potential source of fecal contamination before considering disinfection, to some States requiring systems with fecally contaminated source water to provide an alternative source of safe drinking water. Almost all of the States have statutes, regulations, or policies for treatment techniques that define under what circumstances treatment techniques are necessary. Twenty-eight of the 39 States which do not require across-the-board disinfection require application of treatment techniques based on the microbial quality of the water and 12 of the 39 require application of treatment techniques based on the sanitary quality of the system.

How a system applies treatment techniques also varies considerably from State to State. For example, 36 of the 50 States specify requirements on the use of disinfectant residuals in the distribution system, while five States require 4-log inactivation of viruses at the source.

v. Disinfection Technologies

In ground water systems, 4-log inactivation of viruses can be accomplished by disinfection with free chlorine, chloramines, chlorine dioxide, ozone, on-site oxidant generation (anodic oxidation) or ultraviolet radiation (UV). Reverse osmosis (RO) and nanofiltration (NF) can achieve 4-log removal of viruses. Chlorine, chloramines, chlorine dioxide, ozone, UV, RO and NF are all listed as small system compliance technologies for the SWTR. EPA also suggests that small systems consider on-site oxidant generation for SWTR compliance purposes (US EPA, 1998c).

Chemical disinfection technologies are commonly used to provide disinfection prior to distribution, and must attain specific CT values (which vary depending on the technology) to achieve 4-log virus inactivation. Free chlorine disinfection is the most commonly practiced chemical disinfection technology, and requires a CT value of four to provide 4-log inactivation of viruses at a water temperature of 15°C, and a pH of 6–9 (USEPA, 1991a).

The required CT values for 4-log virus inactivation when using chloramines or chlorine dioxide are higher than when using free chlorine (Table III–8). The CT values for 4-log inactivation of viruses at a pH of 6–9 and a temperature of 15°C are 16.7 mg-min/L for chlorine dioxide and 994 mg-min/L for chloramines (US EPA, 1991a). The CT value for chloramines applies to systems which generate chloramines by the addition of free chlorine, followed by the addition of ammonia. This chloramine CT value for 15°C was obtained by extrapolating CT values from a study performed by Sobsey, *et al.* (1988) at 5°C. These CT values for chlorine and chloramines studied HAV, which, compared to other viruses which occur in fecally contaminated ground water, is relatively resistant to chlorine disinfection. The CT value for chlorine dioxide was obtained from a study of chlorine dioxide inactivation of HAV by chlorine dioxide at 5°C (Sobsey, *et al.*, 1988). The CT value obtained in this study was adjusted to 15°C, and had a safety factor of two applied. Considering that chlorine dioxide has a higher CT value than chlorine and due to site specific situations, chlorine dioxide may not be a feasible disinfection technology for all systems. Additional studies have been conducted using free chlorine on Coxsackie virus B5 and poliovirus 1 (Kelly and Sanderson, 1958), and information on these studies is provided in Table III–8. Although the CT values for HAV were included in the guidance manual to the SWTR intended for surface water systems, the CT values are applicable to ground water systems, since they are based on disinfectant residual (*i.e.*, after demand) concentrations.

Many systems apply free chlorine disinfection in a contact basin prior to distribution for virus inactivation, followed by ammonia addition prior to distribution (to form chloramines) to protect the water as it travels through the distribution system, since chloramines provide a longer lasting residual than free chlorine. Due to the high CT value for chloramines, some additional disinfection prior to distribution would probably be needed.

A system that must disinfect may also need to increase the CT value attained if the CT value attained does not achieve the 4-log inactivation of viruses. Under some circumstances, this can be accomplished by providing a higher disinfectant dosage (and hence, a higher disinfectant residual), or a longer contact time (by providing additional storage). Data from the CWSS (1995) suggests that many CWSs (and some NCWSs) served by ground water may already have storage in place and may be able to achieve 4-log virus inactivation without additional storage. According to the CWSS, 59% of community ground water systems have distribution system storage tanks, including 34% of systems serving less than 100 people (CWSS, 1995). This number increases to 95% for systems serving 10,001–100,000 people. Twenty-eight percent of ancillary community ground water systems were found to have storage. According to the CWSS, ancillary systems are those systems for which providing drinking water is not their primary business (*e.g.*, restaurants).

TABLE III–8. DISINFECTION STUDIES USING CHLORINE, CHLORINE DIOXIDE AND CHLORAMINES ON VIRUSES

Studies conducted			Effectiveness		Additional notes	
Disinfectant	Virus studied	Reference & date	Log removal	CT	Residual	Comments
Chlorine	HAV	Sobsey *et al.*, 1988	4	[1]4	Y	safety factor = 3
		Sobsey *et al.*, 1988	4	[1]30	Y	$_{p}$H = 10 safety factor = 3
	Coxsackie B5	Kelly & Sanderson, 1958	4	~1.07	Y	$_{p}$H = 6, T = 28°C

TABLE III–8. DISINFECTION STUDIES USING CHLORINE, CHLORINE DIOXIDE AND CHLORAMINES ON VIRUSES—Continued

Studies conducted			Effectiveness		Additional notes	
Disinfectant	Virus studied	Reference & date	Log removal	CT	Residual	Comments
	[1] Poliovirus	Kelly & Sanderson, 1958	4	~7.8	Y	4-log at 5°C
Chloramine	HAV	Sobsey *et al.*, 1988	4	[1] 994	Y	
[2] Chlorine dioxide	HAV	Sobsey *et al.*, 1988	4	[1] 16.7	Y	safety factor = 2

[1] CT values are for 15°C and a $_pH$ of 6–9, unless otherwise noted.
[2] Table adapted from Technologies and Costs for Ground Water Disinfection (USEPA, 1993).

Ozone, unlike chlorine dioxide and chloramines, is a stronger disinfectant than chlorine and would require less contact time (and less storage) at a similar dosage (Table III–9) to inactivate viruses. The CT value for 4-log inactivation of HAV using ozone is 0.6 mg-min/L at a pH of 6–9 and a temperature of 15°C (US EPA, 1991a). The CT data for ozone were obtained from a study by Roy *et al.*, (1982). This study obtained data for 2-log inactivation of poliovirus 1 at 5°C. The CT value for 4-log virus inactivation listed in Table III–8 is an extrapolation of the 2-log inactivation value assuming first-order kinetics, as well as an adjustment for inactivation at 15°C. In addition, a safety factor of three was applied to the CT values. However, the CT value required for 4-log virus inactivation may depend on the virus. Poliovirus 1 (Kaneko, 1989) and enteric viruses (Finch *et al.*, 1992) have demonstrated other CT requirements in studies; however, it is uncertain whether or not all other experimental conditions were the same (*e.g.*, temperature) .

Numerous studies on viral inactivation using UV have been conducted, with Table III–9 presenting some of the findings. According to these studies, 4-log UV disinfection of HAV requires an IT of between 16 mWs/cm^2 (Battigelli *et. al.*, 1993) and 39.4 mWs/cm^2 (Wilson *et al.*, 1992). IT is the UV light irradiance multiplied by the contact time. Other studies have shown variable IT values, depending on the virus studied (Table III–9). Harris *et al.* (1987) found that an IT of 120 mWs/cm^2 (including a safety factor of 3) was required for 4-log inactivation of poliovirus. Unlike many of the other alternative treatment technologies, the efficacy of UV disinfection is not dependent on the temperature and $_pH$.

TABLE III–9.—DISINFECTION STUDIES USING OZONE, MEMBRANE FILTERS AND UV ON VIRUSES

Studies conducted			Effectiveness		Additional notes	
Disinfectant	Virus studied	Reference E & date	Log removal	CT	Residual	Comments
[4] Ozone	Poliovirus	Roy *et al.*,1982	4	[1] 0.6	N	safety factor = 3.
	Poliovirus	Herbold *et al.*,1989	4–6	.008	N	T = 10°C.
		Kaneko, 1989	4	5	N	
	enterics	Finch *et al.*,1992	4	3	N	
	HAV	Hall & Sobsey, 1993.	3.9–6.0	0.167	N	Also MS2.
		Herbold *et al.*,1989	4–6	0.22	N	T = 10°C.
		Vaughn *et al*,1990	4	0.40	N	T = 4°C.
	MS2	Finch *et al.*,1992	2.7–7	7.2	N	T = 22°C.
		Finch *et al.*,1992	4	.013	N	T = 22°C.
RO	<0.5 nm	Jacangelo *et al.*,1995.	[2] 100% removal	50–70% recovery	N	MWCO<0.5 nm.
	MS2	Adham *et al.*,1998	1.4–7.4	N/A	N	
NF	0.5–13 nm	US EPA, 1993	[2] 100% removal	60–80% recovery	N	MWCO 200–400 Daltons.
UV[3] [4]	MS2	Snicer *et al.*,1996	4	87.4–93	N	Ground water.
		Roessler & Severin, 1996.	4	~63	N	
	HAV	Wiedenmann *et al.*,1993.	4	~20	N	
		Battigelli *et al.*,1993	4	16	N	
		Wilson *et al.*,1992	4	39.4	N	Also Rota SA11, Poliovirus 1.
[3] [4] UV continued	Rotavirus	Roessler & Severin, 1996.	4	~25	N	
	Poliovirus	Harris *et al.*,1987	4	120	N	Safety factor = 3.
		Chang *et al.*,1985	3–4	~30	N	
	Rotavirus SA11	Battigelli *et al.*,1993	4	42	N	Approximately 4-log.
		Chang *et al.*,1985	3–4	~30	N	
	Coxsackie B5	Battigelli *et al.*,1993	4	29	N	Approximately 4-log.

[1] CT values are values for 15 °C and a pH of 6–9, unless otherwise noted.
[2] Removal based on pore size.
[3] Inactivation measured by IT, rather than CT. IT is the UV irradiance multiplied by the contact time.
[4] Table adapted from Technologies and Costs for Ground Water Disinfection (USEPA, 1993)

When systems use anodic oxidation the primary disinfectant generated is free chlorine. Therefore, the CT value for anodic oxidation is the same as free chlorine (Table III–8). However, when using anodic oxidation other disinfectants are also generated, and data suggests that the combined effects of these disinfectants are stronger than that of free chlorine alone; however, this effect has not been substantiated.

Removal as a ground water treatment technique provides public health protection through physical filtering of water using membrane processes. The effectiveness of a particular membrane technology depends on the size of the target organism and the size of the membrane's pores (Table III–9). Membrane filters achieve removals when the MWCO of the filter is significantly smaller than the diameter of the target organism. Viruses range in diameter from approximately 20–900 nm and may be effectively removed using reverse osmosis (RO) and nanofiltration (NF), having MWCOs of approximately 5 nm and 30 nm, respectively. Those technologies which provide removal of microbial contamination cannot provide a disinfectant residual, and must be applied prior to the distribution of the water.

vi. Free Chlorine in the Distribution System

Chlorine disinfection is the most commonly practiced disinfection technology for microbial contamination of ground water. Many ground water systems which practice chlorine disinfection do so by providing a free chlorine residual at the entry point to the distribution system. In general, the level of inactivation achieved using disinfectants such as chlorine increases the longer the disinfectant is in contact with the water (*i.e.*, contact time). This is true only when there is an available supply of chlorine. When the chlorine dissipates there is no further increase in the inactivation level. Therefore, when systems use a chlorine residual at the entry point to the distribution system, microbes (including viruses) are inactivated at varying levels through the length of the distribution system, and the risk of illness from pathogens originating in the source water decreases with increased travel time through a well-maintained distribution system if there is sufficient residual. For example, if customers at the first service connection in the water main receive water disinfected to 4-log virus inactivation, those customers farther along the distribution main would receive water disinfected to levels greater than 4-logs as long as disinfectant remains, and no additional contamination has entered the distribution system.

EPA conducted analyses to evaluate the potential effectiveness of a free chlorine distribution system residual to provide 4-log inactivation of viruses originating in the source water. It was assumed that the customer at the first service connection received water disinfected to 4-log virus inactivation. Preliminary analysis indicates that a number of ground water systems can achieve at least 4-log virus inactivation throughout the distribution system. Some systems can provide this log inactivation by maintaining a 0.2 mg/l free chlorine residual at the entry point to the distribution system (as required by the SWTR) and a contact time of 20 minutes prior to the first customer. Data suggests that as many as 77% of small community ground water systems (*i.e.*, serving less than 10,000 customers) may achieve 4-log virus inactivation prior to the first customer during maximum flow conditions (AWWA, unpublished data 1998). When a ground water system uses a free chlorine distribution system residual to disinfect contaminated source water, the level of virus inactivation is likely well in excess of 4-log, especially when taking into account the time the water awaits usage in the customers' piping beyond the service connection. This extra holding time in the distribution system increases the CT value achieved and therefore increases the log inactivation level achieved. A system may also need to apply a free chlorine residual at the entry point to the distribution system that is higher than 0.2 mg/L to maintain a detectable residual throughout the distribution system, which may lead to higher levels of virus inactivation. In these instances, increased levels of protection would be provided for customers served by all service connections along the distribution main. Assuming 4-log virus inactivation at the first customer, it could also be assumed that customers at service connections at later points in the distribution system would receive water disinfected to higher levels of inactivation, in many cases much higher.

For some systems application of a 0.2 mg/L free chlorine residual at the entry point to the distribution system and a detectable free chlorine residual throughout the distribution system will not achieve 4-log virus inactivation. In some cases this will be because the system does not achieve adequate contact time, and these systems may have to increase the contact time by installing extra distribution system storage, increasing the free chlorine residual concentration, adding supplemental disinfection (such as disinfection in a contact basin) or reconfiguring the system. However, based on 1998 AWWA data, EPA believes that most ground water CWSs will have sufficient contact time.

EPA considered requiring systems to apply a disinfectant residual at the entry point to the distribution system and maintain a detectable disinfectant residual throughout the distribution system. However, EPA decided against including it in the proposed GWR since a disinfectant residual is more accepted as a distribution system tool than for controlling source water contamination. EPA will address the issue of maintaining a residual in future rulemaking efforts (*e.g.* long term 2 ESWTR) as part of a broad discussion on distribution system issues for all PWSs.

2. Proposed Requirements

EPA proposes the following requirements for ground water systems with an uncorrected significant deficiency or fecally contaminated source water. The requirements for treatment techniques, disinfection monitoring, and notification to ensure public health protection are addressed.

EPA proposes treatment technique requirements as one barrier in the multiple barrier approach. Treatment techniques contribute to public health protection by eliminating public exposure to the source of pathogens, through eliminating the source of contamination, requiring the system to provide an alternative source as the State deems appropriate, correcting significant deficiencies that can act as a potential pathway for contamination, or disinfection to remove, or inactivate the microbial contaminants. Information related to the effectiveness of these treatment techniques can be found in the ASDWA BMP study Results and Analysis of ASDWA Survey of BMPs in Community Ground Water Systems (ASDWA, 1998), as well as the SWTR.

a. Treatment Technique Requirements for Systems With Uncorrected Significant Deficiencies or Source Water Contamination

EPA proposes requiring ground water systems with an uncorrected significant deficiency or source water contamination to apply an appropriate treatment technique, as determined by the State, within 90 days of detection of the significant deficiency or source water contamination. If they cannot apply an appropriate treatment technique within that time frame, they must at a minimum have a State-

approved plan and specific schedule for doing so. Treatment techniques include: eliminate the source of contamination, correct the significant deficiency, provide an alternate source water, or provide a treatment which reliably achieves at least 99.99 percent (4-log) inactivation or removal of viruses before or at the first customer. Some treatment techniques are inappropriate solutions for the nature of the problem. For example, a system with contamination entering the distribution system must not address the problem by providing treatment at the source.

Ground water systems which provide 4-log inactivation or removal of viruses will be required to conduct compliance monitoring to demonstrate treatment effectiveness. If a system is unable to address the significant deficiency within 90 days, the system must develop a specific plan and schedule for providing a treatment technique, submit the plan and schedule to the State and receive State approval on the plan and schedule within the same 90 days. EPA expects the system to consult with the State on interim measures to ensure safe water is provided during the 90 day correction time frame. During this 90 day period the State and system must identify and apply a permanent treatment technique appropriate for that system, consistent with the State's general approach outlined in their primacy package. If the treatment technique is not complete within 90 days (or the deadline specified in the State-approved plan), the system is in violation of the treatment technique requirements of the GWR.

b. Disinfection Options

EPA proposes requiring systems that disinfect due to uncorrected significant deficiencies or fecally contaminated source water to provide disinfection adequate to achieve at least 4-log inactivation or removal of viruses as determined by the State. When a system provides disinfection for uncorrected significant deficiencies or fecally contaminated source water, EPA recommends that the State use EPA-published CT tables to determine what treatment technologies and what disinfection parameters are appropriate for the system. If a system is currently providing 4-log disinfection and therefore does not monitor the source water for fecal indicators, per § 140.403, then that system must meet the definition and requirements of disinfection as described in this section.

c. Monitoring the Effectiveness and Reliability of Treatment

EPA proposes requiring systems with uncorrected significant deficiencies or fecally contaminated source water under this proposal to monitor the effectiveness and reliability of disinfection as follows. This monitoring must be conducted following the last point of treatment, but prior to each point of entry to the distribution system.

Sysfems serving 3,300 or more people that chemically disinfect must monitor (using continuous monitoring equipment fitted with an alarm) and maintain the required residual disinfectant concentration continuously to ensure that 4-log virus inactivation is provided every day the system serves water to the public. EPA recommends that the State use EPA-developed CT tables to determine if the system meets the residual concentration and contact time requirements necessary to achieve 4-log virus inactivation. As a point of comparison, the surface water system size cutoff for systems to measure the residual disinfectant four or fewer times per day is 3,300 people served.

Systems serving 3,300 or fewer people that chemically disinfect must monitor and maintain the residual disinfectant concentration every day the system serves water to the public. The system will monitor by taking daily grab samples and measuring for the State-determined concentration of disinfectant to ensure that 4-log virus inactivation is provided. EPA recommends that the State use EPA-developed CT tables to determine if the system meets the residual concentration and contact time requirements necessary to achieve 4-log virus inactivation. If the daily grab measurement falls below the State-determined value, the system must take follow-up samples every four hours until the required residual disinfectant concentration is restored.

Systems using UV disinfection must monitor for and maintain the State-prescribed UV irradiance level continuously to ensure that 4-log virus inactivation is provided every day the system serves water to the public. EPA recommends that the State use EPA-developed IT tables to determine if the system meets the irradiance and contact time requirements necessary to achieve 4-log virus inactivation.

Systems that use membrane filtration as a treatment technology are assumed to achieve at least 4-log removal of viruses when the membrane process is operated in accordance with State-specified compliance criteria, or as provided by EPA, and the integrity of the membrane is intact. Applicable membrane filtration technologies are RO, NF and any membrane filters developed in the future that have MWCOs that can achieve 4-log virus removal.

When monitoring on a continuous basis, the system must notify the State any time the residual disinfectant concentration or irradiance falls below the State-prescribed level and is not restored within four hours. This notification must be made as soon as possible, but in no case later than the end of the next business day.

When the system takes daily grab sample measurements, the system must notify the State any time the residual disinfectant concentration falls below the State-prescribed level and is not restored within four hours. This notification must be made as soon as possible, but in no case later than the end of the next business day.

Any time a system using membrane filtration as a treatment technology fails to operate the process in accordance with State-specified compliance criteria, or as provided by EPA, or a failure of the membrane integrity occurs, and the compliance operation or integrity is not restored within four hours, the system must notify the State. This notification must be made as soon as possible, but in no case later than the end of the next business day.

These requirements are consistent with those for surface water systems. Four hours is the cutoff time by which a surface water system must restore the free chlorine residual level at entry to the distribution system to 0.2 mg/L, if the free chlorine residual at entry to the distribution system falls below 0.2 mg/L. In addition, a surface water system must notify the State anytime the residual disinfectant entering the distribution system falls below 0.2 mg/L and is not restored within 4 hours. This notification must be made by the end of the next business day.

EPA proposes that systems which were required to provide treatment for uncorrected significant deficiencies or fecally contaminated source water may discontinue treatment if the State determines the need for treatment no longer exists and documents such a decision.

d. Eliminating the Source of Contamination

For systems eliminating the source of contamination, EPA proposes that the system and State develop a strategy using appropriate BMPs considering the characteristics of the system and the nature of the significant deficiency or contamination.

e. Reporting Outbreaks

As required in 141.32(a)(iii)(D) for undisinfected surface water systems; EPA proposes that if any ground water system has reason to believe that a disease outbreak is potentially attributable to their drinking water, it must report the outbreak to the State as soon as possible, but in no case later than the end of the next business day.

f. Treatment Technique Violations

The GWR proposes the following three treatment technique violations, requiring the ground water system to give public notification:

(a) A ground water system with a significant deficiency identified by a State, which does not correct the deficiency, provide an alternative source, or provide 4-log inactivation or removal of viruses within 90 days, or does not obtain, within the same 90 days, State approval of a plan and schedule for meeting the treatment technique requirement, is in violation of the treatment technique.

(b) A ground water system that detects fecal contamination in the source water and does not eliminate the source of contamination, correct the significant deficiency, provide an alternate source water, or provide a treatment which reliably achieves at least 99.99 percent (4-log) inactivation or removal of viruses before or at the first customer within 90 days, or does not obtain within the same 90 days, State approval of a plan for meeting this treatment technique requirement, is in violation of the treatment technique unless the detected sample is invalidated by the State or the treatment technique is waived by the State. Ground water systems which provide 4-log inactivation or removal of viruses will be required to conduct compliance monitoring to demonstrate treatment effectiveness.

(c) A ground water system which fails to address either a significant deficiency as provided in (a) or fecal contamination as provided in (b) according to the State-approved plan, or by the State-approved deadline, is in violation of the treatment technique. In addition, a ground water system which fails to maintain 4-log inactivation or removal of viruses, once required, is in violation of the treatment technique, if the failure is not corrected within four hours.

EPA requests comment on which (if any) of these proposed treatment technique violations should or should not be treatment technique violations. EPA also requests comment as to whether a ground water system which has a source water sample that is positive for E. coli, coliphage or enterococci should be in violation of the treatment technique.

3. Public Notification

Sections 1414(c)(1) and (c)(2) of the 1996 SDWA, as amended, require that public water systems notify persons served when violations of drinking water standards occur. EPA has recently (64 FR 25963, May 13, 1999) proposed to revise the public notification regulations to incorporate new statutory provisions enacted under the 1996 SDWA amendments. EPA recently promulgated the final Public Notification Rule (PNR), under part 141. Subsequent EPA drinking water regulations that affect public notification requirements will amend the PNR as a part of each individual rulemaking. The GWR is proposing Tier 1 (discussed next) public notification requirements for the treatment technique violations (see § 141.405). EPA requests comment on the GWR public notification requirements.

The purpose of public notification is to alert customers to potential risks from violations of drinking water standards and to inform them of any steps they should take to avoid or minimize such risks. A public water system is required to give public notice when it fails to comply with existing drinking water regulations, has been granted a variance or exemption from the regulations, or is facing other situations posing a potential risk to public health. Public water systems are required to provide such notices to all persons served by the water system. The proposed PNR divides the public notice requirements into three tiers, based on the seriousness of the violation or situation.

Tier 1 is for violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure. Notice is required within 24 hours of the violation. Drinking water regulations requiring a Tier 1 notice include: Violation of the TCR, where fecal contamination is present; nitrate violations; chlorine dioxide violations; and other waterborne emergencies. The State is explicitly authorized to add other violations and situations to the Tier 1 list when necessary to protect public health from short-term exposure.

Tier 2 is for other violations and situations with potential to have serious adverse effects on human health. Notice is required within 30 days, with extension up to three months at the discretion of the State or primacy agency. Violations requiring a Tier 2 notice include all other MCL and treatment technique violations and specific monitoring violations when determined by the State.

Tier 3 is for all other violations and situations requiring a public notice not included in Tier 1 and Tier 2. Notice is required within 12 months of the violation, and may be included in the Consumer Confidence Report at the option of the water system. Violations requiring a Tier 3 notice are principally the monitoring violations.

Today's regulatory action proposes to make the presence of a fecal indicator in a source water sample, failure to monitor source water and treatment technique violations as Tier 1 public notification requirements. Any GWSs with a violation or situation requiring Tier 1 public notification must notify the public within 24 hours of the violation. GWS's that must make an annual CCR report, as discussed in III.A.7.d., must include any Tier 1 violations or situations in their next CCR report and include the health effects language described later in Appendix B of subpart Q. The following violations or situations require Tier 1 notice:

(a) A ground water system which has a source water sample that is positive for *E. coli*, coliphage, or enterococci under § 141.403, unless it is invalidated under § 141.403(i);

(b) Failure to conduct required monitoring, including triggered monitoring when a system has a positive total coliform sample in the distribution system and routine monitoring when the system is identified by the State as hydrogeologically sensitive;

(c) A ground water system with a significant deficiency identified by a State which does not correct the deficiency, provide an alternative source, or provide 4-log inactivation or removal of viruses within 90 days, or does not obtain, within the same 90 days, State approval of a plan and schedule for meeting the treatment technique requirement in § 141.404;

(d) A ground water system that detects fecal contamination in the source water and does not eliminate the source of contamination, provide an alternative water source, or provide 4-log inactivation or removal of viruses within 90 days, or does not obtain within the same 90 days, State approval of a plan for meeting this treatment technique requirement (unless the detected sample is invalidated under § 141.403(i) or the treatment technique is waived under § 141.403(j)); and

(e) A ground water system which fails to address either a significant deficiency as provided in (c) or fecal contamination as provided in (d) according to the

State-approved plan, or by the State-approved deadline. (In addition, a ground water system which fails to maintain 4-log inactivation or removal of viruses, once required, is in violation of the treatment technique if the failure is not corrected within 4 hours.)

EPA believes that these violations pose an immediate and serious public health threat. Fecal contamination is an acute contaminant and therefore illnesses and even deaths can occur through small volumes or short exposure to fecally contaminated drinking water. Illnesses can be avoided by alerting the public immediately. The proposed tiering requirements under the GWR are designed to be consistent with those for the Total Coliform Rule. Failure to test for fecal coliform or *E. coli* when any repeat sample tests positive for coliform is considered a Tier 1 violation requiring a Tier 1 notice under current Public Notification Regulations. EPA believes that failure to collect source water samples as proposed under the GWR poses an equivalent public health threat to the failure to test for fecal coliform or *E. coli* under the TCR. EPA believes that an undisinfected ground water system with either a TC positive in the distribution system or with a source found to be hydrogeologically sensitive has an increased likelihood of microbial contamination that if not monitored, presents a public health threat which requires immediate notice. EPA acknowledges that in some circumstances, the hydrogeologic sensitivity assessment may not be as indicative of the presence of microbial contamination in the ground water system as is the presence of total coliform in the distribution system. Given this potential situation, the Agency requests comment upon whether the failure to perform routine source water monitoring should be considered a lower Tier violation to avoid alarming the public unnecessarily. EPA also requests comment on the other proposed public notification requirements presented in this section.

4. Request for Comments

EPA requests comments on all the information presented earlier and the potential impacts on public health and regulatory provisions of the GWR. In addition, EPA specifically requests comments on the following alternative approaches. In particular, EPA requests comment on the following public health issues associated with disinfection. Stakeholders have raised concern about the potential risk from improperly managed or applied chemical disinfectants. Some stakeholders suggest that requiring small system operators who may lack training or expertise to apply chemical disinfection could lead to collateral health and safety risks. EPA requests comment on this issue. The Agency also requests input on alternative approaches for addressing demonstrated microbial contamination and the associated acute microbial health risks.

Alternative Approaches

a. Distribution System Residuals

EPA requests comment on requiring a 0.2 mg/L free chlorine residual at the entry points to the distribution system and a detectable free chlorine residual throughout the distribution system for all or some systems (*e.g.*, all systems serving 3,300 or more people). EPA also seeks comment on whether or not systems should be able to use a 0.2 mg/L free chlorine residual at the entry to, and detectable throughout, the distribution system to meet the disinfection requirements proposed as part of the GWR.

b. Other Log-Inactivation Levels

EPA seeks comment on the adequacy of 4-log virus inactivation or removal to protect public health from fecally contaminated ground water sources. Additionally, EPA requests comment on requiring additional levels of disinfection under certain circumstances. For example, increasing the log virus inactivation may be appropriate for contaminated systems with known sources of fecal contamination in close proximity to a well.

c. Supplemental Disinfection Strategies

EPA requests comment on whether, for certain systems with source water contamination, it may not be possible to achieve 4-log virus inactivation at the first customer either because of the distribution system size or configuration (*e.g.*, the first customer is relatively close to the point of disinfectant application). EPA requests comment on possible supplemental disinfection strategies.

d. Mandatory Disinfection for Systems in Sensitive Hydrogeology

EPA seeks comment on requiring disinfection for ground water systems which obtain their water from a sensitive aquifer regardless of microbial monitoring results (see section III.B.). This would provide proactive public health protection by disinfecting a sensitive source water before contamination becomes apparent.

e. Point-of-Entry Devices

EPA seeks comment on EPA approving the use of point-of-entry devices to disinfect contaminated source water. This would allow systems to provide protection to individual households, and may be cost-effective for some very small systems. However, the system would be responsible for maintaining the devices and this could result in significant expenditure of resources.

f. Across-the-Board Disinfection

EPA seeks comment on requiring all systems to disinfect, or requiring disinfection based on system type (*e.g.*, CWS), or size of the system (*e.g.*, greater than 3,300). The SWTR requires all systems obtaining their water from a surface water source to disinfect. EPA notes that 1996 SDWA, as amended requires that EPA should develop regulations requiring disinfection for ground water systems "as necessary".

g. Health and Fiscal Impacts on Small Systems (i.e., Competing Priorities)

EPA requests comment on whether or not potential health effects and fiscal impacts specific for small systems should be included in the GWR. Specifically, EPA seeks comment on what other regulatory priorities will compete with the GWR and what implementation issues this will present (*e.g.*, disinfection under the GWR versus compliance with the DBPR, difficulty in obtaining resources for simultaneous compliance with arsenic, radon, ground water and DBP regulations).

h. Differing Disinfection Strategies for Significant Deficiencies and Source Water Contamination

EPA seeks comment on whether a different disinfection strategy should be required depending on whether the system has an uncorrected significant deficiencies or fecally contaminated source water. Under this alternative, EPA could require systems with uncorrected significant deficiencies to provide only a disinfectant residual of 0.2 mg/L free chlorine at entry to the distribution system, while those systems with fecally contaminated source water would be required to provide disinfection to ensure that the system achieves 4-log virus inactivation or removal prior to entry to the distribution system.

i. Shutting Down Systems With Uncorrected Significant Deficiencies

EPA seeks comment on whether and based on what criteria systems with uncorrected significant deficiencies should not be allowed to disinfect as a

treatment technique, but instead would not be allowed to serve water to the public. Under certain circumstances this approach is used by some States. For example, disinfection is not an effective strategy for treating the significant deficiency of poor distribution system integrity.

j. Correction Time Frame

EPA requests comment on the criteria States must use to determine the adequacy of schedules which go beyond 90 days (*e.g.*, corrections which require significant capital investments or external technical expertise).

EPA also requests comment on an alternative approach for addressing correction of significant deficiencies. The alternate approach consists of: (1) A requirement that the State notify the system in writing within 30 days of conducting the sanitary survey listing the significant deficiency, (2) a requirement for the system to correct the significant deficiencies as soon as possible, but no later than 180 days of receipt of the letter from the State or in compliance with a schedule of any length agreed upon by the State, and (3) the requirement that the system notify the State in writing that the significant deficiencies have been corrected within 10 days after the date of completion. Under this alternative, a system that does not correct significant deficiencies within 180 days or within the time frames of a schedule agreed upon by the State is in violation of a treatment technique and must provide public notice. The Agency seeks comment on whether this particular alternative correction scheme would be appropriate for the purposes of this rule.

The Agency is also seeking comment on a second alternative approach for establishing deadlines to complete corrective actions of significant deficiencies. Under this approach, States, as part of their primacy requirement to identify and define the significant deficiencies, may develop and submit to EPA for approval, deadlines for the completion of corrective actions for specific types or categories of significant deficiencies. When a specific corrective action is not implemented within the State deadline, a State must take appropriate action to ensure that the system meets the corrective action requirement. Any corrective action that extends beyond 180 days to complete, must be enforceable by the State through a compliance agreement or an administrative order or judicial order. As part of primacy, the State must also provide a plan for how the State will meet the time frames established in their procedures for identifying, reporting, correcting, and certifying significant deficiencies within the 180 days. The Agency seeks comment on whether this alternative correction scheme might also be appropriate.

k. Required Disinfectant Residual Concentration

EPA requests comment on requiring systems that disinfect to maintain a specified default disinfectant residual level. This requirement would apply when the State fails to provide the system with a State-determined disinfectant concentration to meet the 4-log inactivation/removal requirement within the 90-day correction time frame. Under this approach, systems that must treat would be required to maintain a 0.2 mg/L free chlorine residual at entry to the distribution system and a detectable free chlorine residual throughout the distribution system. EPA also requests comment on other concentrations of residual free chlorine to be maintained both at entry to the distribution system and throughout the distribution system (*e.g.*, 0.5 mg/L free chlorine at entry to the distribution system and 0.2 mg/L free chlorine throughout the distribution system).

l. Record Keeping for 4-log Inactivation Requirements

EPA requests comment upon whether systems which disinfect to comply with the GWR must maintain records of the State notification of the proper residual concentrations (when using chemical disinfection), irradiance level (when using UV), or State-specified compliance criteria (when using membrane filtrations) needed to achieve 4-log inactivation or removal of virus. EPA also requests comment on systems keeping records of the level of disinfectant residuals maintained, as well as how long the system should keep the records (*e.g.*, three years). These records may be valuable in the operation of the system because they will serve as permanent records for subsequent operators and/or owners of the ground water system.

m. Differing Monitoring Requirements for Consecutive Systems

EPA requests comment on any GWR requirements that should not apply to consecutive systems. Consecutive systems are those PWSs that receive some or all of their water from other PWSs. Such systems would certainly need to undergo the proposed sanitary survey to assure that they are delivering safe water to their customers. EPA also requests comment on whether the hydrogeologic sensitivity assessment and any corresponding source water monitoring should be the responsibility of the water seller or the consecutive system. EPA requests comments on whether or not a consecutive system should be required to monitor treatment compliance in their distribution system if the seller has met 4-log inactivation or removal of viruses. In addition, EPA requests comment on the selling system being required to conduct triggered source water monitoring when the consecutive system has a total-coliform positive in the distribution system.

n. State Primacy Requirements

EPA requests comment on the scope and appropriateness of the GWR State primacy requirements. The primacy requirements include the following:

- *Sanitary surveys*: State will describe how it will implement the sanitary survey, including rationales and time frames for phasing in sanitary surveys, how it will decide that a CWS has outstanding performance, and how the State will utilize data from its SWAPP;
- *Hydrogeologic Sensitivity Assessment:* State will identify its approach to determining the adequacy of a hydrogeologic barrier, if present;
- *Source Water Monitoring:* State will describe its approach and rationale for determining which of the fecal indicators (*E. Coli, coliphage* or *enterococci*) ground water systems must use for routine and/or triggered monitoring;
- *Treatment Techniques:* State will describe treatment techniques, including how it will provide systems with the disinfectant concentration (or irradiance) and contact time required to achieve 4-log virus inactivation; the approach the State must use to determine which specific treatment option (correcting the deficiency, eliminating the source of contamination, providing an alternative source, or providing 4-log inactivation or removal of viruses) is appropriate for addressing significant deficiencies or fecally contaminated source water and under what circumstances; and how the State will consult with ground water systems regarding the treatment technique requirements.

o. State Reporting Requirements

The proposed rule contains many reporting requirements for States to submit to EPA. EPA requests comment on the scope and appropriateness of these reporting requirements. The GWR reporting requirements include the following:

- *Sanitary Survey:* State will report an annual list of ground water systems that have had a sanitary survey

completed during the previous year and an annual evaluation of the State's program for conducting sanitary surveys.

- *Hydrogeologic Sensitivity Assessment:* State will report lists of ground water systems that have had a sensitivity assessment completed during the previous year, those ground water systems which are sensitive, ground water systems which are sensitive, but for which the State has determined that a hydrogeologic barrier exists, and an annual evaluation of the State's program for conducting hydrogeologic sensitivity assessments.
- *Source Water Monitoring:* State will report an annual list of ground water systems that have had to test the source water, a list of determinations of invalid samples, and a list of waivers of source water monitoring provided by the State.
- *Treatment Techniques:* State will report lists of ground water systems that have had to meet treatment technique requirements for significant deficiencies or contaminated source water, determinations to discontinue 4-log inactivation or removal of viruses, ground water systems that violated the treatment technique requirements, and an annual list of ground water systems that have notified the State that they are currently providing 4-log inactivation or removal of viruses.

IV. Implementation

This section describes the regulations and other procedures and policies States have to adopt, and the requirements that public ground water systems would have to meet to implement today's proposal were it to be finalized as proposed. Also discussed are the compliance deadlines for these requirements. States must continue to meet all other conditions of primacy in Part 142 and ground water systems must continue to meet all other applicable requirements of Part 141.

Section 1413 of the SDWA establishes requirements that a State or eligible Indian Tribe must meet to maintain primary enforcement responsibility (primacy) for its public water systems. These include (1) adopting drinking water regulations that are no less stringent than Federal NPDWRs in effect under sections 1412(a) and 1412(b) of the Act, (2) adopting and implementing adequate procedures for enforcement, (3) keeping records and making reports available on activities that EPA requires by regulation, (4) issuing variances and exemptions (if allowed by the State) under conditions no less stringent than allowed by sections 1415 and 1416, and (5) adopting and being capable of implementing an adequate plan for the provision of safe drinking water under emergency situations.

40 CFR part 142 sets out the specific program implementation requirements for States to obtain primacy for the Public Water Supply Supervision (PWSS) Program, as authorized under section 1413 of the Act. In addition to adopting the basic primacy requirements, States may be required to adopt special primacy provisions pertaining to a specific regulation. These regulation-specific provisions may be necessary where implementation of the NPDWR involves activities beyond those in the generic rule. States are required by 40 CFR 142.12 to include these regulation-specific provisions in an application for approval of their program revisions. These State primacy requirements apply to today's proposed rule, along with the special primacy requirements discussed next. The proposed regulatory language under section 142 applies to the States. The proposed regulatory language in section 141 applies to the public water systems.

The 1996 SDWA amendments (see section 1412(b)(10)) provide 3 years after promulgation for compliance with new regulatory requirements. Accordingly, the GWR requirements that apply to the PWS directly, specifically requirements found under section 141 of this proposal (monitoring and corrective action), are effective three years after the promulgation date. The State may, in the case of an individual system, provide additional time of up to two years if necessary, for capital improvements in accordance with the statute.

Section 1413(a)(1) allows States two years after promulgation of the final GWR to adopt drinking water regulations that are no less stringent than the final GWR. EPA proposes to require States to submit their primacy application concerning the GWR (see section 142 of the proposed regulatory language) within two years of the promulgation of the final GWR and EPA will review and approve (if appropriate) the application within 90 days of submittal (1413(b)(2). This schedule will provide all States with approved primacy for the GWR by the three years after [DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER].

If the GWR is finalized as proposed today, the States will have three years from the effective date (six years from the GWR promulgation date) to complete all community water system sanitary surveys and five years from the effective date (eight years from the GWR promulgation date) to complete all non-community water system sanitary surveys. The monitoring and corrective action requirements would be effective on the effective date of the final rule (three years after the GWR promulgation date).

V. Economic Analysis (Health Risk Reduction and Cost Analysis)

This section summarizes the Health Risk Reduction and Cost Analysis in support of the GWR as required by section 1412(b)(3)(C) of the 1996 SDWA. In addition, under Executive Order 12866, Regulatory Planning and Review, EPA must estimate the costs and benefits of the GWR in a Regulatory Impact Analysis (RIA) and submit the analysis to the Office of Management and Budget (OMB) in conjunction with publishing the proposed rule. EPA has prepared an RIA to comply with the requirements of this Order and the SDWA Health Risk Reduction and Cost Analysis (USEPA, 1999a). The RIA has been published on the Agency's web site, and can be found at http://www.epa.gov/safewater. The RIA can also be found in the docket for this rulemaking (US EPA, 1999a).

The goal of the following section is to provide an analysis of the costs, benefits, and other impacts to support decision making during the development of the GWR.

A. Overview

The analysis conducted for this rule quantifies cost and benefits for four scenarios; the proposed regulatory option (multi-barrier option), the sanitary survey option, the sanitary survey and triggered monitoring option, and the across-the-board disinfection option. All options include the sanitary survey provision. The sanitary survey option would require the primacy agent to perform surveys every three to five years, depending on the type of system. If any significant deficiency is identified, a system is required to correct it. The sanitary survey and triggered monitoring option adds a source water fecal indicator monitoring requirement triggered by a total coliform positive sample in the distribution system. The multi-barrier option adds a hydrogeologic sensitivity assessment to these elements which, if a system is found to be sensitive, results in a routine source water fecal indicator monitoring requirement. The multi-barrier option and the sanitary survey and triggered monitoring options are both a targeted regulatory approach designed to identify wells that are fecally contaminated or are at a high risk for contamination. The across-the-board disinfection option would require all systems to install treatment instead

of trying to identify only the high risk systems; therefore, it has no requirement for sensitivity assessment or microbial monitoring.

Costs for each option varied and were driven by the number of systems that would need to fix a significant deficiency or take corrective action, such as installing treatment or rehabilitating a well, in response to fecal contamination. The majority of costs for all options, with the exception of the across-the-board option, are the result of systems having to fix an actual or potential fecal contamination problem. The mean annual costs of the various options range from $73 million to $777 million using a three percent discount rate and $76 million to $866 million using a seven percent discount rate. (Note some costs have not been quantified and are not included in these totals, see section V.B.)

These total annual quantified costs can be compared to the annual monetized benefits of the GWR. The annual mean benefits of the various rule options range from $33 million to $283 million. This result is based on the quantification of the number of acute viral illnesses and deaths avoided attributable to this rule. This rule will also decrease bacterial illness and death associated with fecal contamination of ground water. EPA did not directly calculate the actual numbers of illness associated with bacterially contaminated ground water because the Agency lacked the necessary bacterial pathogen occurrence data (*e.g.*, number of wells contaminated with *Salmonella*) to include it in the risk model. However, in order to monetize the benefit from reduced bacterial illnesses and deaths from fecally contaminated ground water, the Agency used the ratio of viral and unknown etiology outbreak illnesses to bacterial outbreak illnesses reported to CDC for waterborne outbreaks in ground water systems.

Several non-health benefits from this rule were also considered by EPA but were not monetized. The non-health benefits of this rule include avoided outbreak response costs (such as the costs of providing public health warnings and boiling drinking water), and possibly the avoided costs of averting behavior and reduced uncertainty about drinking water quality. There are also non-monetized disbenefits, such as increased exposure to DBPs.

Additional analysis was conducted by EPA to look at the incremental impacts of the various rule options, impacts on households, benefits from reduction in co-occurring contaminants, and increases in risk from other contaminants. Finally, the Agency evaluated the uncertainty regarding the risk, benefits, and cost estimates.

B. Quantifiable and Non-Quantifiable Costs

In estimating the cost of each rule option, the Agency considered impacts on public water systems and on States. The GWR will result in increased costs to some PWSs for monitoring, corrective action of significant deficiencies, and installing treatment, but these vary depending on the option. With all rule options, a greater portion of the regulatory burden will be placed on those systems that do not currently disinfect to a 4-log inactivation of virus. States will incur costs for an incremental increase in sanitary survey requirements, for conducting hydrogeologic sensitivity assessments, and for follow-up inspections. Both systems and States would incur implementation costs. Some costs of today's rule options were not quantified (such as land acquisition, public notification costs and corrections to all potential significant deficiencies (See section V. B.4.)).

1. Total Annual Costs

In order to calculate the national costs of compliance, the Agency used a Monte-Carlo simulation model specifically developed for the GWR. The main advantage of this modeling approach is that, in addition to providing average compliance costs, it also estimates the range of costs within each PWS size and category. It also allowed the Agency to capture the variability in PWS configuration, current treatment in place and source water quality.

Table V–1 shows the estimated mean and range of annual costs for each rule option. At both a three and seven percent discount rate for the first three options, the costs increase as more components are added for identifying fecally contaminated wells and wells vulnerable to fecal contamination. The fourth option of across-the-board disinfection is the most costly because it would require all systems to install treatment regardless of actual fecal contamination or the potential to become fecally contaminated. Costs for the States to implement these rule options are also included in the four cost estimates. Discount rates of three and seven percent were used to calculate the annualized value for the national compliance cost estimate. The seven percent rate represents the standard discount rate required by OMB for benefit-cost analyses of government programs and regulations.

TABLE V–1.—ANNUAL COSTS OF RULE OPTIONS ($MILLION)

Option	3% Discount rate $million mean [range]	7% Discount rate $million mean [range]
Sanitary Survey	$73 [$71–$74]	$76 [$74–78]
Sanitary Survey and Triggered Monitoring	$158 [$153–$162]	$169 [$163–174]
Multi-barrier (Proposed) Option	$183 [$177–188]	$199 [$192–206]
Across-the-Board Disinfection	$777 [$744–$810]	$866 [$823–$909]

2. System Costs

In order to calculate the cost impact of each rule option on public water systems, EPA had to estimate the current baseline of systems and their current treatment practices, and then estimate how many systems would be affected by the various option requirements based on national occurrence information. The industry baseline discussion is located in section I.C. of this preamble. Estimates of the cost compliance requirements for each rule option are captured in a decision

tree analysis. The decision tree is comprised of various percentage estimates of the number of systems that will fall into each regulatory component category. Rule components include corrective action costs or costs to address significant deficiencies, monitoring costs, start-up costs, and reporting costs. Each of the rule options contains various combinations of these rule components with the sanitary survey option containing the fewest requirements.

Overall, these rule options provide a great amount of flexibility, with the exception of across-the-board disinfection, and this has complicated the cost analysis. Data were not always available to estimate the number of systems that would fall under the various rule components. EPA used data, where available but also consulted with experts and stakeholders to get the best possible estimates of the cost of this rule. More information on the GWR decision tree and how each element was estimated can be found in the Appendix to the GWR RIA (US EPA, 1999a).

As previously mentioned, the main cost component of the first three rule options results from systems having to take corrective action in response to fecal contamination or to fix significant deficiencies that could result in well contamination. In order to analyze the different rule options, the Agency had to distinguish between correction of significant deficiencies and the corrective actions that result from a confirmed source water positive sample for *E. coli,* enterococci or coliphage. In addition, it would be extremely challenging to cost out all conceivable corrective actions or significant deficiencies that a system could potentially encounter. As a result, the Agency focused on a representative estimate of potential types of corrective actions and significant deficiencies as shown in Table V–2 and Table V–3, respectively.

The choice of treatment technique (in consultation with the State) is also influenced by the size of the system. This is captured in the decision tree analysis by assigning probabilities (by system size) that a certain corrective action will be chosen. These probabilities are based on the relative cost of each action, data on existing disinfection practices, and best professional judgment. Additional significant deficiencies related to improper treatment were included in the cost analysis for systems that currently disinfect. These deficiencies are also captured in the decision tree and are listed in Table V–3.

TABLE V–2.—TREATMENT TECHNIQUES TO ADDRESS POSITIVE SOURCE WATER SAMPLES

Corrective action: [1]
Rehabilitating an existing well
Drilling a new well
Purchasing water (consolidation)
Eliminating known sources of contamination
Installing disinfection (8 choices of technologies)

[1] Choice varies with systems size and corrective action feasibility.

Each treatment technique can be addressed by various low or high cost alternatives. For example, a lower cost fix for many systems would be to rehabilitate a well while a higher cost fix would be to drill a new well. It is possible that not all States, in coordination with systems, would choose the relatively lower cost alternative of well rehabilitation. It would depend on the well itself and also the problem that was being addressed. In addition, if the model predicted that a system would install treatment, the choice of treatment is contingent on system size. To capture these alternative possibilities, the Agency considered different combinations of low and high cost alternatives. For instance, when the low cost corrective action alternative was run, the model estimated a greater percentage of systems choosing the lower cost well rehabilitation option versus the higher cost option of drilling a new well. To account for the uncertainty in the types of significant deficiencies identified and in the treatment technique taken, the cost model was run for each of the following combinations of low and high costs alternatives.

- Low significant deficiency cost/low treatment technique cost
- Low significant deficiency cost/high treatment technique cost
- High significant deficiency cost/low treatment technique cost
- High significant deficiency cost/high treatment technique cost

These combinations of low and high cost are reflected in the range of cost estimates shown in Table V–1 for the multi-barrier option (proposed option), the sanitary survey and triggered monitoring option, and the across-the-board option. For the sanitary survey option, only the high and low costs associated with significant deficiencies were included in the analysis. As stated earlier, treatment technique costs are the result of source water monitoring which is not included with the sanitary survey option.

TABLE V–3.—SIGNIFICANT DEFICIENCIES

Significant deficiencies
Unsealed well or inadequate well seal
Improper well construction
Inadequate roofing on a finished water storage tank
Evidence of vandalism at finished water storage tank
Unprotected cross connection in the distribution system
Booster pump station which lacks duplicate pumps
Additional significant deficiencies for disinfecting systems:
Inadequate disinfection contact time
Inadequate application of treatment chemicals

In addition to the treatment technique costs, EPA estimated the cost to systems for monitoring. All options would have some monitoring costs. However, the monitoring costs vary depending on the rule option as indicated in Table V–4. Regardless of the option, the triggered and routine monitoring applies only to systems that do not disinfect to a 4-log inactivation of virus.

Both the triggered and routine monitoring costs are calculated based on the cost of the test and the operator's time to take and transport the sample. EPA assumed that if this source water sample is positive, all systems would take five repeat samples to confirm the positive (although this is an optional rule component). For routine monitoring, the Agency assumed that all systems would monitor their source water monthly for the first year and quarterly thereafter at the States' determination. However, in some cases the State may allow the system to discontinue monitoring after 12 monthly samples or it could also require the system to continue with monthly monitoring. The cost of disinfectant compliance monitoring varies with system size and would be required for any system that currently disinfects or installs treatment as a result of the GWR. For large systems, EPA assumed that an automated monitoring system would be installed; for smaller systems, EPA assumed that a daily grab sample would be taken. A more detailed explanation of each of these monitoring schemes is located in section III. D. and section III E.2.c.

TABLE V–4.—MONITORING REQUIREMENTS BY RULE OPTION

Option	Triggered monitoring	Routine monitoring	Disinfectant compliance monitoring
Sanitary Survey			✔
Sanitary Survey and Triggered Monitoring Option	✔		✔
Multi-barrier (Proposed) Option	✔	✔	✔
Across-the Board Disinfection Option			✔

Finally, the Agency accounted for a system's start-up costs to comply with the GWR . These costs include time to read and understand the rule, mobilization and planning, and training. EPA assumed start-up costs would remain constant across the rule options. The Agency also estimated system costs for reporting and recordkeeping of any positive source water samples.

3. State Costs

Similar to the system cost, State costs also vary by rule option. Depending on the option, States would face increased costs from the incremental difference in the sanitary survey requirements and frequency, from conducting a one-time hydrogeologic sensitivity assessments, and tracking monitoring information for those options with a monitoring requirement. States would also have start-up and annual costs for data management and training. If a system needs longer than 90 days to complete a treatment technique or repair a significant deficiency, the State would have to approve the time schedule and plan.

By including start-up costs, annual fixed costs, and incremental sanitary survey costs in the decision tree analysis for all rule options, EPA accounted for these State costs. The analysis also assumed costs for State review and approval of plans for treatment techniques. The cost for the one-time sensitivity assessments is included for the proposed rule option analysis.

4. Non-Quantifiable Costs

Although EPA has estimated the cost of all the rule's components on drinking water systems and States, there are some costs that the Agency did not quantify. These non-quantifiable costs result from uncertainties surrounding rule assumptions and from modeling assumptions. For example, EPA did not estimate a cost for systems to acquire land if they needed to build a treatment facility or drill a new well. This was not considered because many systems will be able to construct new wells or treatment facilities on land already owned by the utility. In addition, if the cost of land was prohibitive, a system may chose another lower cost alternative such as connecting to another source. A cost for systems choosing this alternative is quantified in the analysis. The cost estimates do not include costs for public notification which are proposed. These estimates have not been included because EPA has no data on which to base an estimate of the number of treatment techniques violations or the number of times systems will fail to perform source water monitoring.

In addition, the Agency did not develop costs for all conceivable significant deficiencies or corrective actions that a system may encounter. Instead, a representative sample was chosen as shown in Tables V–2 and V–3.

C. Quantifiable and Non-Quantifiable Health and Non-Health Related Benefits

The primary benefits of today's proposed rule come from reductions in the risks of microbial illness from drinking water. In particular, the GWR focuses on reducing illness and death associated with viral infection. Exposure to waterborne bacterial pathogens are also reduced by this rule and the benefits are monetized, but not by the same method used to calculate reductions in viral illness and death because of data limitations. It is likely that these monetized illness calculations which are based on a cost of illness (COI) rather than a willingness to pay (WTP) approach, underestimate the true benefit because they do not include pain and suffering associated with viral and bacterial illness.

Additional health benefits such as reduced chronic illness were investigated, but were not quantified or monetized in this analysis. Other non-health benefits will likely result from this rule but were also not quantified or monetized. These non-health related benefits are discussed in sections V.A. and V.C. 2.

1. Quantifiable Health Benefits

The benefits analysis focused on estimating reductions in viral and bacterial illness and death that would result from each of the rule options. The first part of the analysis estimates the baseline (pre-GWR) level of illness as a result of microbial contamination of ground water. A discussion about how the Agency estimated this baseline risk is located in section II. E. of today's proposal. An important component of these risk estimates is the effect that these pathogens have on children (especially infants) because they are more likely to have severe illness and die from viral infection than the general population. A detailed discussion of risks to children is located in section VI. G.

The second part of the analysis focused on the reduction in risk that results from the various rule components. These components include identifying high risk wells, fixing significant deficiencies, increased monitoring for some systems, and possibly installing treatment in the event that a problem can not be fixed or a new source found. To calculate these changes, the risk-assessment model was re-run using new assumptions based on reductions in viral exposure which results from different levels of fecal contamination identified by each rule option.

To model the reduction in source contamination that would result from implementation of the four regulatory options, EPA assumed reductions in the number of ground water systems/points of entry that are potentially contaminated with viral pathogens under baseline conditions. The reduction varies with expectations regarding the effectiveness of each option in identifying and correcting significant defects at the source. Reductions in treatment failure rate and in distribution system contamination are also addressed for each option. The estimated reductions in contamination which are expected for each rule option are summarized in Table V–4a. These estimates are based upon information from consultations by the Agency with stakeholders and the Agency's best professional judgement regarding the effectiveness of sanitary surveys and upon co-occurrence rates of fecal indicators with pathogenic viruses. See section 5.3 of the GWR RIA for a detailed discussion of the basis for the estimated reductions.

TABLE V–4A. ESTIMATED CONTAMINATION REDUCTIONS FOR GWR OPTIONS

[In Percent]

Regulatory option	Estimated reduction in viral source contamination of undisinfected ground water sources		Estimated reduction in rate of disinfection failure for GWSs with viral contamination of the source	Estimated reduction in distribution system contamination with virus of GWSs
	Properly constructed	Improperly constructed		
Option 1. Sanitary Survey Only	0	40–60	0–26 (CWS) 0–43 (NCWS)[1]	0–25 (NA for TNC)[2]
Option 2. Sanitary Survey and Triggered Monitoring	30–54	58–82	77–100	0–25 (NA for TNC)[2]
Option 3. Multi-Barrier (Proposed)	38–77	63–91	77–100	0–25 (NA for TNC)[2]
Option 4. Across-the-Board Disinfection	100	100	77–100	0–25 (NA for TNC)[2]

[1] Non-community water systems (NCWS), both transient and nontransient, have an estimated reduced risk of contamination of 0–43%; community water systems (CWS) reduced risk is 0–26%.

[2] Reduction of risk in transient non-community (TNC) systems was not considered.

After the reductions in viral illnesses and death were estimated, the Agency estimated the monetized benefit from the reduction in bacterial illnesses and death associated with each rule option. EPA could not directly calculate the actual numbers of illnesses and death associated with bacterially contaminated ground water because the Agency lacked the necessary pathogen occurrence information to include it in the risk model. In order to estimate the benefit from reducing bacterial illnesses and deaths from fecally contaminated ground water, the Agency relied on CDC's outbreak data ratio of viral outbreaks and outbreaks of unknown etiology believed to be viral to bacterial outbreaks in ground water. These data indicate that for every five viral outbreaks, there is one bacterial outbreak. It was further assumed that the cost of these bacterial illnesses would be comparable to viral illness estimates.

To assign a monetary value to the illness, EPA estimated costs-of-illness ranging from $158 to $19,711 depending upon the age of the individual and severity of illness (see Exhibits 5–9 and 5–10 in the RIA). These are considered lower-bound estimates of actual benefits because it does not include the pain and discomfort associated with the illness. This issue is discussed in greater detail in the GWR RIA (USEPA, 1999a). Mortalities were valued using a value of statistical life estimate (VSL) of $6.3 million consistent with EPA policy. The VSL estimate is based on a best-fit distribution of 26 VSL studies and this distribution has a mean of $4.8 million per life in 1990 dollars. For this analysis, EPA updated this number to 1999 dollars which results in a mean VSL value of $6.3 million. Table V–5 shows the annual monetized benefits by rule option.

TABLE V–5.—QUANTIFIED AND MONETIZED BENEFITS BY RULE OPTION ($MILLION)

Options	Morbidity $million [range]	Mortality $million [range]	Total $million [range]
Sanitary Survey	$22 [$7 to $38]	$11 [$2 to $20]	$33 [$9 to $58]
Sanitary Survey and Triggered Monitoring	$120 [$100 to $140]	$58 [$47 to $68]	$178 [$147 to $209]
Multi-Barrier Proposed (Option)	$139 [$115 to $163]	$66 [$54 to $79]	$205 [$169 to $242]
Across-the-Board Disinfection	$192 [$174 to $210]	$91 [$81 to $101]	$283 [$255 to $311]

2. Non-Quantifiable Health and Non-Health Related Benefits

Although viral and some bacterial illness have been linked to chronic diseases, insufficient data was available to forecast the number of avoided chronic cases that would result from each rule option. A review of medical and epidemiological data identified several chronic diseases linked to viral infections. The strongest evidence links Group B coxsackievirus infections with Type 1-insulin-dependent diabetes and also to heart disease. Bacterial illness can also result in longer-term complications including arthritis, recurrent colitis, and hemolytic uremic syndrome. Most of these chronic illnesses and longer term complications are extremely costly to treat.

Using cost-of-illness (COI) estimates instead of willingness-to-pay (WTP) estimates to monetize the benefit from illness reduction generally results in underestimating the actual benefits of these reductions. In general, the COI approach is considered a lower bound estimate of WTP because COI does not include pain and suffering. EPA requests comment on the use of an appropriate WTP study to calculate the reduction in illness benefits of this rule.

D. Incremental Costs and Benefits

Today's proposed rule options represent the incremental costs and benefits of this rule. Both costs and benefits increase as more fecal contamination detection measures are added to the sanitary surveys for the first three options. The proposed option has the highest cost of these three incremental options, but it also produces incrementally more benefits.

The fourth option, across-the-board disinfection, is the most costly because it would require all systems to install treatment or to upgrade to 4-log removal/inactivation. It would not provide the flexibility of the other three options and would not target specifically high risk systems. Similar to the first three options, this option also includes the sanitary survey provision. This is included to address problems in the distribution systems and with disinfection failure.

Table V–6 and Table V–6a show the monetized costs, benefits and net benefits for all four options using both a three percent and seven percent discount rate, respectively. It is important to remember that non-quantified costs and benefits are not included in these net benefit numbers.

TABLE V–6.—NET BENEFITS—3% DISCOUNT RATE ($MILLION)

Options	Mean annual costs (3%) $million	Mean annual benefits [1] $million	Net benefits of the means $million
Sanitary Survey	$73	$33	($40)
Sanitary Survey and Triggered Monitoring	158	178	20
Multi-Barrier (Proposed)	183	205	22
Across-the-board Disinfection	777	283	(494)

[1] Does not include non-quantified benefits which would increase the net benefits of these rule options.

TABLE V–6A.—NET BENEFITS—7% DISCOUNT RATE ($MILLION)

Options	Mean annual costs (7%) $million	Mean annual benefits [1] $million	Net benefits $million
Sanitary Survey	$76	$33	($43)
Sanitary Survey and Triggered Monitoring	169	178	9
Multi-Barrier (Proposed)	199	205	6
Across-the-board Disinfection	866	283	(583)

[1] Does not include non-quantified benefits which would increase the net benefits of these rule options.

E. Impacts on Households

Overall, the average annual cost per household for the first three rule options are small across most system size categories as shown in Table V–7. However, costs are greater for the smallest size category across all options. This occurs because there are fewer households per system to share the cost of any corrective action or monitoring incurred by the systems. For example, under the Multi-Barrier option household costs would increase by approximately $5 per month for those served by the smallest size systems (<100 people) while those served by the largest size systems (>100,000 people) would face only a $0.02 increase in monthly household costs. As previously mentioned, the majority of the cost from the first three rule options is the result of systems having to correct significant deficiencies in their systems or to take corrective action in response to fecal contamination. On average, household costs resulting from the first three rule options increase from $2.45 to $3.86 annually. The most expensive option, across-the-board disinfection, also has the highest average household costs at $19.37 annually.

TABLE V–7.—AVERAGE ANNUAL HOUSEHOLD COST FOR GWR OPTIONS FOR CWS TAKING CORRECTIVE ACTION OR FIXING SIGNIFICANT DEFECTS

Size categories	Sanitary survey option	Sanitary survey and triggered monitoring option	Multi-barrier option (proposed)	Across-the-board disinfection option
<100	$29.86	$67.19	$62.48	$191.87
101–500	11.23	15.02	18.95	81.38
501–1,000	5.72	6.29	6.25	38.79
1,001–3,300	2.99	2.91	3.39	23.45
3,301–10,000	1.39	1.46	2.74	16.78
10,001–50,000	0.62	0.59	0.62	4.87
50,001–100,000	0.30	0.70	1.01	10.37
100,001–1,000,000	0.32	0.20	0.27	1.66
Average	2.45	3.34	3.86	19.37

F. Cost Savings From Simultaneous Reduction of Co-Occurring Contaminants

If a system chooses to install treatment, it may choose a technology that would also address other drinking water contaminants. For example, when using packed tower aeration to treat radon, it is the accepted engineering practice, and in some States an existing requirement, to also install disinfection treatment for removal of microbial contaminants introduced in the aeration treatment process. Depending on the dosage and contact time, the routine disinfection would also address possible or actual fecal contamination in the source water. If systems had an iron or manganese problem, the addition of an oxidant and filtration can treat this problem as well as fecal contamination. Also, some membrane technologies installed to remove bacteria or viruses can reduce or eliminate many other drinking water contaminants including arsenic. EPA is currently in the process of proposing rules to address radon and arsenic. Because of the difficulties in establishing which systems would have all three problems of fecal contamination, radon, and arsenic or any combination of the three, no estimate was made of the potential cost savings from addressing more than one contaminant simultaneously. EPA also recognizes that while there may be savings from treating several contaminants simultaneously relative to treating each of them separately, there may also be significant economic impacts to some systems (especially small systems), if they have to address several contaminants in a relatively short time frame. Because of the lack of good data on co-occurrence of contaminants, EPA has not considered these simultaneous impacts in the analysis of household and per system costs.

G. Risk Increases From Other Contaminants

The RIA for today's rule contains a detailed discussion of the increased risk from other contaminants that may result from GWR requirements. Most of the risk stems from currently untreated systems installing disinfection. When disinfection is first introduced into a previously undisinfected system, the disinfectant can react with pipe scale causing increased risk from some contaminants and water quality problems. Contaminants that may be released include lead, copper, and arsenic. It could also lead to a temporary discoloration of the water as the scale is loosened from the pipe. These risks can be reduced by gradually phasing in disinfection to the system, by routine flushing of distribution system mains and by maintaining a proper corrosion control program.

Using a chlorine-based disinfectant or ozone could also result in an increased risk from disinfection byproducts (DBPs). Risk from DBPs has already been addressed in the Stage 1 Disinfection Byproducts Rule and is currently being further considered by the Stage II M–DBP FACA. Systems could avoid this problem by choosing an alternative disinfection technology such as ultraviolet disinfection or membrane filtration, though this may increase treatment costs. The GWR cost estimate includes such additional treatment costs for a portion of systems taking corrective action.

H. Other Factors: Uncertainty in Risk, Benefits, and Cost Estimates

Today's proposal models the current baseline risk from fecal contamination in ground water as well as the reduction in risk and the cost for four rule options. There is uncertainty in the baseline number of systems, the risk calculation, the cost estimates, and the interaction of other rules currently being developed. These uncertainties are discussed further in the following section.

The baseline number of systems is uncertain because of data limitations in the Safe Drinking Water Information System (SDWIS). For example, some systems use both ground and surface water but because of other regulatory requirements they are labeled in SDWIS as surface water. Therefore, EPA does not have a reliable estimate of how many of these mixed systems exist. To the extent that systems classified in SDWS as surface water or ground water under the influence of surface water may also have ground water wells not under the influence of surface water and thus be subject to this rule, the costs and benefits estimated here would be understated. In addition, the SDWIS data on non-community water systems does not have a consistent reporting convention for population served. Some States may report the population served over the course of a year, while others may report the population served on an average day. Also, SDWIS does not require States to provide information on current disinfection practices and, in some cases, it may overestimate the daily population served. For example, a park may report the population served yearly instead of daily. EPA is looking at new approaches to address these issues, and both are discussed in the Requests for Comment section V.I.

The risk calculations concerning the baseline number of illnesses and the reduction of illnesses that results from the various rule options contains uncertainty. For example, a nationally representative study of baseline microbial occurrence in ground water does not exist. EPA chose the AWWARF study (described in section II.C.1) to represent properly constructed wells because, of the thirteen available studies, it is the most representative of national geology. EPA also relied on data from the EPA/AWWARF study to represent improperly constructed wells because this study targeted wells vulnerable to contamination and tested wells monthly for a year. However, EPA recognizes the variable nature of these studies, as discussed in detail in section II.C. Additionally, EPA had to rely on CDC outbreak data to characterize the causes of endemic ground water disease. As discussed in section II. B., the U.S. National Research Council suggests that CDC numbers only represent a small percentage of actual waterborne disease outbreaks. The Agency also assumes that the occurrence of fecal contamination will remain constant throughout the implementation of the rule. However, this might not be the case if increased development results in fecal contamination of a larger number of aquifers in areas served by ground water systems or if other rules, such as the TMDL, CAFO, and Class V UIC Well Rules result in decreased fecal contamination.

EPA did not have dose-response data for all viruses and bacteria associated with previous ground water disease outbreaks. For viral illness, the Agency used echo and rota viruses as surrogates for all pathogenic viruses from fecal contamination that can be found in ground water. By using these two viruses, the Agency is capturing the effects of both low-to-medium infectivity viruses that cause severe illness and high infectivity viruses that cause more mild illness. Further, there is considerable uncertainty in the dose-response functions used, even for these two viruses. Dose-response was modeled in two steps. First, infectivity, or the percentage of people in the different age groups who become infected after exposure to a given quantity of water with a given concentration of viruses, was estimated. Then morbidity, or the percentage of infected people who actually become ill was estimated. There is likely to be variability in both of these parameters across populations and based on case specific circumstances, and only limited data are available. Another uncertainty

concerns the number of baseline bacterial illness caused by ground water contamination. The bacterial risk could not be modeled because of lack of occurrence and dose-response data. Estimates of bacterial illness were made based on a ratio of bacterial to viral outbreak as documented by CDC and applied to the viral risk estimate discussed previously. There is also considerable uncertainty in quantifying the effectiveness of various regulatory options in reducing risk. There is little data currently on which to base quantitative estimates of the effectiveness of sanitary surveys or routine monitoring in reducing microbial risk, though there is some qualitative research suggesting that these can be effective strategies. To model risk reduction quantitatively, EPA relied primarily on best professional judgment. The quantitative estimates of risk reduction used in the analysis are summarized in Table V–4a.

There is also uncertainty in the valuation of risk reduction benefits. For this analysis EPA used a COI approach based on the direct medical care costs as well as the indirect costs of becoming ill. However, there is uncertainty in these estimates and variability in the COI across populations and geographic regions. In general, however, COI estimates understate benefits because they do not account for the value people place on reduced pain and suffering.

Some costs of today's proposed rule are also uncertain because of the diverse nature of possible significant deficiencies systems would need to address. Also, the rule's flexibility leads to some uncertainty in estimates of who will be affected by each rule component and how States and systems will respond to significant deficiencies. These uncertainties could either under or overestimate the costs of the rule.

EPA is in the process of proposing regulations for radon and arsenic in drinking water, which can impact some ground water systems. EPA also intends to finalize the Stage II Disinfection Byproducts Rule by the statutory deadline of May 2002. It is extremely difficult to estimate the combined effects of these future regulations on ground water systems because of various combinations of contaminants that some systems may need to address. However, it is possible for a system to choose treatment technologies that would deal with multiple problems. Therefore, the total cost impact of these drinking water rules is uncertain; however, it may be less than the estimated total cost of all individual rules combined. Conversely, the impacts on households and individual systems of multiple rules is cumulative, and in some cases maybe greater than the impacts estimated in the RIA of each rule separately.

I. Benefit Cost Determination

The Agency has determined that the benefits of the proposed GWR justify the costs. The mean quantified benefits exceed the mean quantified costs by $22 million using a three percent discount rate and $6 million using a seven percent discount rate. EPA made this determination based on provisions of the multi-barrier option that include improved sanitary surveys, hydrogeologic sensitivity assessments triggered and routine monitoring provisions corrective actions, and compliance monitoring. Overall, these elements will reduce the risk of microbial contamination reaching the consumer. The quantified cost of these provisions were compared to the monetized benefits that result from the reduction in viral and bacterial illness and death. In addition, other non-monetized benefits further justify the costs of this rule.

J. Request for Comment

The Agency requests comment on all aspects of the GWR RIA. Specifically, EPA seeks input into the following two issues.

1. NTNC and TNC Flow Estimates

In the GWR RIA, EPA estimates the cost of the GWR on NTNC and TNC water systems by using flow models. However, these flow models were developed to estimate flows only for CWS and they may not accurately represent the much smaller flows generally found in NTNC and TNC systems. The effect of the overestimate in flow would be to inflate the cost of the rule for these systems. The Agency requests comment on an alternative flow analysis for NTNC and TNC water systems described next.

Instead of using the population served data to determine the average flow for use in the rule's cost calculations, this alternative approach would re-categorize NTNC and TNC water systems based on service type (*e.g.*, restaurants or parks). Service type would be obtained from SDWIS data. However, service type data is not always available because it is a voluntary SDWIS data field. Where unavailable, the service type would be assigned based on statistical analysis. Estimates of service type design flows would be obtained from engineering design manuals and best professional judgment if no design manual specifications exist.

In addition, each service type category would also have corresponding rates for average population served and average water consumption. These would be used to determine contaminant exposure which is used in the benefit determination. Note that the current approach of assuming that the entire population served drinks an average of 1.2 liters per day for 250 days (from NTNCWSs) and 15 days (from TNCWs) may lead to an overestimation of benefits. For example, schools and churches would be two separate service type categories. They each would have their own corresponding average design flow, average population served (rather than the population as reported in SDWIS), and average water consumption rates. These elements could be used to estimate a rule's benefits and costs for the average church and the average school.

2. Mixed Systems

Current regulations require that all systems that use any amount of surface water as a source be categorized as surface water systems. This classification applies even if the majority of water in a system is from a ground water source. Therefore, SDWIS does not provide the Agency with information to identify how many mixed systems exist. This information would help the Agency to better understand regulatory impacts. Further, to the extent that mixed systems are classified as surface water, the costs and benefits of this proposed rule are underestimated.

EPA is investigating ways to identify how many mixed systems exist and how many mix their ground and surface water sources at the same entry point or at separate entry points within the same distribution systems. For example, a system may have several plants/entry points that feed the same distribution system. One of these entry points may mix and treat surface water with ground water prior to its entry into the distribution system. Another entry point might use ground water exclusively for its source while a different entry point would exclusively use surface water. However, all three entry points would supply the same system classified in SDWIS as surface water.

One method EPA could use to address this issue would be to analyze CWSS data then extrapolate this information to SDWIS to obtain a national estimate of mixed systems. CWSS data, from approximately 1,900 systems, details sources of supply at the level of the entry point to the distribution system and further subdivides flow by source type. The Agency is considering this

national estimate of mixed systems to regroup surface water systems for certain impact analyses when regulations only impact one type of source. For example, surface water systems that get more than 50 percent of their flow from ground water would be counted as a ground water system in the regulatory impact analysis for this rule. The Agency requests comment on this methodology and its applicability for use in regulatory impact analysis.

VI. Other Requirements

A. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

1. Background

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

2. Use of Alternative Definition

The RFA provides default definitions for each type of small entity. It also authorizes an agency to use alternative definitions for each category of small entity, "which are appropriate to the activities of the agency" after proposing the alternative definition(s) in the **Federal Register** and taking comment (5 U.S.C. secs. 601(3)—(5)). In addition, agencies must consult with SBA's Chief Counsel for Advocacy to establish an alternative small business definition.

EPA is proposing the GWR which contains provisions which apply to small PWSs serving fewer than 10,000 persons. This is the cut-off level specified by Congress in the 1996 Amendments to the Safe Drinking Water Act for small system flexibility provisions. Because this definition does not correspond to the definitions of "small" for small businesses, governments, and non-profit organizations, EPA requested comment on an alternative definition of "small entity" in the preamble to the proposed Consumer Confidence Report (CCR) regulation (63 FR 7620, February 13, 1998). Comments showed that stakeholders support the proposed alternative definition. EPA also consulted with the SBA Office of Advocacy on the definition as it relates to small business analysis. In the preamble to the final CCR regulation (63 FR 4511, August 19, 1998). EPA stated its intent to establish this alternative definition for regulatory flexibility assessments under the RFA for all drinking water regulations and has thus used it in this proposed rulemaking. The SBA Office of Advocacy agrees with the use of this definition in this rulemaking.

3. Initial Regulatory Flexibility Analysis

In accordance with section 603 of the RFA, EPA prepared an initial regulatory flexibility analysis (IRFA) that examined the impact of the proposed rule on small entities along with regulatory alternatives that could reduce that impact. The IRFA addresses the following issues:

- The reasons the Agency is considering this action;
- The objectives of, and legal basis for the proposed rule;
- The number and types of small entities to which the rule will apply;
- Projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the reports and records;
- The other relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule; and,
- Any significant alternatives to the components under consideration which accomplish the stated objectives of applicable statutes and which may minimize any significant economic impact of the proposed rule on small entities.

a. The Reasons the Agency Is Considering This Action

EPA believes that there is a substantial likelihood that fecal contamination of ground water supplies is occurring at frequencies and levels which present public health concern. Fecal contamination refers to the contaminants, particularly the microorganisms, contained in human or animal feces. These microorganisms may include bacterial and viral pathogens which can cause illnesses in the individuals which consume them.

Fecal contamination is introduced to ground water from a number of sources including, septic systems, leaking sewer pipes, landfills, sewage lagoons, cesspools, and storm water runoff. Microorganisms can be transported with the ground water as it moves through an aquifer. In addition, the transport of microorganisms to wells or other ground water system sources can also be affected by poor well construction (*e.g.*, improper well seals) which can result in large, open conduits for fecal contamination to pass unimpeded into the water supply.

Waterborne pathogens contained in fecally contaminated water can result in a variety of illnesses which range in the severity of their outcomes from mild diarrhea to kidney failure or heart disease. The populations which are particularly sensitive to waterborne and other pathogens include, infants, young children, pregnant and lactating women, the elderly and the chronically ill. These individuals may be more likely to become ill as a result of exposure to the pathogens, and are likely to have a more severe illness. A complete discussion of the public health concerns addressed by the GWR can be found in section II of the preamble.

b. The Objectives of, and the Legal Basis for, the Proposed Rule

EPA is proposing the GWR pursuant to section 1412(b)(8) of the SDWA, as amended in 1996, which directs EPA to "promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems, including surface water systems and, as necessary, ground water systems."

The 1996 amendments establish a statutory deadline of May 2002. EPA, however, intends to finalize the GWR in the year 2000 to coincide with implementation of other drinking water regulations and programs, such as the Disinfection Byproducts Rule, the Arsenic Rule, the Radon Rule and the Source Water Assessment and Protection Program (SWAPP). EPA believes systems and States will better plan for changes in operation and capital improvements if they presented them with future regulatory requirements at one time.

c. Number of Small Entities Affected

According to the December 1997 data from EPA's Safe Drinking Water Information System (SDWIS), there are 156,846 community water systems and non-community water supplies providing potable ground water to the public, of which 155,254 (99 percent) are classified by EPA as small entities. EPA estimates that these small ground water systems serve a population of more than 48 million. Roughly one-quarter of these systems are estimated to be community water systems serving fixed populations on a year-round basis.

Under the proposed option, all community and non-community water systems are affected by at least one requirement; the sanitary survey provision. The other GWR components are estimated to affect different numbers

of small systems. For example, over 4,300 small systems are expected to have to fix significant deficiencies each year.

d. Small Entity Impacts

Reporting and Recordkeeping for the Proposed GWR

Under the proposed Multi-Barrier option, there are a number of recordkeeping and reporting requirements for all ground water system (including small systems). To minimize the burden with these provisions, the EPA is proposing a targeted risk-based regulatory strategy whereby the monitoring requirements are based on system characteristics and not directly related to system size. In this manner, the multi-barrier option takes a system-specific approach to regulation, although a sanitary survey is required of all community and non-transient non-community water systems. However, the implementation schedule for this requirement is staggered (*e.g.*, every three to five years for CWSs and every five years for NCWSs), which should provide some relief for small systems because there are proportionately more NCWSs.

To address concerns over the potential cost of additional monitoring for small systems, the proposed GWR leverages the existing TCR monitoring framework to the extent possible (*e.g.*, by using the results of the routine TCR monitoring to determine if source water monitoring is required). In this proposal, only systems that do not reliably treat to 4-log inactivation or removal of viruses are required to test for the presence of *E. coli*, coliphage, or enterococci in the source water within 24 hours of a total coliform positive sample in the distribution system.

Only systems determined to be hydrogeologically sensitive and do not already treat to 4-log inactivation or removal of viruses are required to conduct the additional routine monitoring. If no fecal indicators are found after 12 months of monitoring, the State may reduce the monitoring frequency for that system. Similarly, if a non-sensitive system does not have a distribution system, any sample taken for TCR compliance is effectively a source water sample, so an additional triggered source water sample would not be required. In both cases, however, if the system has a positive sample for *E. coli*, coliphage, or fecal coliform, the system is required to conduct the necessary follow-up actions.

Small Entity Compliance Costs for the Proposed GWR

Estimates of the cost of complying with each component of the multi-barrier approach are presented next. The estimated impacts for this proposed option are based on the national mean compliance cost across the four compliance scenarios. System-level impacts are investigated using various corrective action and significant defects scenarios. The high correction action/low significant defect scenario is considered a typical cost estimate. For more information on these scenarios and cost assumptions, consult the Regulatory Impact Analysis for the Proposed Ground Water Rule (USEPA, 1999a) which is available for review in the water docket.

In determining the costs and benefits of this proposed rule, EPA considered the full range of both potential costs and benefits for the rule. The flexibility of the risk-based targeted approach of the rule aims to reduce the cost of compliance with the rule. Small systems will benefit from the flexibility provided in this design. For example, a small system with fecal contamination will, in consultation with the State, be able to select the least costly corrective action. Also, small systems serving less than 3,300 people which disinfect will only be required to monitor their treatment effectiveness one time per day as opposed to the continuous monitoring required for larger systems which disinfect. Estimates of annual CWS compliance costs for the multi-barrier approach are presented in Table VI–1.

TABLE VI–1.—ANNUAL COMPLIANCE COSTS FOR THE PROPOSED GWR BY CWS SYSTEM SIZE AND TYPE

CWS system type	System size/population served				
	<100	101–500	501–1,000	1,001–3,300	3,301–10K
Publicly-Owned	$825	$934	$1,238$	$1,950	$4,480
Privately-Owned	799	933	1,449	1,730	5,358
All Systems	805	933	1,328	1,893	4,652

e. Coordination With Other Federal Rules

To avoid duplication of effort, the proposed GWR encourages States to use their source water assessments when the assessment provides data relevant to the sensitivity assessment of a system. Although not a regulatory program, source water assessments are currently being performed by States. The schedule for the sensitivity assessment (within six years for CWS and eight years for NCWS) should allow States to complete the assessment and the first round of sanitary surveys concurrently if they choose to do so.

EPA has structured this GWR proposal as a targeted, risk-based approach to reducing fecal contamination. The only regulatory requirement that applies to all ground water systems is the sanitary survey. The Agency has also considered other drinking water contaminants that may be of concern when a system install disinfection. Specifically, adding disinfection may result in an increase in other contaminants of concern, depending on the characteristics of the source water and the distribution system. These contaminants include disinfection byproducts, lead, copper, and arsenic. EPA believes that these issues, when they occur will be very localized and may be addressed through selection of the appropriate corrective action. EPA has provided States and systems with the flexibility to select among a variety of corrective actions. These include options such as UV disinfection, or purchasing water from another source, which would avoid these types of problems.

f. Minimization of Economic Burden

Description of Regulatory Options

As a result of the input received from stakeholders, the EPA workgroup, and other interested parties, EPA constructed four regulatory options:

The sanitary survey option, the sanitary survey and triggered monitoring option, the multi-barrier option, and the across-the-board disinfection option. These options are described in more detail in section III of this preamble.

On an annual basis, the cost of the proposed alternative ranges from $182.7 million to $198.6 million, using a three and seven percent discount rate. System costs make up 89 percent of the total

rule costs. In developing this proposal, however, EPA considered the recommendations to minimize the cost impact to small systems. The proposed multi-barrier, risk-based approach was designed to achieve maximum public health protection while avoiding excessive compliance costs associated with Across-the-Board Disinfection regulatory compliance requirements.

To mitigate the associated compliance cost increases across water systems, the proposed GWR also provides States with considerable flexibility when implementing the rule. This flexibility will allow States to work within their existing program. Similarly, the rule allows States to consider the characteristics of individual systems when determining an appropriate corrective action. For example, States have the flexibility to allow systems to obtain a new source, or use any disinfection treatment technology, provided it achieves 4-log inactivation or removal of pathogens.

4. Small Entity Outreach and Small Business Advocacy Review Panel

As required by section 609(b) of the RFA, as amended by SBREFA, EPA also conducted outreach to small entities and convened a Small Business Advocacy Review Panel to obtain advice and recommendations of representatives of the small entities that potentially would be subject to the rule's requirements. The SBAR Panel members for the GWR were the Small Business Advocacy Chair of the Environmental Protection Agency, the Director of the Standards and Risk Management Division in the Office of Ground Water and Drinking Water (OGWDW) within EPA's Office of Water, the Administrator for the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB), and the Chief Counsel for Advocacy of the Small Business Administration (SBA). The Panel convened on April 10, 1998, and met seven times before the end of the 60-day Panel period on June 8, 1998. The SBAR Panel's report Final Report of the SBREFA Small Business Advocacy Review Panel on EPA's Planned Proposed Rule for National Primary Drinking Water Regulations: Ground Water, the small entity representatives (SERs) comments on components of the GWR, and the background information provided to the SBAR Panel and the SERs are available for review in the Office of Water docket. This information and the Panel's recommendations are summarized in section VI.A.4.a.

Prior to convening the SBAR Panel, EPA consulted with a group of 22 SERs likely to be impacted by a GWR. The SERs included small system operators, local government officials (including elected officials), small business owners (*e.g.*, a bed and breakfast with its own water supply), and small nonprofit organizations (*e.g.*, a church with its own water supply for the congregation). The SERs were provided with background information on the GWR, on the need for the rule and the potential requirements. The SERs were asked to provide input on the potential impacts of the rule from their perspective. All 22 SERs commented on the information provided. These comments were provided to the SBAR Panel when the Panel convened. After a teleconference between the SERs and the Panel, the SERs were invited to provide additional comments on the information provided. Three SERs provided additional comments on the rule components after the teleconference. In general, the SERs consulted on the GWR were concerned about the impact of the rule on small water systems (because of their small staff and limited budgets), the additional monitoring that might be required, and the data and resources necessary to conduct a hydrogeologic sensitivity assessment or sanitary survey. There was also considerable discussion about how nationally representative the source data was. SER suggested providing flexibility to the States implementing these provisions and opposed mandatory disinfection across-the-board. SERs expressed support for existing monitoring requirements as a means of determining compliance, and some supported increased requirements for total coliform monitoring.

Consistent with the RFA/SBREFA requirements, the Panel evaluated the assembled materials and small-entity comments related to the elements of the IRFA. A copy of the Panel report is in the Office of Water docket for this proposed rule.

a. Number of Small Entities to Which the Rule Will Apply

When the IRFA was prepared, EPA estimated that there were over 157,000 small ground water systems that could be affected by the GWR, serving a population of more than 48 million. Roughly one-third of these systems are community water systems (CWS). The remainder are non-community water systems (NCWS) (*i.e.* non-transient non-community such as schools and transient non-community such as restaurants). A more detailed and current discussion of the impact of the proposed rule on small entities can be found in section V of this preamble.

The SBAR Panel recommended that, given the number of systems that could be affected by the rule, EPA should consider focusing compliance requirements on those systems most at risk of fecal contamination. The GWR addresses this issue and is designed to target the systems at highest risk. Risk characterization is based on system characteristics, *i.e.*, significant deficiencies in operation or maintenance and hydrogeologic sensitivity to contamination. A system is not required to perform an action such as source water microbial monitoring until the State has cause to believe the system is at risk.

The Panel also recommended that the rule requirements be based on system size. Because the GWR is a targeted risk-based rule, the regulatory strategy is based on system-specific risk indicators that are not directly related to system size. However, the monitoring required for treatment effectiveness (compliance monitoring) varies based on system size. Ninety-seven percent of all ground water systems serve less than 3,300 people. Under the proposed GWR, disinfecting ground water systems serving less than 3,300 people must monitor treatment by taking daily grab samples. Disinfecting ground water systems serving 3,300 or more people must monitor treatment continuously.

The SBAR Panel advocated that States be provided with flexibility when implementing the rule. The GWR also addresses this issue. As discussed earlier in sections III.A.1. and 2. of this proposal, States have considerable flexibility in addressing potential problems in small systems. In particular, States have the flexibility to define and identify significant system deficiencies and to describe their approaches to identifying the presence of hydrogeologic barriers to contamination. States also have the flexibility to require correction of fecal contamination or use any disinfection treatment technology, provided it achieves 4-log (99.99%) inactivation or removal of viruses. Similarly, the rule allows States to consider the characteristics of individual systems when determining an appropriate corrective action.

b. Record Keeping and Reporting and Other Compliance Requirements

Because small systems frequently have minimal staff and resources, including data on the underlying hydrogeology of the system, the SBAR Panel recommended that EPA focus the record keeping, reporting, and compliance requirements on those systems at greatest risk of fecal

contamination. The Panel also recommended that EPA consider tailoring the requirements based on system size (*e.g.*, the smaller systems would not have to monitor as frequently or perform sanitary surveys on the same schedule.)

The GWR proposed today is a targeted risk-based regulatory strategy. The regulatory strategy is based on system characteristics (*i.e.*, hydrogeologic sensitivity; TCR positive in the distribution system) and is not directly related to system size. However, the monitoring required for treatment effectiveness (compliance monitoring) varies based on system size. Ninety-seven percent of all ground water systems serve less than 3,300 people. Under the proposed GWR, disinfecting ground water systems serving less than 3,300 people must monitor treatment by taking daily grab samples. Disinfecting ground water systems serving 3,300 or more people must monitor treatment continuously. In addition, the only across-the-board requirement is for sanitary surveys, but the implementation schedule is staggered (*e.g.*, every 3 years for CWS and every 5 years for NCWS) which should provide some relief for small systems because there are proportionately more that are NCWS. EPA is also requesting comment on several options that would reduce the required frequency of sanitary surveys. Because many small systems may not have easy access to the records that would ideally be available for a hydrogeologic sensitivity assessment or a sanitary survey, EPA, after consulting with stakeholders and the SBAR Panel, has determined that it will not use the lack of adequate well records, the lack of a cross connection program, or intermittent pressure fluctuations as automatic triggers to indicate risk of potential contamination. These factors may be considered along with others that more definitively demonstrate risk. This strategy will enable States to focus their resources on the systems which need the most surveillance or follow-up action and will avoid penalizing systems with limited resources.

With respect to the potential cost of additional monitoring for small systems, particularly if the rule required viral monitoring, the SBAR Panel offered several recommendations. First, the Panel suggested that, to the extent possible, the GWR should build on the existing monitoring framework in the TCR. Given the low cost of the Total Coliform test, the Panel noted that an increase in the frequency and the locations for TCR monitoring or additional samples in the source water if the system has a Total Coliform positive sample would be preferable to other fecal indicator tests, given the current cost of a viral test. However, the Panel also recommended that the EPA continue to develop a lower cost, more accurate test to identify viral and bacterial contamination in drinking water.

Today's proposal does build on the existing TCR monitoring framework by using the results of the TCR monitoring to determine if source water monitoring is required. In the proposal, a system is required to test for the presence of *E. coli*, coliphage, or enterococci in the source water within 24 hours of a total coliform positive sample in the distribution system. Only systems determined to be hydrogeologically sensitive that do not already treat their water to 4-log inactivation or removal are required to conduct the additional routine monitoring. These systems must test their source water monthly. If no fecal indicators are found after 12 consecutive months of monitoring, the State may reduce the monitoring frequency for that system. Similarly, if a non-sensitive system does not have a distribution system, any sample taken for TCR compliance is effectively a source water sample so an additional triggered source water sample would not be required. In both cases, however, if the system has an *E. coli*, coliphage, or fecal coliform positive sample, the system is required to conduct the necessary follow-up actions.

The GWR also has incorporated low-cost fecal contamination indicator tests. EPA-approved methods for detecting bacterial indicators of fecal contamination, including *E. coli* and enterococci, are already widely used and are low cost (approximately $25 per sample). In addition, EPA is currently developing viral monitoring methods which will cost approximately the same as existing bacterial methods.

The SBAR Panel recommended that States be provided with flexibility when implementing the rule. For example, while States must have the authority to require the correction of significant deficiencies, States should also have the flexibility to determine which deficiencies are "significant" from a public health perspective. When a State determines that corrective action is necessary, it should have the flexibility to determine what actions a system should take, including but not limited to disinfection. Similarly, States should also have the flexibility to require disinfection across-the-board for all or a subset of the public water supply systems in their State. States should also be given the flexibility to choose from the full range of disinfection technologies that will meet the public health goals of the rule.

As discussed earlier in sections III.A.1. and 2. of this proposal, States have considerable flexibility in addressing potential problems in small systems particularly with respect to sanitary survey, where States define and identify significant deficiencies, and in conducting hydrogeologic sensitivity assessments. The GWR allows States flexibility to work within their existing programs and define and identify significant deficiencies. States also have the flexibility to require correction of fecal contamination or use any disinfection treatment technology, provided it achieves 4-log (99.99%) inactivation or removal of viruses. Similarly, the rule allows States to consider the characteristics of individual systems when determining an appropriate corrective action.

The Panel was also concerned about the potential cost of disinfection and recommended that EPA include a full range of variables when determining both the potential cost burden and benefits of the rule.

In determining the costs and benefits of today's proposed rule, EPA considered the full range of both potential costs and benefits for the rule. The flexibility in the rule is designed to reduce the cost of compliance with the rule, particularly for small systems. While determining the costs of the various technologies, EPA has estimated the percentage of systems in consultation with the States that will choose between the different technologies, in part based on system size. When determining the benefits of today's proposal, EPA considered a range of benefits from reduction in illness and mortality to outbreak cost avoided and possibly reduced uncertainty and averting behaviors. However, only reductions in acute viral and bacterial illness and decreases in mortality from virus are monetized. More detailed cost and benefit information is included in the GWR RIA (US EPA, 1999a) for today's proposal. Because systems are highly variable, the SBAR Panel recommended that States be given the flexibility to determine appropriate maintenance or cross connection control measures for each system and to the extent practicable maintenance measures should be performance-based.

EPA recognizes that systems' characteristics are highly variable. States have considerable flexibility when working with systems to address significant deficiencies, conduct hydrogeological sensitivity assessments,

and take corrective action. Cross connection control will be considered under a future rulemaking (*i.e.*, the Long Term 2 Enhanced Surface Water Treatment Rule).

c. Other Federal Rules

To avoid duplication of effort, the SBAR Panel recommended using the State Source Water Assessment and Protection Program (SWAPP) plans and susceptibility assessments as a component of the hydrogeologic sensitivity assessment process. To further streamline the process, especially for small systems, the Panel also recommended combining the hydrogeologic sensitivity assessment with the sanitary surveys.

In today's GWR proposal, States are encouraged to use their SWAPP assessments when the assessment provides data relevant to the hydrogeologic sensitivity assessment of a system. The schedule for sensitivity assessments (six years after the GWR is promulgated in the **Federal Register** for CWS and eight years after the GWR is promulgated in the **Federal Register** for NCWS) should allow States to complete the assessment and the first round of sanitary surveys concurrently if they choose to do so.

d. Significant Alternatives

Because the SBREFA consultation was conducted early in the regulatory development process before there was a draft proposal, few comments were received on specific regulatory alternatives. In general, the SERs supported the approach described in the outreach materials while at the same time commenting on particular aspects of the approach that might be burdensome or otherwise problematic. Their concerns echo the comments received on other parts of the IRFA.

The SBAR Panel reiterated their suggestion that compliance requirements be tailored to the system size. In particular, if the minimum monitoring frequency and the frequency for sanitary surveys for the smallest systems (*e.g.*, those serving less than 500 people) could be reduced, it would reduce both the resources necessary to comply with the rule and record keeping required by the system.

EPA has structured today's proposal as a targeted risk-based approach to reducing fecal contamination. The only requirement that affects all GWSs is the sanitary survey. The required frequency for sanitary surveys for community systems is once every three years which may be changed by the State to once every five years if the system either treats to 4-log inactivation or removal of virus or has an outstanding performance record documented in previous inspections and has no history of total coliform MCL or monitoring violations since the last sanitary survey under current ownership. The required frequency for sanitary surveys is once every five years for noncommunity systems. The majority of the small systems are noncommunity systems so the majority of systems will only have a sanitary survey once every five years. At this frequency, EPA believes that the requirements will not be burdensome for even the smallest systems, however EPA is also requesting comment on less frequent sanitary survey requirements.

Similarly, the only additional monitoring requirements in today's proposal are for undisinfected systems that are either located in sensitive hydrogeologic settings or have a total coliform positive sample in the distribution system. The monitoring required for a total coliform positive sample under the TCR would be a one-time event while the monitoring for sensitive systems would be on a routine monthly basis for at least 12 samples.

Finally, the SBAR Panel noted that disinfection of public water supplies may result in an increase in other contaminants of concern, depending on the characteristics of the source water and the distribution system. Of particular concern were disinfection byproducts, lead, copper, and arsenic.

EPA has discussed these issues previously in section V.G. of the GWR preamble. EPA believes that these issues, when they occur, will typically be localized and transitory. These risk/risk tradeoffs are considered qualitatively in the RIA and EPA will provide guidance on how to address these issues when the rule is finalized.

e. Other Comments

The panel members could not reach consensus regarding the use of occurrence data to support the rule. Some panel members expressed the concern that the occurrence estimates discussed by EPA with the SERs overestimated the actual occurrence of fecal contamination and the studies used did not provide a true picture of national occurrence. EPA recognizes and understands the concerns about the available data expressed by these panel members. However, the Agency believes, after consulting with experts in the field, that the available data may underestimate the extent of ground water contamination because of limitations with sampling methods and frequency. EPA believes that a central issue for all participants and stakeholders in this rulemaking is how to interpret the available data. EPA agrees that the GWR must be based on the best available data, good science and sound analysis. The studies described in the materials presented to the SERs and SBAR Panel during the SBREFA process were conducted at different times and for different reasons; each requires careful analysis to ensure its proper use and to avoid misuse. A more detailed discussion of the occurrence studies and request for comment on their interpretation is provided in section II.C. of today's proposal.

EPA invites comments on all aspects of the proposal and its impacts on small entities.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (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. 1934.01) and a copy may be obtained from Sandy Farmer by mail at Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW, Washington, DC 20460, by email at farmer.sandy@epamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded from the Internet at http://www.epa.gov/icr. For technical information about the collection contact Jini Mohanty by calling (202) 260–6415.

The information collected as a result of this rule will allow the States and EPA to make decisions and evaluate compliance with the rule. For the first three years after the promulgation of the GWR, the major information requirements are for States and PWSs to prepare for implementation of the rule. The information collection requirements in Part 141, for systems, and Part 142, for States are mandatory. The information collected is not confidential.

EPA estimates that the annual burden on PWSs and States for reporting and record keeping will be 326,215 hours. This is based on an estimate that 56 States and territories will each need to provide 3 responses each year with an average of 524 hours per response, and that 52,331 systems will each provide 2.3 responses each year with an average of less than 2 hours per response. The labor burden is estimated for the following activities: Reading and understanding the rule, planning, training, and meeting primacy requirements. The recordkeeping and reporting burden also includes capital costs of $1,376,302 for capital

improvements by PWSs (installation of disinfection monitoring equipment).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave, N.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after May 10, 2000, a comment to OMB is best assured of having its full effect if OMB receives it by June 9, 2000. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Unfunded Mandates Reform Act

1. Summary of UMRA Requirements

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 UMRA section 202, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in State, local and tribal government expenditures, in the aggregate, or private sector expenditures, 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 signifioantly 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 notification to potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates; and informing, educating, and advising small governments on compliance with the regulatory requirements.

2. Written Statement for Rules With Federal Mandates of $100 Million or More

EPA has determined that this rule contains a Federal mandate that may result in expenditures of $100 million or more for the private sector in any one year.

Table VI–2 presents a breakdown of the estimated $182.7 to$198.6 million annual cost for today's proposed rule (the proposed Multi-Barrier Option). Public ground water systems owned by State, local and tribal governments will incur $51.2 to $56.5 million of these costs and States will incur an additional $20.1 to $22.1 million for a total public sector cost of $71.3 to $78.7 million dollars per year. Public ground water systems which are owned by private entities will incur a total cost of $111.5 to $ 119.9 million per year, $5.5 to $7 million of which is incurred by entities that operate a public water system as a means of supporting their primary business (*e.g.*, a mobile home park operator).

TABLE VI–2.—PUBLIC AND PRIVATE COSTS FOR OF THE PROPOSED GWR

System type	Annual mean cost range* (millions $)	Percent of total cost
Public PWS Cost	$51.2 to $56.5	28
State Cost	20.1 to 22.1	11
Total Public Cost	71.3 to 78.7	40
Private PWS Cost	106.0 to 113.0	57
Ancillary PWS Cost.	5.5 to 7.0	4
Total Private Cost.	111.5 to 119.9	60
Total Cost	182.7 to 198.6	100

Note: Cost range based upon a 3% and 7% discount rate.

Thus, today's rule is subject to the requirements of sections 202 and 205 of the UMRA, and EPA has prepared a written statement which is summarized next. A more detailed description of this analysis is presented in EPA's Regulatory Impact Analysis of the GWR (US EPA, 1999a) which is included in the Office of Water docket for this rule.

a. Authorizing Legislation

Today's proposed rule is promulgated pursuant to section 1412(b)(8) of the SDWA, as amended in 1996, which directs EPA to "promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems, including surface water systems and, as necessary, ground water systems."

Section 1412 (b)(8) also establishes a statutory deadline for promulgation of the GWR of no later than the date on which the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts. EPA intends to finalize the GWR in the year 2000 to allow systems to consider the combined impact of this rule, the radon rule, the arsenic rule and the Stage 1 DBP rule on their design and treatment modification as well as their capital investment decisions. EPA believes States and systems will better plan for changes in operation and capital improvements, if they are presented with future requirements at one time.

b. Cost Benefit Analysis

Section V of this preamble discusses the cost and benefits associated with the GWR . Also, EPA's Regulatory Impact Analysis of the GWR (US EPA, 1999a) contains a detailed cost benefit analysis. The analysis quantifies cost and benefits for four scenarios: the proposed regulatory option, the sanitary survey

option, the sanitary survey and triggered monitoring option, and the across-the-board disinfection option. Table VI–3 summarizes the range of annual costs and benefits for each rule option.

TABLE VI–3.—ANNUAL BENEFITS AND COSTS OF RULE OPTIONS ($MILLION)

Option	Annual benefits [1] mean [range] $million	Annual costs (3%) mean [range] $million	Annual costs [2] (7%) mean [range] $million
Sanitary Survey	$33 [$9 to $58]	$73 [$71 to $74]	$76 [$74 to $78]
Sanitary Survey and Triggered Monitoring	$178 [$147 to $209]	$158 [$152 to $19]	$169 [$163 to $174]
Multi-barrier (Proposed) Option	$205 [$169 to $242]	$183 [$177 to $188]	$199 [$192 to $206]
Across-the-Board Disinfection	$283 [$255 to $311]	$777 [$744 to $810]	$866 [$823 to $909]

[1] does not include benefits from reduction in chronic illness, reduced pain and suffering, or non-health benefits.
[2] does not include non-quantified costs such as land acquisition or increases in other contaminants (*e.g.*, DBPs).

Costs varied with each option and were driven by the number of systems that would need to fix a significant deficiency, take corrective action in response to fecal contamination, or install treatment. The annual mean cost of the four rule options ranges from $73 million to $866 million using a three percent and seven percent discount rate. For the first three options, the costs increase as more components are added for identifying fecally contaminated wells and wells sensitive to fecal contamination. However, the cost of these components (*e.g.*, hydrogeologic sensitivity assessment, routine and triggered monitoring) are minor compared to the costs of correcting fecal contamination. The fourth option of across-the-board disinfection is the most costly because it would require all systems to have treatment regardless of actual or potential fecal contamination. Costs for the States to implement this rule are also included in the four cost estimates. Some costs, such as land acquisition where necessary to install treatment, were not included because of the difficulty of estimating them.

These total annual monetized costs can be compared to the annual monetized benefits of the GWR. The annual monetized mean benefits of today's rule range from $33 million to $283 million as shown in Table VI–2. This result is based on the quantification of the number of acute viral illnesses and deaths avoided attributable to each option as well as the reduction in acute bacterial illness attributable to each option. For illness, EPA used a cost-of-illness number to estimate the benefits from the reduction in viral illness that result from this rule. This is considered a lower-bound estimate of actual benefits because it does not include the pain and discomfort associated with the illness. Mortalities were valued using a value of statistical life estimate consistent with EPA policy.

This rule will also decrease bacterial illness associated with fecal contamination of ground water. EPA did not directly calculate the actual numbers of illness associated with bacterially contaminated ground water because the Agency lacked the necessary pathogen occurrence data to include it in the risk model. However, in order to get an estimate of the number of bacterial illness from fecally contaminated ground water, the Agency used the ratio of viral and unknown etiology outbreak illness to bacterial outbreak illnesses reported to CDC's for waterborne outbreaks in ground water. It was further assumed that the cost of these bacterial illnesses would be comparable to viral illness estimates. This rule also considered but did not monetize the health benefit from the reduction in chronic illness associated with some viral and bacterial infections (see section II.D.).

Various Federal programs exist to provide financial assistance to State, local, and tribal governments in complying with this rule. The Federal government provides funding to States that have primary enforcement responsibility for their drinking water programs through the Public Water Systems Supervision Grants Program. Additional funding is available from other programs administered either by EPA or other Federal agencies. These include EPA's Drinking Water State Revolving Fund (DWSRF), U.S. Department of Agriculture's Rural Utilities' Loan and Grant Program, and Housing and Urban Development's Community Development Block Grant Program.

For example, SDWA authorizes the Administrator of the EPA to award capitalization grants to States, which in turn can provide low cost loans and other types of assistance to eligible public water systems. The DWSRF assists public water systems with financing the costs of infrastructure needed to achieve or maintain compliance with SDWA requirements. Each State has considerable flexibility in determining the design of its DWSRF Program and to direct funding toward its most pressing compliance and public health protection needs. States may also, on a matching basis, use up to 10 percent of their DWSRF allotments for each fiscal year to assist in running the State drinking water program. In addition, States have the flexibility to transfer a portion of funds to the Drinking Water State Revolving Fund from the Clean Water State Revolving Fund.

Furthermore, a State can use the financial resources of the DWSRF to assist small systems, the majority of which are ground water systems. In fact, a minimum of 15% of a State's DWSRF grant must be used to provide infrastructure loans to small systems. Two percent of the State's grant may be used to provide technical assistance to small systems. For small systems that are disadvantaged, up to 30% of a State's DWSRF may be used for increased loan subsidies. Under the DWSRF, Tribes have a separate set-aside which they can use.

In addition to the DWSRF, money is available from the Department of Agriculture's Rural Utility Service (RUS) and Housing and Urban Development's Community

Development Block Grant (CDBG) program. RUS provides loans, guaranteed loans, and grants to improve, repair, or construct water supply and distribution systems in rural areas and towns up to 10,000 people. In Fiscal Year 1997, the RUS had over $1.3 billion in available funds. Also, three sources of funding exist under the CDBG program to finance building and improvements of public facilities such as water systems. The three sources of funding include: (1) direct grants to communities with populations over 200,000; (2) direct grants to States, which they in turn award to smaller communities, rural areas, and colonias in Arizona, California, New Mexico, and Texas; and (3) direct grants to US. Territories and Trusts. The CDBG budget for Fiscal Year 1997 totaled over $4 billion dollars.

c. Estimates of Future Compliance Costs and Disproportionate Budgetary Effects

To meet the UMRA requirement in section 202, EPA analyzed future compliance costs and possible disproportionate budgetary effects. The Agency believes that the cost estimates, indicated earlier and discussed in more detail in section V of this rule, accurately characterize future compliance costs of the proposed rule.

In analyzing disproportionate impacts, the Agency considered three measures: reviewing the impacts on small systems versus large systems; reviewing the costs to public versus private water systems; and reviewing the household costs for each proposed rule option. It is also possible that some States or EPA Regions may face greater challenges from the GWR because they have comparatively more ground water systems. However, States that have a larger percentage of systems also receive a greater share of the Public Water Systems Supervision Grants Program and the DWSRF. A detailed analysis of these impacts is presented in the Regulatory Impact Analysis of the GWR (US EPA, 1999a).

The first measure of disproportionate impact considers the cost incurred by small and large systems. As a group, small systems will experience a greater impact than large systems under the GWR. The higher cost to the small ground water systems is mostly attributable to the large number of these types of systems (*i.e.*, 99% of ground water systems serve <10,000). Other reasons for the disparity include: (1) Large systems are more likely to already disinfect their ground water (disinfection exempts a system from triggered and routine monitoring), (2) large systems typically have greater technical and operational expertise, and (3) they are more likely to engage in source water protection programs. The potential economic impact among the small systems will be the greatest for systems serving less than 100 persons, as shown in Table VI–4.

TABLE VI–4.—AVERAGE ANNUAL HOUSEHOLD COSTS FOR GWR OPTIONS FOR CWS TAKING CORRECTIVE ACTION OR FIXING SIGNIFICANT DEFECTS

Size categories	Sanitary survey option	Sanitary survey and triggered monitoring option	Multi-barrier option (proposed)	Across-the-board disinfection option
100	29.86	67.19	62.48	191.87
101–500	11.23	15.02	18.95	81.38
501–1,000	5.72	6.29	6.25	38.79
1,001–3,300	2.99	2.91	3.39	23.45
3,301–10,000	1.39	1.46	2.74	16.78
10,001–50,000	0.62	0.59	0.62	4.87
50,001–100,000	0.30	0.70	1.01	10.37
100,001–1,000,000	0.32	0.20	0.27	1.66
Average	2.45	3.34	3.86	19.37

The second measure of impact is the relative total cost to privately owned water systems compared to that incurred by publicly owned water systems. The majority of the small systems are privately-owned (61% of the total). As a result, privately-owned systems as a group will have a slightly larger share of the total costs of the rule. However, EPA has no basis for expecting cost per-system to differ systematically with ownership.

The third measure, household costs, can also be used to gauge the impact of a regulation and to determine whether there are disproportionately high impacts in particular segments of the population. Table VI–4 shows household costs by system size for each rule component. On average, annual household costs increases attributable to the first three rule options range from $2.45 to $3.86 (Table VI–4). For these three options, 90 percent of households will face less than a $5 increase in annual household costs. The most expensive option, Across-the-Board Disinfection, results in the highest average annual household costs of $19.37. However, household costs increase across all options for those households served by the smallest sized systems. This occurs because they serve fewer households, and as a result, there are fewer households to share the system's compliance costs.

d. Macro-economic Effects

Under UMRA section 202, EPA is required to estimate the potential macro-economic effects of the regulation. These types of effects include those on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness. Macro-economic effects tend to be measurable in nationwide econometric models only if the economic impact of the regulation reaches 0.25 percent to 0.5 percent of Gross Domestic Product (GDP). In 1998, real GDP was $7,552 billion, so a rule would have to cost at least $18 billion to have a measurable effect. A regulation with a smaller aggregate effect is unlikely to have any measurable impact unless it is highly focused on a particular geographic region or economic sector. The macro-economic effects on the national economy from the GWR should not have a measurable effect because the total annual costs for the proposed option range from $183 million to $199 million per year using a three and seven percent discount rate. Even the most expensive option, Across-the-Board Disinfection falls below the measurable threshold. The costs are not expected to be highly focused on a particular geographic region or sector.

e. Summary of EPA's Consultation With State, Local, and Tribal Governments and Their Concerns

Consistent with the intergovernmental consultation provisions of section 204 of UMRA, EPA has initiated consultations with the governmental entities affected by this rule. EPA held four public meetings for all stakeholders and three Association of State Drinking Water Administrators early involvement meetings. Because of the GWR's impact on small entities, the Agency convened a Small Business Advocacy Review (SBAR) Panel in accordance with the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) to address small entity concerns, including small local governments specifically. EPA consulted with small entity representatives prior to convening the Panel to get their input on the GWR. Of the 22 small entity participants, five represented small governments. A more detailed description of the SBREFA process can be found in section VI.A. of this preamble. EPA also made presentations on the GWR to the national and some local chapters of the American Water Works Association, the Ground Water Foundation, the National Ground Water Association, the National Rural Water Association, and the National League of Cities. Twelve State drinking water representatives also participated in the Agency's GWR workgroup.

In addition to these consultations, EPA circulated a draft of this proposed rule and requested comment from the public through an informal process. Specifically, on February 3, 1999, EPA posted on the EPA's Internet web page and mailed out over 300 copies of the draft to people who had attended the 1997 and 1998 public stakeholder meetings as well as people on the EPA workgroup. EPA received 80 letters or electronic responses to this draft: 34 from State government (representing 30 different States), 26 from local governments, ten from trade associations, six from Federal government agencies, and four from other people/organizations. No comments were received from tribal governments. EPA reviewed the comments carefully and considered their merit. Today's proposal reflects many of the commenters' points and suggestions. For example, numerous commenters felt that proposing a requirement to monitor source water using coliphage at this time was premature based on currently available data. EPA has recently completed round robin testing of coliphage methods and is requesting comment on the use of these methods.

To inform and involve tribal governments in the rulemaking process, EPA presented the GWR at the 16th Annual Consumer Conference of the National Indian Health Board, at the annual conference of the National Tribal Environmental Council, and at an EPA Office of Ground Water and Drinking Water (OGWDW)/Inter Tribal Council of Arizona, Inc. tribal consultation meeting. Over 900 attendees representing Tribes from across the country attended the National Indian Health Board's Consumer Conference and over 100 Tribes were represented at the annual conference of the National Tribal Environmental Council. At both conferences, an EPA representative conducted two workshops on EPA's drinking water program and upcoming regulations, including the GWR.

Comments received from tribal governments regarding the GWR focused on concerns and some opposition to mandatory disinfection for ground water systems. They also suggested that any waiver process be adequately characterized by guidance and simple to implement. EPA agrees with concerns of Tribes and has designed the proposed GWR so that disinfection is not mandatory. Systems will have the opportunity to correct significant deficiencies, eliminate the source of contamination, obtain a new source of water, or install disinfection to achieve 4-log inactivation or removal of virus. However, some systems in coordination with the primacy agent or State, might choose disinfection over these other options because it may be the least costly alternative.

At the OGWDW/Inter Tribal Council of Arizona meeting, representatives from 15 Tribes participated. In addition, over 500 Tribes and tribal organizations were sent the presentation materials and meeting summary. Because many Tribes have ground water systems, participants expressed concerns over some elements of the rule. Specifically, they had concerns about how the primacy agent would determine significant deficiencies identified in a sanitary survey and how the sensitivity assessment would be conducted. Because no Tribes currently have primacy, EPA is the primacy agent and will identify significant deficiencies as part of sanitary surveys and conduct the hydrogeologic sensitivity assessment as outlined in section III. A. and III.B. of this preamble.

The Agency believes the proposed option in the GWR will provide public health benefits to individuals by reducing their exposure to fecal contamination through targeted expenditures to address significant deficiencies or fecal contamination. As discussed earlier in paragraph IV.C.1.c, over 90 percent of households will incur additional costs of less than $3.00 per month based on EPA's proposed regulatory approach. EPA will consider other options for the final rule as outlined in this proposal and discussed next.

f. Regulatory Alternatives Considered

As required under section 205 of the UMRA, EPA considered several regulatory alternatives and numerous methods to identify ground water systems most at risk to microbial contamination. A detailed discussion of these alternatives can be found in section V of the preamble and also in the RIA for the GWR(US EPA, 1999a). Today's proposal also seeks comment on many regulatory options that EPA will consider for the final rule.

g. Selection of the Least Costly, Most Cost-Effective or Least Burdensome Alternative That Achieves the Objectives of the Rule

As discussed earlier, EPA has considered various regulatory options that would reduce microbial contamination in ground water systems. EPA believes that the proposed option as described in today's rule, is the most cost effective option that achieves the rule's objective to reduce the risk of illness and death from microbial contamination in PWS relying on ground water. This option is a targeted approach where costs are driven by the number of systems having to fix fecal contamination problems and correct significant deficiencies that could lead to fecal contamination. EPA requests comment on how possible modifications to the proposed option, as outlined in section III of the preamble, may affect not only the cost but also the objectives of this rule.

3. Impacts on Small Governments

In developing this rule, EPA consulted with small governments to address impacts of regulatory requirements in the rule that might significantly or uniquely affect small governments. In preparation for the proposed GWR, EPA conducted an analysis on small government impacts and included small government officials or their designated representatives in the rulemaking process. As discussed previously, a variety of stakeholders, including small governments, had the opportunity for timely and meaningful participation in the regulatory

development process through the SBREFA process, public stakeholder meetings, and tribal meetings. Representatives of small governments took part in the SBREFA process for this rulemaking and they also attended public stakeholder meetings. Through such participation and exchange, EPA notified some potentially affected small governments of requirements under consideration and provided officials of affected small governments with an opportunity to have meaningful and timely input into the development of regulatory proposals. A more detailed discussion of the SBREFA process and stakeholder meetings can be found in section VI.A. and section VI.C.2.e, respectively.

In addition, EPA will educate, inform, and advise small systems including those operated by small government about GWR requirements. One of the most important components of this process will be the Small Entity Compliance Guide which is required by the SBREFA of 1996. This plain-English guide will explain what actions a small entity must take to comply with the rule. Also, the Agency is developing fact sheets that concisely describe various aspects and requirements of the GWR.

D. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub L. No. 104–113, § 12(d) (15 U.S.C. 272 note) directs EPA 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, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget (OMB). explanations when the Agency decides not to use available and applicable voluntary consensus standards.

EPA also notes that the Agency plans to implement in the future a performance-based measurement system (PBMS) that would allow the option of using either performance criteria or reference methods in its drinking water regulatory programs. The Agency is determining the specific steps necessary to implement PBMS in its programs. Final decisions have not yet been made concerning the implementation of PBMS in water programs. However, EPA is evaluating what relevant performance characteristics should be specified for monitoring methods used in the water programs under a PBMS approach to ensure adequate data quality. EPA would then specify performance requirements in its regulations to ensure that any method used for determination of a regulated analyte is at least equivalent to the performance achieved by other currently approved methods.

Once EPA has made its final determinations regarding implementation of PBMS in programs under the Safe Drinking Water Act, EPA would incorporate specific provisions of PBMS into its regulations, which may include specification of the performance characteristics for measurement of regulated contaminants in the drinking water program regulations.

1. Microbial Monitoring Methods

The proposed rulemaking involves technical standards. Ground water systems that are identified by the State as having hydrogeologically sensitive wells as described in §§ 142.16(k)(3) and 141.403(a), and ground water systems that have a TCR positive sample as described in § 141.403(b) of today's proposed rule must sample and test their source water. GWSs must test for at least one of the following fecal indicators: *E. coli*, enterococci and coliphage using one of the methods in § 141.403(d) and discussed in greater detail in III.D.4. Table VI–5 lists the microbial methods which must be used for source water monitoring.

EPA proposes to use several approved methods. For testing *E. coli* and enterococci, the methods in § 141.403(d) are either consensus methods or new methods that EPA has recently approved for drinking water monitoring with the exception of Enterolert (a method for enterococci) for which EPA is proposing approval through this rulemaking. EPA is also proposing testing source waters for the presence for coliphage. EPA proposes to use EPA Method 1601: Two-Step Enrichment Presence-Absence Procedure and EPA Method 1602: Single Agar layer Procedure.

While the Agency identified Standards Methods, Method 9211D Coliphage Detection (20th edition of Standard Methods for the Examination of Water and Wastewater) as being potentially applicable, EPA does not propose to use it in this rulemaking. The use of this voluntary consensus standard would not meet the Agency's needs because the method does not detect male specific coliphage, the sample volume is inappropriately small (20 ml versus the GWR's proposed 100 ml sample requirement), and according to the method, the sensitivity may not be high enough to detect one coliphage in a 100 ml sample. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

TABLE VI–5.—MICROBIAL METHODS

Analytical methods for source water monitoring	
Indicator	Method[1]
E. coli	Colilert Test (Method 9223B)[2 3]
	Colisure Test (Method 9223B)[2 3]
	Membrane Filter Method with MI Agar[4 5]
	m-ColiBlue24 Test[4 6]
	E*Colite Test[4 7]
	May also use the EC–MUG (Method 9212F)[2] and NA–MUG (Method 9222G)[2] *E. coli* confirmation step § 141.21(f)(6) after the EPA approved Total Coliform methods in § 141.21(f)(3)
enterococci	Multiple-Tube Tech. (Method 9230B)[1]
	Membrane Filter Tech. (Method 9230C)[1 8]
	Enterolert[3]
Coliphage	EPA Method 1601: Two-Step Enrichment Presence-Absence Procedure[9]
	EPA Method 1602: Single Agar layer Procedure[9]

[1] The time from sample collection to initiation of analysis may not exceed 30 hours. Systems are encouraged but not required to hold samples below 10 °C during transit.

[2] Methods are approved and described in Standard Methods for the Examination of Water and Wastewater (20th edition).

[3] Medium available through IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092.

[4] EPA approved drinking water methods.

[5] Brenner, K.P., C.C. Rankin, Y.R. Roybal, G.N. Stelma, P.V. Scarpino, and A.P. Dufour. 1993. New medium for the simultaneous detection of total coliforms and *Escherichia coli* in water. Appl. Environ. Microbiol. 59:3534–3544.

[6] Hach Company, 100 Dayton Ave., Ames, IA 50010.

[7] Charm Sciences, Inc., 36 Franklin St., Malden, MA 02148–4120.

[8] Proposed for EPA approval, EPA Method 1600: MF Test Method for enterococci in Water (EPA–821–R–97–004 (May 1997)) is an approved variation of Standard Method 9230C.

[9] Proposed for EPA approval are EPA Methods 1601 and 1602, which are available from the EPA's Water Resources Center, Mail code: RC–4100, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

E. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51,735,October 4,1993) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that this rule is a "significant regulatory action". As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public record.

F. Executive Order 12898: Environmental Justice

Executive Order 12898 establishes a Federal policy for incorporating environmental justice into Federal agency missions by directing agencies to identify and address disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. The Agency has considered environmental justice issues concerning the potential impacts of this action and has consulted with minority and low-income stakeholders.

The Environmental Justice Executive Order requires the Agency to consider environmental justice issues in the rulemaking and to consult with minority and low-income stakeholders. There are two aspects of today's proposed rule that relate specifically to this policy: the overall nature of the rule, and the convening of a stakeholder meeting specifically to address environmental justice issues. The GWR applies to all public water systems: community water systems, nontransient noncommunity water systems, and transient noncommunity water systems that use ground water as their source water. Consequently, the health protection benefits provided by this proposal are equal across all income and minority groups served by these systems. Existing regulations such as the SWTR and IESWTR provide similar health benefit protection to communities that use surface water or ground water under the direct influence of surface water.

As part of EPA's responsibilities to comply with Executive Order 12898, the Agency held a stakeholder meeting on March 12, 1998 to address various components of pending drinking water regulations; and how they may impact sensitive sub-populations, minority populations, and low-income populations. Topics discussed included treatment techniques, costs and benefits, data quality, health effects, and the regulatory process. Participants included national, State, tribal, municipal, and individual stakeholders. EPA conducted the meetings by video conference call with participants in eleven cities. This meeting was a continuation of stakeholder meetings that started in 1995 to obtain input on the Agency's drinking water programs. The major objectives for the March 12, 1998 meeting were: solicit ideas from environmental justice (EJ) stakeholders on known issues concerning current drinking water regulatory efforts; identify key issues of concern to EJ stakeholders; and receive suggestions from EJ stakeholders concerning ways to increase representation of EJ communities in EPA's Office of Water regulatory efforts. In addition, EPA developed a plain-English guide specifically for this meeting to assist stakeholders in understanding the multiple and sometimes complex drinking water issues.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is subject to this Executive Order because it is an economically significant regulatory action as defined by Executive Order 12866, and EPA believes that the environmental health or safety risk addressed by this action may have a disproportionate effect on children. Accordingly, EPA has evaluated the environmental health or safety effects of viruses on children. The results of this evaluation are contained in section II.E. of the preamble and in the RIA for today's rule (US EPA, 1999a). A copy of RIA and its supporting documents have been placed in the Office of Water docket for this proposal.

1. Risk of Viral Illness to Children and Pregnant Women

The risk of illness and death due to viral contamination of drinking water depends on several factors, including the age and the immune status of the exposed individual. Two groups that are at increased risk of illness and mortality due to waterborne pathogens are children and pregnant women (Gerba *et al.*, 1996). For example, rotavirus infections can occur in people of all ages, however they primarily affect young children (US EPA, 1999b). Infants and young children have higher rates of infection and disease from enteroviruses than other age groups (US EPA, 1999b). Several viruses that can be transmitted through water can have serious health consequences in children. Enteroviruses (which include poliovirus, coxsackievirus and echovirus) have been implicated in cases of paralytic polio, heart disease, encephalitis, hemorrhagic conjunctivitis, hand-foot-and-mouth disease and diabetes mellitis (CDC, 1997; Modlin, 1997; Melnick, 1996; Cherry, 1995; Berlin and Rorabaugh, 1993; Smith, 1970; Dalldorf and Melnick, 1965). Women may be at increased risk from enteric viruses during pregnancy (Gerba *et al.*, 1996). Enterovirus infections in pregnant women can also be transmitted to the unborn child late in pregnancy, sometimes resulting in severe illness in the newborn (US EPA, 1999c). Coxsackievirus and echovirus may be transmitted from the mother to the child *in utero* (Gerba *et al.*, 1996).

To comply with Executive Order 13045, EPA calculated the baseline risk (*e.g.*, risk without this rule) and with-rule reduction of risk from waterborne illness and mortality for children. To address the disproportionate risk of waterborne illness and mortality to children under this rulemaking, EPA applied age-specific parameters regarding morbidity to the risk assessment. The risk assessment first

extracted the proportion of the population that falls into several age categories that may be more or less susceptible to waterborne viral illness than the general population. The extraction was done separately for two model viruses. Bacterial illnesses are not addressed in this analysis, however, EPA estimates that bacterial illnesses account for an additional 20% of viral illnesses.

When assessing the risk of illness due to viruses of low-to-medium infectivity (using echovirus as a surrogate), the age categories used were less than one month of age, one month to five years of age, five to sixteen years of age and greater than sixteen years of age. It was assumed that 50% of children less than five years old would become ill once infected with low-to-medium infectivity viruses; while 57% of children five years to sixteen years of age and 33% of people over sixteen would become ill once infected. This estimate was based on a community-wide echovirus type 30 epidemic (Hall, 1970). See Appendix A of the RIA.

When assessing the risk of illness due to viruses of high infectivity (using rotavirus as a surrogate) the age categories used were less than two years of age, two to five years of age, five to sixteen years old and greater than sixteen years old. It was assumed that 88% of children less than two years old would become ill once infected with high infectivity viruses; while 40% was assumed for everyone else. The morbidity rates for high infectivity viruses were based on data from Kapikian and Chanock (1996) for children less than two. For other age categories, EPA has conservatively estimated a morbidity of 10 based upon studies of rotavirus illness in households with newborn children (Wenman *et al.*, 1979) and of an outbreak in an isolated community (Foster *et. al.*, 1980). See Appendix A of the RIA.

In addition to illness, EPA also considered child mortality attributable to waterborne microbial illness. For low-to-medium infectivity viruses, 0.92% of children less than one month of age who become ill were assumed to die based on information from Jenista *et al.*, (1984) and Modlin (1986), while .041% of people greater than one month old who become ill were assumed to die. For viruses of high infectivity, 0.00073% of infected children less than four years old were assumed to die (Tucker *et al.*, 1998). The low-to-medium infectivity viruses result in a higher mortality rate than the high infectivity viruses because the low-to-medium infectivity viruses cause more serious health effects.

The proposed GWR specifically targets systems with existing or potential fecal contamination, including viral contamination. To estimate the benefits to children from today's proposed rule, the Agency calculated the number of illnesses and deaths avoided by the rule for the children less than 5 years old and for children between the ages of 5 and 16. Table VI–6 presents a summary of these estimates. Overall, the proposed rule would result in 26,566 less illnesses caused by viruses per year occurring in children 16 years of age and less. The proposed rule is also expected to result in 2 less deaths per year due to viral illness among children aged 16 or less.

TABLE VI–6.—REDUCTIONS OF VIRAL ILLNESS AND DEATH IN CHILDREN RESULTING FROM VARIOUS REGULATORY APPROACHES

Options	Illness reduction (ages 0–5)	Death reduction (ages 0–5)	Illness reduction (5–16 years old)	Death reduction (5–16 years old)
Sanitary Survey Only	2,292	0	1,773	0
Sanitary Survey and Triggered Monitoring	13,044	1	9,974	1
Multi-barrier (Proposed)	15,058	1	11,508	1
Across-the-board Disinfection	21,125	1	16,059	2

The Agency believes the proposed multi-barrier approach will provide the most cost-effective method of reducing viral and bacterial illness in children that results from contaminated ground water. The proposed option will reduce 3,500 more cases of viral illness in children each year than the sanitary survey and triggered monitoring option. This additional reduction is obtained with only a slightly larger increase in total annual costs. Conversely, the additional reductions in illness gained with the across-the-board option comes at a much higher cost. It is estimated that the across-the-board option will cost approximately $12,000 more per case of illness avoided than the multi-barrier approach.

2. Full Analysis of the Microbial Risk Assessment

A full analysis of the microbial risk assessment is provided in the Appendix to the RIA for the proposed GWR, and a summary is provided in this preamble (see section II.E.).

The public is invited to submit or identify peer-reviewed studies and data, of which EPA may not be aware, that assessed results of early life exposure to viruses and bacteria.

H. Consultations with the Science Advisory Board, National Drinking Water Advisory Council, and the Secretary of Health and Human Services

In accordance with section 1412 (d) and (e) of the SDWA, the Agency did consult with the Science Advisory Board and will request comment from the National Drinking Water Advisory Council (NDWAC) and the Secretary of Health and Human Services on the proposed rule.

I. Executive Order on Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications". "Policies that have Federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government". Under section 6 of Executive Order 13132, EPA may not issue a regulation that has Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has Federalism implications and that preempts State

law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the final rule, a Federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the Agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with Federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the Agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

EPA has concluded that this proposed rule may have Federalism implications since it may impose substantial direct compliance costs on local governments, and the Federal government will not provide the funds necessary to pay those cost. Accordingly, EPA provides the following FSIS as required by section 6(b) of Executive Order 13132.

As discussed in section I.A., EPA met with a variety of State and local representatives including several local elected officials, who provided meaningful and timely input in the development of the proposed rule. Summaries of the meetings have been included in the public record for this proposed rulemaking. EPA consulted extensively with State, local, and tribal governments. For example, four public stakeholder meetings were held in Washington, DC, Portland, Oregon, Madison Wisconsin and Dallas, Texas. EPA also held three early involvement meetings with the Association of State Drinking Water Administrators. Several key issues were raised by stakeholders regarding the GWR provisions, many of which were related to reducing burden and maintaining flexibility. The Office of Water was able to reduce burden and increase flexibility by creating a targeted risk based approach which builds upon existing State programs. It should be noted that this rule is important because it will reduce the incidence of fecally contaminated drinking water supplies by requiring corrective actions for fecally contaminated systems or systems with a significant risk of fecal contamination resulting in a reduced waterborne illness. Because consultation on this proposed rule occurred before the November 2, 1999, effective date of Executive Order 13132, EPA will initiate discussions with State and local elected officials regarding the implications of this rule during the public comment period.

J. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

EPA has concluded that this rule will significantly affect communities of Indian tribal governments because 92 percent of PWSs in Indian Country are ground water systems. It will also impose substantial direct compliance costs on such communities, and the Federal government will not provide the funds necessary to pay the direct costs incurred by the tribal governments in complying with the rule. In developing this rule, EPA consulted with representatives of tribal governments pursuant to Executive Order 13084. EPA's consultation, the nature of the tribal governments' concerns, and EPA's position supporting the need for this rule are discussed in section VI.C. which addresses compliance with UMRA.

As described in section VI.C.2.e. of the UMRA discussion, EPA held extensive public meetings that provided the opportunity for meaningful and timely input in the development of the proposed rule. Summaries of the meetings have been included in the Office of Water public docket for this rulemaking. In addition, the Agency presented the rule and asked for comment at three tribal conferences. Two consultations took place at national conferences; one for the National Indian Health Board and the other for the National Tribal Environmental Council. The third consultation was conducted in conjunction with the Inter-Tribal Council of Arizona, Inc. A more detailed discussion of these consultations can be found in the UMRA consultation section (section VI.C.2.c.).

K. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write its rules in plain language. EPA invites comments on how to make this proposed rule easier to understand. For example: Has EPA organized the material to suit commenters' needs? Are the requirements in the rule clearly stated? Does the rule contain technical language or jargon that is not clear? Would a different format (grouping and order of sections, use of headings, paragraphs) make the rule easier to understand? Would shorter sections make this rule easier to understand? Could EPA improve clarity by adding tables, lists, or diagrams? What else could EPA do to make the rule easier to understand?

VII. Public Comment Procedures

EPA invites you to provide your views on this proposal, approaches we have not considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider. Many of the sections within today's proposed rule contain "Request for Comment" portions which the Agency is also interested in receiving comment on.

A. Deadlines for Comment

Send your comments on or before July 10, 2000. Comments received after this date may not be considered in decision making on the proposed rule.

B. Where To Send Comment

Send an original and 3 copies of your comments and enclosures (including references) to W–98–23 Comment Clerk, Water Docket (MC4101), USEPA, 1200 Pennsylvania Ave., NW, Washington DC 20460. Hand deliveries should be delivered to the Comment Clerk, Water Docket (MC4101), USEPA 401 M , Washington, D.C. 20460. Comments may also be submitted electronically to ow-docket@epamail.epa.gov. Electronic comments must be submitted as an

ASCII, WP5.1, WP6.1 or WP8 file avoiding the use of special characters and form of encryption. Electronic comments must be identified by the docket number W–98–23. Comments and data will also be accepted on disks in WP 5.1, 6.1, 8 or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Those who comment and want EPA to acknowledge receipt of their comments must enclose a self-addressed stamped envelope. No facsimiles (faxes) will be accepted. Comments may also be submitted electronically to ow-docket@epamail.epa.gov.

C. Guidelines for Commenting

To ensure that EPA can read, understand and therefore properly respond to comments, the Agency would prefer that commenters cite, where possible, the paragraph(s) or sections in the notice or supporting documents to which each comment refers. Commenters should use a separate paragraph for each issue discussed. Note that the Agency is not soliciting comment on, nor will it respond to, comments on previously published regulatory language that is included in this notice to ease the reader's understanding of proposed language. You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide technical information and/or data to support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate.

5. Indicate what you support, as well as what you disagree with.

6. Provide specific examples to illustrate your concerns.

7. Make sure to submit your comments by the deadline in this proposed rule.

8. At the beginning of your comments (*e.g.*, as part of the "Subject" heading), be sure to properly identify the document you are commenting on. You can do this by providing the docket control number assigned to the proposed rule, along with the name, date, and *Federal Register* citation.

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List of Subjects in 40 CFR Parts 141 and 142

Environmental protection, Indians-lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water.

Dated: April 17, 2000.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, title 40 chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues 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 141.21 is amended by adding paragraph (d)(3) to read as follows:

§ 141.21 Coliform sampling.

* * * * *

(d) * * *

(3) Sanitary surveys conducted by the State under § 142.16(k)(2) of this chapter, at the frequencies specified, may be used to meet the sanitary surveys requirements of this section.

* * * * *

3. Section 141.154 is amended by adding paragraph (f) to read as follows:

§ 141.154 Required additional health information.

* * * * *

(f) Ground water systems that detect *E. coli*, enterococci or coliphage in the source water as required by § 141.403 must include the health effects language prescribed by Appendix B of subpart Q of this part.

* * * * *

4. Section 141.202 as added by the final rule published on May 4, 2000 is amended by adding entry (9) in numerical order to the table in paragraph (a) to read as follows:

§ 141.202 Tier 1 Public Notice—Form, manner, and frequency of notice.

(a) * * *

Table 1 to § 141.202—violation categories and other situations requiring a tier 1 public notice

* * * * *	
(9) Violation of the treatment technique for the Ground Water Rule (as specified in § 141.405(a) through (c) or when *E. coli*, enterococci, or coliphage are present as specified in § 141.403) or when the water system fails to test for *E. coli*, enterococci, coliphage (as specified in § 141.403).	
* * * * *	

5. Appendix A of subpart Q as added by the final rule published on May 4, 2000 is amended by adding entry 8. under I.A. "Microbiological Contaminants" and by adding entry G. under IV. "Other Situations Requiring Public Notification" to read as follows:

APPENDIX A TO SUBPART Q OF PART 141.—NPDWR VIOLATIONS AND OTHER SITUATIONS REQUIRING PUBLIC NOTICE [1] (INCLUDING D/DBP AND IESWTR VIOLATIONS)

Contaminant	MCL/MRDL/TT violations [2]		Monitoring and testing procedure violations	
	Tier of public notice required	Citation	Tier of public notice required	Citation
* * * * * * *				
A. Microbiological Contaminants				
* * * * * * *				
8. GWR TT violations	1	141.405	N/A	N/A
* * * * * * *				
IV. Other Situations Requiring Public Notification				
* * * * * * *				
G. Fecal indicators for GWR: *E. coli*, enterococci, coliphage	1	141.403	1	141.403

Appendix A Endnotes

[1] Violations and other situations not listed in this table (*e.g.*, reporting violations and failure to prepare Consumer Confidence Reports), do not require notice, unless otherwise determined by the primacy agency. Primacy agencies may, at their option, also require a more stringent public notice tier (*e.g.*, Tier 1 instead of Tier 2 or Tier 2 instead of Tier 3) for specific violations and situations listed in this Appendix, as authorized under § &141.202(a) and § 141.203(a).

[2] MCL—Maximum contaminant level, MRDL-Maximum residual disinfectant level, TT—Treatment technique.

* * * * *

6. Appendix B to subpart Q as added by the final rule published on May 4, 2000 is amended by adding a new entry 1c in numerical order un A. "Microbiological Contaminants" and by redisinating entries C. through H. as D. through I. and adding a new C. in alphabetical order to read as follows:

APPENDIX B OF SUBPART Q OF PART 141.—STANDARD HEALTH EFFECTS LANGUAGE FOR PUBLIC NOTIFICATION

Contaminant	MCLG [1] mg/L	MCL [2] mg/L	
* * * * * * *			
A. Microbiological Contaminants			
* * * * * * *			
1c. Fecal indicators (GWR):			
i. *E. coli*	Zero	None	Fecal indicators are bacteria or viruses 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, some of the elderly, and people with severely compromised immune systems
ii. enterococci	None		
iii. coliphage	None		
* * * * * * *			
C. Ground Water Rule (GWR) TT violations.	None	TT	Inadequately treated or inadequately protected water may contain disease-causing organisms. These organisms include bacteria and viruses which can cause symptoms such as diarrhea, nausea, cramps, and associated headaches.
* * * * * * *			

Appendix B Endnotes

1. MCLG—Maximum contaminant level goal.
2. MCL—Maximum contaminant level.

* * * * *

7. Appendix C to subpart Q as added in the final rule published on May 4, 2000 amended by adding the following abbreviation in alphabetical order to read as follow:

Appendix C to Subpart Q of Part 141—List of Acronyms Used in Public Notification Regulation

* * * * *

GWR Ground Water Rule

* * * * *

9. A new subpart S is proposed to be added to read as follows:

Subpart S—Ground Water Rule

Sec.

Subpart S—Ground Water Rule

§ 141.400 General requirements and applicability.

(a) *Scope of this subpart.* The requirements of this subpart S constitute national primary drinking water regulations.

(b) *Applicability.* All public water systems that are served solely by ground water. The requirements in this subpart also apply to subpart H systems that distribute ground water that is not treated to 4-log inactivation or removal of viruses before entry into the distribution system. Systems supplied by ground water under the direct influence of surface water are regulated under subparts H and P of this part, not under this subpart. For the purposes of this subpart, "ground water system" is defined as any public water system meeting this applicability statement.

(c) *General requirements.* These regulations in this subpart establish requirements related to sanitary surveys, hydrogeologic sensitivity assessments, and source water microbial monitoring performed at ground water systems as defined by paragraph (b) of this section. The regulations in this subpart also establish treatment technique requirements for these ground water systems which have fecally contaminated source waters, as demonstrated under § 141.403, or significant deficiencies as identified in a sanitary survey conducted by a State under either § 142.16(k)(2) of this chapter or by EPA under SDWA section 1445. Ground water systems with fecally contaminated source water or significant deficiencies must meet one or more of the following treatment technique requirements: eliminate the source of contamination, correct the significant deficiency, provide an alternate source water, or provide a treatment which reliably achieves at least 99.99 percent (4-log) inactivation or removal of viruses before or at the first customer. Ground water systems which provide 4-log inactivation or removal of viruses will be required to conduct compliance monitoring to demonstrate treatment effectiveness.

(d) *Compliance dates.* Ground water systems must comply with the requirements of this subpart beginning [DATE 3 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER.

§ 141.401 Sanitary survey information request.

Ground water systems must provide the State at its request, any pertinent existing information that would allow the State to perform a sanitary survey as described in § 142.16(k)(2) of this chapter. For the purposes of this subpart, "sanitary survey," as conducted by the State, includes but is not limited to an onsite review of the water source (identifying sources of contamination by using results of source water assessments or other relevant information where available), facilities, equipment, operation, maintenance, and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

§ 141.402 Hydrogeologic sensitivity assessment information request.

Ground water systems must provide the State at its request, any pertinent existing information that would allow the State to perform a hydrogeologic sensitivity assessment as described in § 142.16(k)(3) of this chapter.

§ 141.403 Microbial monitoring of source water and analytical methods.

(a) *Routine monitoring.* Any ground water system that draws water from a hydrogeologically sensitive drinking water source, as determined under § 142.16(k)(3) of this chapter, and that does not provide 4-log inactivation or removal of viruses, must collect a source water sample each month that it provides water to the public and test the sample for the fecal indicator specified by the State under paragraph (d) of this section. Ground water systems must begin monitoring the month after being notified of the hydrogeologic sensitivity assessment.

(b) *Triggered monitoring.* Any ground water system that does not provide 4-log inactivation or removal of viruses, and is notified of a total coliform-positive sample under § 141.21, must collect, within 24 hours of notification, at least one source water sample and have the sample tested for the fecal indicator specified by the State under paragraph (d) of this section. This requirement is in addition to all monitoring and testing requirements under § 141.21.

(c) *Systems with disinfection.* Ground water systems currently providing 4-log inactivation or removal of viruses must notify the State of such and must conduct compliance monitoring in accordance with § 141.404(c). This notification must be made by the effective date of the rule. All new systems must notify the State of the level of virus inactivation they are achieving prior to serving their first customer.

(d) *Analytical methods.* Source water samples must be tested for one of the following fecal indicators: *E. coli,* coliphage, or enterococci, as specified by the State. For whichever fecal indicator is specified by the State, the ground water system must use one of the analytical methods listed in the following table:

ANALYTICAL METHODS FOR SOURCE WATER MONITORING

Indicator	Method[1]
E. coli	Colilert Test (Method 9223B)[2, 3]
	Colisure Test (Method 9223B)[2, 3]
	Membrane Filter Method with MI Agar[4, 5]
	m-ColiBlue24 Test[4, 6]
	E*Colite Test[4, 7]
	May also use the EC-MUG (Method 9212F)[2] and NA-MUG (Method 9222G)[2] *E. coli* confirmation step § 141.21(f)(6) after the EPA approved Total Coliform methods in § 141.21(f)(3)
enterococci	Multiple-Tube Tech. (Method 9230B)[1]
	Membrane Filter Tech. (Method 9230C)[1, 8]
	Enterolert[3]
Coliphage	EPA Method 1601: Two-Step Enrichment Presence-Absence Procedure[9]
	EPA Method 1602: Single Agar layer Procedure[9]

[1] The time from sample collection to initiation of analysis may not exceed 30 hours. Systems are encouraged but not required to hold samples below 10°C during transit.

[2] Methods are approved and described in Standard Methods for the Examination of Water and Wastewater (20th edition).

[3] Medium available through IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092.

[4] EPA approved drinking water methods.

[5] Brenner, K.P., C.C. Rankin, Y.R. Roybal, G.N. Stelma, P.V. Scarpino, and A.P. Dufour. 1993. New medium for the simultaneous detection of total coliforms and *Escherichia coli* in water. Appl. Environ. Microbiol. 59:3534–3544.

[6] Hach Company, 100 Dayton Ave., Ames, IA 50010.

[7] Charm Sciences, Inc., 36 Franklin St., Malden, MA 02148–4120.

[8] Proposed for EPA approval, EPA Method 1600: MF Test Method for enterococci in Water (EPA–821–R–97–004 (May 1997)) is an approved variation of Standard Method 9230C.

[9] Proposed for EPA approval are EPA Methods 1601 and 1602, which are available from the EPA's Water Resources Center, Mail code: RC–4100, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

(e) *Notification of State.* If any source water sample is positive for *E. coli*, coliphage, or enterococci, the ground water system shall notify the State as soon as possible after the system is notified of the test result, but in no case later than the end of the next business day, and take corrective action in accordance with § 141.404(b).

(f) *Resampling after invalidation.* Where the State invalidates a positive source water sample under paragraph (i) of this section, the ground water system must collect another source water sample and have it analyzed for the same fecal indicator within 24 hours of being notified of the invalidation.

(g) *Triggered monitoring waiver.* The State may waive triggered source water monitoring as described in § 141.403(b) due to a total coliform-positive sample, on a case-by-case basis, if the State determines that the total coliform positive sample is associated solely with a demonstrated distribution system problem. In such a case, a State official must document the decision, including the rationale for the decision, in writing, and sign the document.

(h) *Reduce frequency for routine monitoring.* The State may reduce routine source water monitoring to quarterly if a hydrogeologically sensitive ground water system detects no fecal indicator-positive samples in the most recent twelve monthly samples, during the months the ground water system is in operation. Moreover, the State may, after those twelve monthly samples, waive source water monitoring altogether for a ground water system if the State determines, and documents the determination in writing, that fecal contamination of the well(s) has not been identified and is highly unlikely based on the sampling history, land use pattern, disposal practices in the recharge area, and proximity of septic tanks and other fecal contamination sources. If the State determines that circumstances have changed, the State has the discretion to reinstate routine monthly monitoring. In any case, a State official must document the determination in writing, including the rationale for the determination, addressing each factor noted in this paragraph and sign the document.

(i) *Invalidation of samples.* A source water sample may be determined by the State to be invalid only if the laboratory establishes that improper sample analysis occurred or the State has substantial grounds to believe that a sample result is due to circumstances that do not reflect source water quality. In such a case, a State official must document the decision, including the rationale for the decision, in writing, and sign the document. The written documentation must state the specific cause of the invalid sample and what action the ground water system or laboratory has taken or will take to correct this problem. A positive sample may not be invalidated by the State solely on the grounds that repeat samples are negative.

(j) *Repeat sampling.* A ground water system may apply to the State, and the State may consider, on a one-time basis, to waive compliance with the treatment technique requirements in § 141.404(b), after a single fecal indicator-positive from a routine source water sample as required in § 141.403(a), if all the following conditions are met:

(1) The ground water system collects five repeat source water samples within 24 hours after being notified of a source water fecal indicator positive result;

(2) The ground water system has the samples analyzed for the same fecal indicator as the original sample;

(3) All the repeat samples are fecal indicator negative; and

(4) All required source water samples (routine and triggered) during the past five years were fecal indicator-negative.

§ 141.404 Treatment technique requirements.

(a) *Ground water systems with significant deficiencies.* As soon as possible, but no later than 90 days after receiving written notification from the State of a significant deficiency, a ground water system must do one or more of the following: eliminate the source of contamination, correct the significant deficiency, provide an alternate source water, or provide a treatment which reliably achieves at least 99.99 percent (4-log) inactivation or removal of viruses before or at the first customer. Ground water systems which provide 4-log inactivation or removal of viruses will be required to conduct compliance monitoring to demonstrate treatment effectiveness. The ground water system must consult with the State to determine which of the approaches, or combination of approaches, are appropriate for meeting the treatment technique requirement. Ground water systems unable to address the significant deficiencies in 90 days, must develop a specific plan and schedule for meeting this treatment technique requirement, submit them to the State, and receive State approval before the end of the same 90-day period. For the purposes of this paragraph, a "significant deficiency" includes: a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the State determines to be causing, or has potential for causing the introduction of contamination into the water delivered to consumers.

(b) *Ground water systems with source water contamination.* As soon as possible, but no later than 90 days after the ground water system is notified that a source water sample is positive for a fecal indicator, the ground water system must do one or more of the following: eliminate the source of contamination, correct the significant deficiency, provide an alternate source water, or provide a treatment which reliably achieves at least 99.99 percent (4-log) inactivation or removal of viruses before or at the first customer. Ground water systems which provide 4-log inactivation or removal of viruses will be required to conduct compliance monitoring to demonstrate treatment effectiveness. The ground water system must consult with the State to determine which of the approaches, or combination of approaches, are appropriate for meeting the treatment technique requirement. Ground water systems unable to address the contamination problem in 90 days must develop a specific plan and schedule for meeting this treatment technique requirement, submit them to the State, and receive State approval before the end of the same 90-day period specified previously. This requirement also applies to ground water systems for which States have waived source water monitoring under § 141.403(h) and have a fecal coliform-or E. coli-positive while testing under § 141.21.

(c) *Compliance monitoring.* Ground water systems that provide 4-log inactivation or removal of viruses, or begin treatment pursuant to paragraph (a) or (b) of this section, must monitor the effectiveness and reliability of treatment as follows:

(1) *Chemical disinfection.* (i) Ground water systems serving 3,300 or more people must continuously monitor and maintain the State-determined residual disinfectant concentration every day the ground water system serves water to the public.

(ii) Ground water systems serving fewer than 3,300 people must monitor and maintain the State-determined residual disinfectant concentration every day the ground water system serves water to the public. The ground water system will monitor by taking a daily grab sample during the hour of peak flow or another time specified by the State. If any daily grab sample measurement falls below the State-determined residual disinfectant concentration, the ground water system must take follow-up samples every four hours until the residual disinfectant concentration is restored to the State-determined level.

(2) *UV disinfection.* Ground water systems using UV disinfection must continuously monitor for and maintain the State-prescribed UV irradiance level every day the ground water system serves water to the public.

(3) *Membrane filtration.* Ground water systems that use membrane filtration as a treatment technology are assumed to be achieving at least 4-log removal of viruses when the membrane process is operated in accordance with State-specified compliance criteria developed under § 142.16(k)(5)(ii) of this chapter, or as provided by EPA, and the integrity of the membrane is intact. Applicable membrane filtration technologies are reverse osmosis (RO), nanofiltration (NF), and any membrane filters developed in the future that have absolute MWCOs (molecular weight cut-offs) that can achieve 4-log virus removal.

(d) *Discontinuing treatment.* Ground water systems may discontinue 4-log inactivation or removal of viruses if the State determines based on an on-site investigation, and documents that determination in writing, that the need for 4-log inactivation or removal of viruses no longer exists. Ground water systems are subject to triggered monitoring in accordance with § 141.403(b).

§ 141.405 Treatment technique violations.

The following are treatment technique violations which require the ground water system to give public notification pursuant to Appendix A of subpart Q of this part, using the language specified in Appendix B of subpart Q of this part.

(a) A ground water system with a significant deficiency identified by a State (as defined in § 141.401) which does not correct the deficiency, provide an alternative source, or provide 4-log inactivation or removal of viruses within 90 days, or does not obtain, within the same 90 days, State approval of a plan and schedule for meeting the treatment technique requirement in § 141.404, is in violation of the treatment technique.

(b) A ground water system that detects fecal contamination in the source water and does not eliminate the source of contamination, correct the significant deficiency, provide an alternate source water, or provide a treatment which reliably achieves at least 99.99 percent (4-log) inactivation or removal of viruses before or at the first customer within 90 days, or does not obtain within the same 90 days, State approval of a plan for meeting this treatment technique requirement, is in violation of the treatment technique unless the detected sample is invalidated under § 141.403(i) or the treatment technique is waived under § 141.403(j). Ground water systems which provide 4-log inactivation or removal of viruses will be required to conduct compliance monitoring to demonstrate treatment effectiveness.

(c) A ground water system which fails to address either a significant deficiency as provided in paragraph (a) of this section or fecal contamination as provided in paragraph (b) of this section according to the State-approved plan, or by the State-approved deadline, is in violation of the treatment technique. In addition, a ground water system which fails to maintain 4-log inactivation or removal of viruses, is in violation of the treatment technique, if the failure is not corrected within four hours.

§ 141.406 Reporting and record keeping.

(a) *Reporting.* In addition to the requirements of § 141.31, ground water systems regulated under this subpart must provide the following information to the State:

(1) Ground water systems conducting continuous monitoring must notify the State any time the residual disinfectant concentration (irradiance in the case of UV) falls below the State-determined value and is not restored within 4 hours. The ground water system must notify the State as soon as possible, but in no case later than the end of the next business day.

(2) Ground water systems taking daily grab samples must notify the State any time the residual disinfectant concentration falls below the State-determined value and is not restored within 4 hours, as determined by follow-up samples. The ground water system must notify the State as soon as possible, but in no case later than the end of the next business day.

(3) Ground water systems using membrane filtration must notify the State any time the membrane is not operated in accordance with standard operation and maintenance procedures for more than 4 hours, or any failure of the membrane integrity occurs and is not restored within 4 hours. The ground water system must notify the State as soon as possible, but in no case later than the end of the next business day. These operation and maintenance procedures will be provided by EPA or developed by the State under § 142.16(k)(5)(ii) of this chapter.

(4) If any source water sample is positive for *E. coli,* coliphage, or enterococci, the ground water system shall notify the State as soon as possible, but in no case later than the end of the next business day, and take corrective action in accordance with § 141.404(b).

(5) If any ground water system has reason to believe that a disease outbreak is potentially attributable to their drinking water, it must report the outbreak to the State as soon as possible, but in no case later than the end of the next business day.

(6) After implementation of any required treatment techniques, a ground water system must provide as soon as possible, but in no case later than the end of the next business day, written confirmation to the State that the corrective action required by § 141.404(a) and (b) were met.

(7) Notification that the ground water system is currently providing 4-log inactivation or removal of viruses.

(b) *Record keeping.* In addition to the requirements of § 141.33, ground water systems regulated under this subpart must maintain the following information in their records:

(1) Documentation showing the fecal indicator the State is requiring the ground water system to use.

(2) Documentation showing consultation with the State on approaches for addressing significant deficiencies including alternative plans and schedules and State approval of such plans and schedules.

(3) Documentation showing consultation with the State on approaches for addressing source water fecal contamination including alternative plans and schedules and State approval of such plans and schedules.

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

1. The authority citation for part 142 continues 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 142.14 is amended by adding paragraph (d)(17) to read as follows:

§ 142.14 Records kept by States.

* * * * *

(d) * * *

(17) Records of the currently applicable or most recent State determinations, including all supporting information and an explanation of the technical basis for each decision, made under the following provisions of 40 CFR part 141, subpart S for the Ground Water Rule.

(i) Section 142.16(k)(3)—State determinations of source water hydrogeologic sensitivity, and determinations of the presence of hydrogeologic barriers.

(ii) Section 141.404(c) " notification to individual ground water systems of the proper residual disinfection concentrations (when using chemical disinfection), irradiance level (when using UV), or EPA-specified or State specified compliance criteria (when using membrane filtration) needed to achieve 4-log inactivation of viruses.

(iii) Section 141.403(g)—waivers of triggered monitoring.

(iv) Section 141.403(h)—reductions of monitoring.

(v) Section 141.403(i)—invalidation of positive source water samples.

(vi) Section 141.403(j)—waiver of compliance with treatment technique requirements.

(vii) Section 141.404(a)—notifications of significant deficiencies, consultation with the ground water systems, including written confirmation of corrections of significant deficiencies by ground water systems and written records of State site visits and approved plans and schedules.

(ix) Section 141.404(d)—determinations of when a ground water system can discontinue 4-log inactivation or removal of viruses.

* * * * *

3. Section 142.15 is amended by adding paragraphs (c)(6) through (10) to read as follows:

§ 142.15 Reports by States.

* * * * *

(c) * * *

(6) Sanitary surveys. An annual list of ground water systems that have had a sanitary survey completed during the previous year and an annual evaluation of the State's program for conducting sanitary surveys under § 142.16(k)(2).

(7) Hydrogeologic sensitivity assessments. An annual list of ground water systems that have had a sensitivity assessment completed during the previous year, a list of those ground water systems which are sensitive, a list of ground water systems which are sensitive, but for which the State has determined that a hydrogeologic barrier exists at the site sufficient for protecting public health, and an annual evaluation of the State's program for conducting hydrogeologic sensitivity assessments under § 142.16 (k)(3).

(8) Source water microbial monitoring. An annual list of ground water systems that have had to test the source water as described under § 141.403 of this chapter, a list of determinations of invalid samples, and a list of waivers of source water monitoring provided by the State.

(9) Treatment technique compliance. An annual list of ground water systems that have had to meet treatment technique requirements for significant deficiencies or contaminated source water under § 141.404 of this chapter, a list of determinations to discontinue 4-log inactivation or removal of viruses, and a list of ground water systems that violated the treatment technique requirements.

(10) Ground water systems providing 4-log inactivation or removal of viruses. An annual list of ground water systems that have notified the State that they are currently providing 4-log inactivation or removal of viruses.

* * * * *

4. Section 142.16 is amended by adding and reserving paragraphs (i) and (j) and adding paragraph (k) to read as follows:

§ 142.16 Special primacy requirements.

* * * * *

(i) [Reserved]

(j) [Reserved]

(k) Requirements for States to adopt 40 CFR part 141, subpart S. In addition to the general primacy requirements specified elsewhere in this part, including the requirement that State regulations are no less stringent than the Federal requirements, an application for approval of a State program revision that adopts 40 CFR part 141, subpart S, must contain a description of how the State will accomplish the following program requirements:

(1) *Enforceable requirements.* (i) States must have the appropriate rules or other authority to ensure that ground water systems take the steps necessary to address, in accordance with § 141.404(a) of this chapter, any significant deficiencies identified in the written notification provided by the State as required under paragraph (k)(2) of this section.

(ii) States must have appropriate rules or other authority to ensure that ground water systems respond in writing in regard to the resolution of significant deficiencies identified in the written notification provided by the State following identification of the significant deficiencies.

(iii) States must have the appropriate rules or other authority to ensure that ground water systems take the steps necessary to address, in accordance with § 141.404(b) of this chapter, any fecal contamination identified during routine or triggered monitoring in accordance with § 141.403(a) and (b) of this chapter.

(2) *Sanitary survey.* In its primacy application the State must describe how it, or an authorized agent, will implement a sanitary survey program that meets the requirements of this section.

(i) For the purposes of this paragraph (k)(2), "sanitary survey" includes, but is not limited to, an onsite review of the water source (identifying sources of contamination by using results of source water assessments or other relevant information where available), facilities, equipment, operation, maintenance, and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

(ii) The State, or an authorized agent, must conduct sanitary surveys for all ground water systems. The sanitary survey must address the eight sanitary survey components listed in paragraphs (k)(2)(ii)(A) through (H) of this section no less frequently than every three years for community systems and no less frequently than every five years for noncommunity systems. The first sanitary survey for community water systems must be completed by [DATE 6 YEARS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER] and for noncommunity water systems, must be completed by [DATE 8 YEARS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER].

(A) Source.

(B) Treatment.

(C) Distribution system.

(D) Finished water storage.

(E) Pumps, pump facilities, and controls.

(F) Monitoring and reporting and data verification.

(G) System management and operation.

(H) Operator compliance with State requirements.

(iii) After the initial sanitary survey for ground water systems in accordance with § 142.16(k)(2)(ii), the State may reduce the frequency of sanitary surveys for community water systems to no less frequently than every five years, if the ground water system either treats to 4-log inactivation or removal of viruses or has an outstanding performance record documented in previous inspections and has no history of total coliform MCL or monitoring violations under § 141.21 of this chapter as determined by the State, since the last sanitary survey under the current ownership. In its primacy application, the State must describe how it will decide whether a community water system has outstanding performance and is thus eligible for sanitary surveys at a reduced frequency.

(iv) States may complete components of a sanitary survey as part of a staged or phased State review process within the established frequency specified in paragraph (k)(2)(ii) or (iii) of this section. In its primacy application, a State which plan to complete the sanitary survey in a staged or phased State review process must indicate which approach it will take and provide the rationale for the specified time frames for sanitary surveys conducted on a staged or phased approach basis.

(v) Sanitary surveys that meet the requirements of this subpart, including the requisite eight components identified in paragraph (k)(2)(ii) of this section and conducted at the specified frequency, are considered to meet the requirements for sanitary surveys under the Total Coliform Rule (TCR) as described in § 141.21 of this chapter. Note however, compliance only with the TCR sanitary survey requirements may not be adequate to meet the revised scope and frequency sanitary survey requirement of this subpart.

(vi) States must provide ground water systems with written notification identifying and describing any significant deficiencies identified at the ground water system no later than 30 days after identifying the significant deficiencies. States will provide ground water systems with written notification by certified mail or on-site from the sanitary survey inspector. In its primacy application, the State must indicate how it will define what constitutes a significant deficiency for purposes of this subpart. For the purposes of this paragraph, a "significant deficiency" includes: a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the State determines to be causing, or has potential for causing the introduction of contamination into the water delivered to consumers.

(vii) In its primacy application, the State must describe how it will consult with the ground water system regarding the treatment technique requirements specified in § 141.404 and criteria for determining when a ground water system has met the 4-log inactivation or removal of viruses of this chapter.

(viii) States must confirm that the deficiency has been addressed, either through written confirmation from ground water systems or a site visit by the State, within 30 days after the ground water system has met the treatment technique requirements under § 141.404(a) of this chapter.

(ix) In its primacy application, the State must specify if and how it will integrate Source Water Assessment and Protection Program (SWAPP) susceptibility determinations into the sanitary survey and the definition of significant deficiency.

(3) *Hydrogeologic sensitivity assessments.* (i) For the purposes of this paragraph (k)(3), "hydrogeologic sensitivity assessment" means the methodology used by the State to identify whether ground water systems are obtaining water from karst, gravel, or fractured bedrock aquifers. A State may add additional hydrogeologic sensitive settings, *e.g.*, volcanic aquifers. A well obtaining water from a karst, gravel or fractured bedrock aquifer is sensitive to fecal contamination unless the well is protected by a hydrogeologic barrier. A "hydrogeologic barrier" consists of physical, chemical and biological factors that, singularly or in combination, prevent the movement of viable pathogens from a contaminant source to a ground water system well.

(ii) The State, or an authorized agent, must conduct a one-time hydrogeologic sensitivity assessment for all existing ground water systems not providing 4-log inactivation or removal of viruses by [DATE SIX YEARS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER] for community water systems and by [DATE EIGHT YEARS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER] for non-community water systems. The State, or an authorized agent, must conduct a hydrogeologic sensitivity assessment for new systems prior to their serving water to the public.

(iii) In its primacy application, a State must identify its approach to determine the adequacy of a hydrogeologic barrier, if present, as part of its effort to determine the sensitivity of a ground water system in a hydrogeologic sensitivity assessment.

(4) *Source water microbial monitoring.* (i) In its primacy application, the State must identify its approach and rationale for determining which of the fecal indicators (E. coli, coliphage, or enterococci) ground water systems must use in accordance with § 141.403(d) of this chapter.

(ii) The State may waive triggered source water monitoring as described in § 141.403(b) of this chapter due to a total coliform-positive sample, on a case-by-case basis, if the State determines that the total coliform positive sample is associated solely with a demonstrated distribution system problem. In such a case, a State official must document the decision, including the rationale for the decision, in writing, and sign the document.

(iii) The State may reduce routine source water monitoring to quarterly if a hydrogeologically sensitive ground water system detects no fecal indicator-positive samples in the most recent twelve consecutive monthly samples during the months the ground water system is in operation. Moreover, the State may, after those twelve consecutive monthly samples, waive source water monitoring altogether for a ground water system if the State determines, in writing, that fecal contamination of the well(s) has not been identified and is highly unlikely, based on the sampling history, land use pattern, disposal practices in the recharge area, and proximity of septic tanks and other fecal contamination sources. If the State determines that circumstances have changed, the State has the discretion to reinstate routine monthly monitoring. In any case, a State official must document the determination in writing, including the rationale for the determination, and sign the document.

(iv) The State may determine a source water sample to be invalid only if the laboratory establishes that improper sample analysis occurred or the State has substantial grounds to believe that a sample result is due to circumstances that do not reflect source water quality. In such a case, a State official must document the decision, including the rationale for the decision, in writing, and sign the document. The written documentation must state the specific cause of the invalid sample and what action the ground water system or laboratory has taken or must take to

correct this problem. A positive sample may not be invalidated by the State solely on the grounds that repeat samples are negative, though this could be considered along with other evidence that the original sample result does not reflect source water quality.

(v) A ground water system may apply to the State, and the State may consider, on a one-time basis, to waive compliance with the treatment technique requirements in § 141.404(a) of this chapter, after a single fecal indicator-positive from a routine source water sample as required in § 141.403(a) of this chapter, if all the following conditions are met:

(A) The ground water system collects five repeat source water samples within 24 hours after being notified of a source water fecal positive result;

(B) The ground water system has the samples analyzed for the same fecal indicator as the original sample;

(C) All the repeat samples are fecal indicator negative; and

(D) All previous source water samples (routine and triggered) during the past 5 years were fecal indicator-negative.

(5) *Treatment technique requirements.*. (i) In its primacy application, the State must describe how it must provide every ground water system treating to 4-log inactivation or removal the disinfectant concentration (or irradiance) and contact time to achieve 4-log virus inactivation or removal. EPA recommends that the State use applicable EPA-developed CT tables (IT (the product of irradiance, in mW/cm^2, multiplied by exposure time, in seconds) in the case of UV disinfection) to determine the concentration (or irradiance) and contact time that it will require ground water systems to achieve 4-log virus inactivation.

(ii) If the State intends to approve membrane filtration for treatment it must, in its primacy application, describe the monitoring and compliance requirements, including membrane integrity testing, that it will require of ground water systems to demonstrate proper operation of membrane filtration technologies.

(iii) In its primacy application, a State must describe the approach it must use to determine which specific treatment technique option (correcting the deficiency, eliminating the source of contamination, providing an alternative source, or providing 4-log inactivation or removal of viruses) is appropriate for addressing significant deficiencies or fecally contaminated source water and under what circumstances. In addition, the State must describe the approach it intends to use when consulting with ground water systems on determining the treatment technique options.

(iv) States must confirm that the ground water system has addressed the source water fecal contamination identified under routine or triggered monitoring in accordance with § 141.403(a) and (b) of this chapter, either through written confirmation from ground water systems or a site visit by the State, within 30 days after the ground water system has met the treatment technique requirements under § 141.404(b) of this chapter.

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Part III

Department of Agriculture

Forest Service

36 CFR Part 294
Special Areas; Roadless Area Conservation; Proposed Rules

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 294

RIN 0596–AB77

Special Areas; Roadless Area Conservation

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed rulemaking; request for comment.

SUMMARY: The Forest Service is proposing new regulations to protect certain roadless areas within the National Forest System. This proposed rulemaking would prohibit road construction and reconstruction in most inventoried roadless areas of the National Forest System and require evaluation of roadless area characteristics in the context of overall multiple-use objectives during land and resource management plan revisions. This proposal is in response to strong public sentiment for protecting roadless areas and the clean water, biological diversity, wildlife habitat, forest health, dispersed recreational opportunities, and other public benefits provided by these areas. This action also responds to budgetary concerns and the need to balance forest management objectives with funding priorities. The intent of this rulemaking is to provide lasting protection in the context of multiple-use management for inventoried roadless areas and other unroaded areas within the National Forest System. The Forest Service invites written comments on this proposed rule and will analyze and consider those comments in the development of a final rule.

DATES: Written comments must be received by July 17, 2000.

ADDRESSES: Send written comments to the USDA Forest Service—CAET, Attention: Roadless Areas Proposed Rule, P.O. Box 221090, Salt Lake City, Utah, 84122. Reviewers, who wish to send comment by e-mail, may do so by accessing the worldwide web at roadless.fs.fed.us and selecting the comment option. Comments may also be sent via fax to 877–703–2494.

Comments received in response to this rulemaking, including names and addresses when provided, will be considered part of the public record and will be available for public inspection and copying.

A copy of the Draft Environmental Impact Statement (DEIS), the DEIS Summary, and other information related to this rulemaking is available at the roadless.fs.fed.us website. Reviewers may request printed copies or compact disks, as available, of the Draft Environmental Impact Statement and the Summary by writing to the Rocky Mountain Research Station, Publication Distribution, 240 West Prospect Road, Fort Collins, CO 80526–2098. Fax orders will be accepted at 800–777–5805. When ordering, requesters must specify if they wish to receive the summary or full set of documents and if the material should be provided in print or on disk. Additional information is available at the roadless.fs.fed.us website as well as by calling the number listed under the **FOR FURTHER INFORMATION CONTACT** heading.

FOR FURTHER INFORMATION CONTACT: Scott Conroy, Project Director, (703) 605–5299.

SUPPLEMENTARY INFORMATION: The following outline displays the contents of the Supplementary Information section of this proposed rule:

Background

The Forest Service is responsible for managing the lands and resources of the National Forest System, including 192 million acres of land in 42 states, the Virgin Islands, and Puerto Rico. The system is composed of 155 national forests, 20 national grasslands, and various other lands under the jurisdiction of the Secretary of Agriculture. The Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528) and the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*), direct that National Forest System lands are to be managed for a variety of uses on a multiple-use basis to provide a continued supply of products, services, and values without impairment of the productivity of the land.

National Forest System Land Designations

The Forest Service used the most recent inventory available for each national forest and grassland to identify the inventoried roadless areas addressed by this rulemaking. It used land and resource management plans, other assessments, and the Roadless Area Review and Evaluation (RARE) II inventory. The Forest Service began identifying roadless areas through RARE I in 1972. In 1979, the agency completed RARE II, a more extensive national inventory of roadless areas. RARE II built on the data in RARE I, and in most cases forest plans and other assessments were built on RARE II. In the limited circumstances where a forest plan or other assessment did not have a more recent inventory of roadless areas, the Forest Service used the RARE II inventory.

Using these inventories, the Forest Service has identified 54.3 million acres of inventoried roadless areas that are the subject of this rulemaking (Table 1). Road building is currently not allowed in 20.5 million of these 54.3 million acres. Many are designated as primitive or semi-primitive recreation areas in existing forest plans. Road building is allowed in the remaining 33.8 million acres of inventoried roadless areas subject to this rule. Within the total 54.3 million acres of inventoried roadless areas, an estimated 2.8 million acres have been roaded since they were inventoried. The remaining 51.5 million acres are the unroaded portions of inventoried roadless areas addressed in the rule.

Table 1 also displays the acreage of Congressionally designated areas and all other National Forest System lands. The National Forest System contains 42.4

million acres of Congressionally designated areas, such as Wilderness or Wild and Scenic Rivers. In addition to inventoried roadless areas and areas designated by Congress, there are 95.2 million acres of other National Forest System lands. There are approximately 386,000 miles of Forest Service roads, as well as other county, state, and federal roads, in these 95.2 million acres. However, some of these 95.2 million acres are unroaded areas where conservation of roadless characteristics may be desirable. Under current policy and forest plan direction, road building continues to be allowed in a substantial portion of the 95.2 million acres of other National Forest System lands and the 33.8 million acres of inventoried roadless areas.

TABLE 1.—NATIONAL FOREST SYSTEM DESIGNATIONS

	Inventoried Roadless Areas			Wilderness [1] and other areas designated by Congress	All other National Forest System Lands
	Total	Roads allowed	Roads not allowed		
Acres In Millions	54.3	33.8	20.5	42.4	95.2
Percentage of Total National Forest System	28.0	17.0	11.0	22.0	50.0

[1] Road construction is not allowed in the 35 million acres in the National Wilderness Preservation System.

Management of Roadless Areas

The Forest Service presently manages a 386,000-mile road system that supports a wide variety of uses, activities, and management actions. Areas without roads have inherent characteristics and values that are becoming scarce in an increasingly developed landscape. While National Forest System inventoried roadless areas represent only about two percent of the United States' land base, they provide significant opportunities for dispersed recreation, sources of public drinking water, and large undisturbed landscapes that provide privacy and seclusion. In addition, these areas serve as bulwarks against the spread of invasive species and often provide important habitat for rare plant and animal species, support the diversity of native species, and provide opportunities for monitoring and research. Roadless areas remain roadless due to the difficulties in developing facilities, roads, and trails in rugged terrain; the high cost of development; the environmental sensitivity and high ecological values of roadless areas; low suitability for timber production; designated use for unroaded forms of recreation; controversy associated with development of roadless areas; and other factors.

Under current agency management policies, local agency officials have the authority to make decisions about road construction in the national forests and grasslands on a case-by-case basis. Agency officials make such decisions at the local level either through the forest planning process or through site-specific, project-level decisions. These planning processes require comprehensive public notice and comment. Additional information about the current planning process is included in the preamble discussion for proposed section 294.13.

Proposed Roadless Area Conservation Rule

The proposed roadless area conservation rule has a two-fold purpose. First, the Forest Service is proposing to immediately stop activities that have the greatest likelihood of degrading desirable characteristics of inventoried roadless areas, based on decisions made at the national level through this public rulemaking process. Second, the Forest Service is proposing to ensure that the significant characteristics of both inventoried roadless and other unroaded areas (that is, generally smaller areas never previously inventoried) are identified and considered through local forest planning efforts. The proposed rule would establish a framework whereby the Forest Service: (1) manages inventoried roadless areas partly by national decisionmaking and partly through local forest planning efforts, and (2) manages other unroaded non-inventoried areas exclusively through the local planning process.

At the national level, the rulemaking would apply to all National Forest System lands and would prohibit road construction in almost all inventoried roadless areas, with a few limited narrow exceptions. The national decision process would reduce the time, expense, and controversy associated with making case-by-case decisions at the local forest level concerning the construction and reconstruction of roads in inventoried roadless areas, and preserve options for dealing with these areas for the future.

The proposed rule also recognizes the role of local forest decisionmaking for management of both inventoried roadless and smaller or uninventoried unroaded areas. The rule would establish procedures whereby local decisionmakers would consider social and ecological characteristics of inventoried roadless and other unroaded areas through their local forest planning efforts. With respect to inventoried areas, local responsible officials could not authorize the construction or reconstruction of roads but would retain discretion to consider appropriate additional management protection for inventoried roadless areas. For smaller uninventoried unroaded areas, the responsible official would evaluate the quality and importance of their characteristics, select those to be protected, and determine the level of protection through the forest planning process. Local officials' discretionary decisions would be informed by their evaluation of the quality and importance of the characteristics of the areas and their determination of whether these characteristics should be protected.

At the national level, the proposed rule covers inventoried roadless areas within the Tongass National Forest in a special provision. That provision postpones a decision regarding protection of these areas until April 2004, and specifically notes that the decision would be subject to existing statutory direction uniquely applicable to the Tongass National Forest.

Additional background information is included in the draft environmental impact statement accompanying this rulemaking. The draft statement discloses information about the physical, biological, social, and economic environments relevant to the proposed action. The entire draft environmental impact statement, or a summary, is available at the address listed in the **ADDRESSES** section of this proposed rule.

Regulatory Initiatives

On January 28, 1998, the Forest Service gave advance notice of its intent to propose revising the National Forest Transportation System regulations (63 FR 4350) to address needed changes in how the agency's road system is developed, used, and maintained. On the same date, the agency also proposed a rule to suspend temporarily road construction and reconstruction in certain areas (63 FR 4354) and requested comment. The agency received more than 119,000 responses. On February 12, 1999, the agency published an interim final rule, which temporarily suspended road construction and reconstruction in most roadless areas of the National Forest System (64 FR 7290). The interim rule is intended to provide time for the agency to develop a long-term road management strategy and to consider more fully public concerns about roadless areas and road management.

On October 13, 1999, President Clinton directed the Forest Service to engage in rulemaking to protect roadless areas that "represent some of the last, best, unprotected wildland anywhere in our Nation." On October 19, 1999, the agency published a notice of intent to prepare an environmental impact statement and to announce the initiation of a public rulemaking process to propose the protection of certain roadless areas within the National Forest System (64 FR 56306). To assist in the development of the rule and alternatives, the agency requested public comment on the scope of the environmental analysis, on the identification of alternatives to the proposal, and on whether the rulemaking should apply to the Tongass National Forest in Alaska.

As part of the scoping process, the agency conducted 10 regional and national public meetings and also held local meetings, which were hosted by the 127 national forest and grassland headquarters. Attendance at the public meetings ranged from as few as 5 people to over 700; typical registration was 50 to 100 people in most communities. Total attendance for all public meetings was approximately 16,000. The agency has received approximately 365,000 written responses to the notice of intent, including approximately 336,000 form letters, from individuals, groups, organizations, and other government agencies.

The agency has used these comments to further refine the scope of the decision to be made, identify significant issues, shape the alternatives, identify possible mitigation measures, and direct the "effects analysis" in the draft environmental impact statement. The six major topics that were identified as a result of the scoping process include issues related to: (1) access; (2) identification of "other unroaded" areas; (3) exemptions; (4) environmental, social, and economic effects; (5) the degree of local involvement in roadless area decisions; and (6) the impacts to communities that depend on the use of National Forest System lands. The draft environmental impact statement. which accompanies this proposed rule includes a more complete description of the issues; alternatives; and environmental, social, and economic effects that were identified as a result of comments submitted in response to the notice of intent.

Having considered the scoping comments and having identified and analyzed alternatives and effects, the agency is proposing a rule to amend Part 294—Special Areas, of Title 36 of the Code of Federal Regulations. The provisions of the proposed rule include a national prohibition on road construction or reconstruction in the unroaded portions of inventoried roadless areas and, during forest plan revision, evaluation of roadless characteristics in the context of overall multiple-use objectives.

This rulemaking is not an effort to expand the National Wilderness Preservation System. The Forest Service recognizes that only Congress may designate wilderness. The Forest Service will continue managing inventoried roadless areas and other unroaded areas within the multiple-use framework required by law.

Other Regulatory Initiatives

The agency has also recently proposed other regulations and policies that address the management of the National Forest System and how the agency must make decisions about road construction in national forests and grasslands.

Proposed Land and Resource Management Planning Rule. The Forest Service proposed this rule on October 5, 1999 (64 FR 54074). This rule proposes to revise the agency's regulations under the National Forest Management Act. The proposed rule would provide for the long-term sustainability of national forests and grasslands, ensure collaboration with the public, and integrate science more effectively into the planning process. The proposed rule would allow the Forest Service to make special designations for roadless and unroaded areas.

Proposed Road Management Rule and Policy. The agency proposed this rule and administrative policy on March 3, 2000 (65 FR 11676). The administrative policy would establish procedures for making decisions about road construction, reconstruction, and decommissioning in national forests. The proposed policy would require that the Forest Service incorporate a science-based road analysis into other analyses and assessments and also conduct a science-based road analysis for any new proposed road construction. The proposed policy also would require the Forest Service to emphasize maintenance and decommissioning of roads over the construction of new roads. In addition, the policy proposes transitional procedures (FSM 7710.32, paragraphs 2 and 3) that address road construction in sensitive roadless and unroaded areas until forest plan revision. The transitional procedures require that responsible officials identify a compelling need and complete an environmental impact statement signed by the Regional Forester before road construction can occur in inventoried roadless and other unroaded areas. The proposed roadless area conservation rule, if adopted, would replace the road management policy's transition language regarding inventoried roadless areas and other unroaded areas.

Section-by-Section Discussion of the Proposed Rule

Authority

This proposed rule is within the scope of the Secretary of Agriculture's authority, as granted by the Organic Administration Act of 1897 (16 U.S.C. 551), "to regulate the occupancy and use and to preserve the forests thereon from destruction." Congress elaborated on this duty in the Multiple-Use Sustained-Yield Act of 1960 by directing the Secretary of Agriculture to administer National Forest System lands to achieve the multiple use and sustained yield of renewable resources "without impairment of the productivity of the land" (16 U.S.C. 528–531). Furthermore, National Forest System management must be accomplished in compliance with a host of administrative and environmental laws. Of particular relevance to this proposal is the Secretary of Agriculture's responsibility for the administration of an adequate system of roads and trails on the National Forest System authorized by the National Forest Roads and Trails Act (16 U.S.C. 532–538).

The Forest and Rangeland Renewable Resources Planning Act, as amended, directs the Secretary of Agriculture to install a proper system of transportation that is both economically and environmentally sound. Furthermore, all roads are to be "designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources" (16 U.S.C. 1608 (c)).

The Forest Service has regulations to guide road management, at 36 CFR part 212, in accordance with their responsibility for management of forest development roads and trails under the authority of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 201, 205). As mentioned previously, the agency has published a proposal to amend regulations at 36 CFR part 212. Also, the Secretary has been granted broad authority under the Forest and Rangeland Renewable Resources Planning Act, as amended, to establish such rules as he determines necessary and desirable to manage the national forests. (16 U.S.C. 1613).

Proposed § 294.10—Purpose

This section of the proposed rule identifies that the agency's goal is to provide lasting protection for inventoried roadless areas and other unroaded areas in the context of multiple-use management. That goal would be accomplished through the combination of limited national prohibitions set out in § 294.12 and the procedural mechanisms set out in § 294.13.

Proposed § 294.11—Definitions

This section of the rule sets out the terms and definitions used in this proposed regulation. The section first defines inventoried roadless areas. These areas were identified using various forest planning and assessment processes, including RARE II, forest plan revisions, and the Southern Appalachian Assessment. The 1996 Southern Appalachian Assessment was a state and federal interagency review of that region's environmental health and ecological problems. Roadless areas were inventoried as part of that assessment.

These plans and assessments resulted in the currently mapped configurations, referred to as "inventoried roadless areas." The maps are maintained at the national headquarters of the Forest Service and are the official maps for the proposed rule. In the event a modification to correct any clerical, typographical, or other technical error is needed, the change will be made to the national headquarters maps and the corrected copies of the maps made available on the web at roadless.fs.fed.us/. Prior to finalizing this proposed rule, map adjustments may be made for forests and grasslands currently undergoing assessments or land and resource management plan revisions.

For the purposes of this rulemaking, the agency is proposing definitions for various categories of roads. These definitions reflect the agency's best efforts to coordinate the use of these terms with other initiatives that use similar terminology. The defined road terms are: road, classified road, unclassified road, road construction, and road reconstruction. The Forest Service encourages reviewers to closely scrutinize these definitions with the understanding that the terms and definitions used in the final rule will be coordinated with the terminology used in other agency initiatives.

An unroaded area is defined as any area without the presence of a classified road, which is of a size and configuration sufficient to protect the inherent characteristics associated with its unroaded condition. This definition also is similar to the definition used in the proposed road management policy (also called transportation rule).

A definition is proposed for the term "unroaded portion of an inventoried roadless area." This definition clarifies that the prohibition and evaluation requirements of this proposed rule are not intended to apply to the portions of inventoried roadless areas that have had classified roads constructed since the area was inventoried. It should be noted that the criteria used to identify and inventory roadless areas in forest planning (Forest Service Handbook 1909.17, chapter 7) allowed the presence of certain types of classified roads, as long as the area, otherwise, met certain minimum criteria.

Proposed § 294.12—Prohibition on Road Construction and Reconstruction in Inventoried Roadless Areas.

Paragraph (a) of this section proposes to prohibit road construction or reconstruction in the unroaded portions of inventoried roadless areas, except for the circumstances listed in proposed paragraphs (b)(1) through (b)(4) and paragraph (c). Nothing in this section is intended to prohibit the authorized construction or maintenance of motorized or non-motorized trails of any size that are classified and managed as trails pursuant to agency direction (FSM 2350).

Proposed paragraph 294.12 (b) would allow certain limited exceptions to the road construction prohibition. The exceptions in proposed paragraphs (b)(1) and (b)(3) parallel the exceptions used in the interim roads rule (64 FR 7290). The public health and safety exception at proposed paragraph (b)(1) would apply only when needed to protect public health and safety in cases of an imminent threat of a catastrophic event that might result in the loss of life or property. It is not intended to be construed as permission to engage in routine forest health activities, such as temporary road construction for thinning to reduce mortality due to insect and disease infestation.

The exception in proposed paragraph (b)(2) would permit entry for activities undertaken pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) and other identified statutes. An example of a Superfund activity is to correct the bleeding of toxic chemicals from an abandoned mine.

Proposed paragraph (b)(3) would permit the construction and reconstruction of a road pursuant to valid existing rights granted in statute or treaty, or pursuant to a reserved or outstanding right. These include, but are not limited to, rights of access provided in the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), highway rights-of way granted under R.S. 2477, and rights granted under the General Mining Law of 1872, as amended.

Proposed paragraph (b)(4) would permit realignment of an existing road when it is causing irreparable resource damage in its current location. The road must be essential for public or private access, management, or public health and safety, and the damage cannot be corrected by maintenance.

Proposed paragraph (c) specifies that inventoried roadless areas in the Tongass National Forest will be addressed in a different way, as proposed in paragraph 294.13 (e). The notice of intent indicated that the Forest Service would determine whether or not the proposed rule should apply to the Tongass National Forest. The Forest Service is proposing to delay consideration of protecting inventoried roadless areas for the Tongass National Forest until April 2004, in light of recent Forest Plan decisions that conserve roadless areas and a Southeast Alaska economy that is in transition. The amount and distribution of roadless areas figured prominently in a 1997 Regional Forester decision for the Tongass Land Management Plan. In 1999, the Under Secretary for Natural Resources and the Environment issued a Record of Decision for the Tongass

Land Management Plan in response to several appeals that identified issues related to roadless areas and the qualities they provide. The 1999 decision administratively protected additional lands from road construction and extended harvest rotation in some areas, thus slowing the rate of road construction and harvest. Currently, 82 percent of the Tongass National Forest's approximate 17 million acres is allocated for land use prescriptions that prohibit or limit road construction.

With the recent closure of pulp mills and the ending of long-term timber sale contracts, the timber economy of Southeast Alaska is transitioning to a competitive bid process. About two-thirds of the total timber harvest planned on the Tongass National Forest over the next 5 years is projected to come from inventoried roadless areas. If road construction is prohibited in inventoried roadless areas, approximately 95 percent of the timber harvest within those areas would be eliminated. Under current circumstances, use of the Tongass National Forest's inventoried roadless areas for timber production contributes to the Forest Service's effort to seek to meet (within the meaning of section 101 of the Tongass Timber Reform Act) market demand for timber in the Tongass National Forest, consistent with providing for the multiple use and sustained yield of all renewable forest resources. However, with the continuing transition of the southeast Alaska timber market to an independent bid market, coupled with the long-term projected decline in timber demand for southeast Alaska timber, it is also possible that, by 2004 (when a review of the revised Tongass Land Management Plan is required), the long term demand for timber may be substantially reduced and market demand could be met consistent with protecting existing inventoried roadless areas. Hence, protection of these areas is excluded from proposed § 294.12 and, as noted in subsequent discussion, the decision of whether to prohibit road construction is deferred until 2004, as provided in proposed paragraph 294.13 (e).

Proposed paragraph (d) would permit maintenance activities for classified roads included in an inventoried roadless area; however, reconstruction that would expand road size or use beyond the current level would not be permitted. The responsible official is expected to apply a science-based roads analysis when determining whether an unclassified road is needed for long-term management of National Forest System lands and should be classified and maintained.

Proposed § 294.13—Consideration of Roadless Area Conservation During Forest Plan Revision

This section of the proposed rule would require that the responsible official evaluate the quality and importance of the roadless area characteristics and determine whether and how the characteristics should be protected in the context of overall multiple-use objectives during forest plan revision. Under the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (NFMA), the Secretary of Agriculture is required to "develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System" (16 U.S.C. 1604(a)). Land and resource management plans (also referred to as forest plans), in large part, furnish overall programmatic guidance for the management of individual national forests and grasslands. An approved land and resource management plan is the product of a comprehensive notice and comment process, which was established by Congress in the National Forest Management Act (NFMA). The land and resource management plan provides direction to ensure coordination of multiple uses (such as, outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness) and the sustained yield of products and services (16 U.S.C. 1604(e)).

Forest plan approval, amendment, and revision does not authorize, fund, or carry out any projects, unless specifically addressed in the document that discloses the decision. Projects are implemented through project-level, site-specific decisions, which are analyzed and disclosed to the public. The proposed rule would not alter this staged decisionmaking system for forest planning and project decisionmaking. However, the proposed rule would no doubt influence decisions made at each stage by requiring the consideration of roadless values and characteristics in the forest planning process. The prohibition against road construction and reconstruction in inventoried roadless areas, as described in proposed paragraph 294.12 (a), would establish a constraint on local decisionmaking, whether at the planning or project decisionmaking stage with respect to these areas. In contrast, the language in proposed § 294.13 imposes no specific, substantive constraint on local decisionmaking, but does add additional considerations at the time of the revision of forest plans. These supplemental requirements do not alter the forest planning and project decisionmaking processes.

Currently, all national forests and grasslands operate under land and resource management plans developed under the existing forest planning regulations at part 219 of title 36 of the Code of Federal Regulations. Plans are changed by revision and amendment. The National Forest Management Act requires revision of plans at least every 15 years, although revision may occur whenever circumstances affecting the entire plan area or major portions of the plan have changed significantly.

Proposed paragraph (a) provides that, during plan revision, the responsible official must evaluate the quality and importance of specified roadless area characteristics. Proposed paragraph (b) (1) would require that the evaluation be applied to the unroaded portions of inventoried roadless areas to determine whether additional management restrictions, over and above those required in proposed paragraph 294.12 (a), are appropriate. Proposed paragraph (b) (2) of this section sets out criteria for selecting other unroaded areas to be considered. At the time of forest plan revision, the responsible official must determine what unroaded areas are of a sufficient size, shape, and location to merit review. It is not the intent of the agency to create a situation where all unroaded areas, or areas of a certain size, must be mapped. The agency believes that the method of selection or delineation of unroaded areas for evaluation under § 294.13 (b) (2) is best left to the local official's judgment.

Proposed paragraphs (c) and (d) state that, following the evaluation of characteristics required in paragraph (a), the responsible official must determine, in the context of overall multiple-use objectives, whether and, if so, how the characteristics should be protected. Proposed paragraphs 294.13 (c) and (d) are set out in separate paragraphs to clarify that the requirement to determine whether the characteristics merit protection applies to the unroaded portions of inventoried roadless areas, in addition to the prohibitions in § 294.12, as well as to other unroaded areas. During plan revision, responsible officials would be required to evaluate the characteristics in the unroaded portions of inventoried roadless areas to determine whether additional protection is warranted over and above the prohibition on new roads. In addition, with respect to other unroaded areas, as identified in paragraph (b) (2), the responsible official must select areas in which the characteristics merit protection.

Proposed paragraph (e) identifies special review provisions for the Tongass National Forest. The responsible official would determine whether the prohibitions and provisions of paragraphs (a), (b), and (d) of § 294.12 should apply to any or all of the unroaded portions of inventoried roadless areas on the Tongass National Forest. In making that determination, the responsible official must consider, among other things, the provisions of section 101 of the Tongass Timber Reform Act. This section, amending Section 705 of the Alaska National Interest Lands Conservation Act, requires the agency to seek to provide a supply of timber from the Tongass National Forest that meets market demand, consistent with providing for the multiple use and sustained yield of all renewable resources, subject to appropriations, other applicable laws, and requirements of the National Forest Management Act of 1976. The responsible official's evaluation would be conducted in association with the 5-year review (beginning in April, 2004) of the April 1999 Tongass Land and Resource Management Plan, pursuant to 36 CFR 219 (10)(g). A forest plan amendment or revision would be initiated, including full opportunity for public involvement, if the responsible official determines that some or all of the inventoried roadless areas on the Tongass National Forest merit the protection provided by section 294.12.

Proposed paragraph (f) is intended to clarify that nothing in this section requires or allows a responsible official to overrule the § 294.12 prohibition on road construction or reconstruction in inventoried roadless areas during plan revision. The prohibitions established in proposed § 294.12 are permanent limitations, which may only be changed through rulemaking, not through forest plan amendment or revision.

The agency has identified eight broad characteristics of roadless areas.

Proposed Roadless Characteristics

(1) *Soil, water, and air.* These three key resources are the foundation upon which other resource values and outputs depend. Healthy watersheds provide clean water for domestic, agricultural, and industrial uses; help maintain abundant and healthy fish and wildlife populations; and are the basis for many forms of outdoor recreation. Healthy watersheds provide a steady flow of high quality water, maintain an adequate supply of water, and reduce flooding. Managing land uses to keep watersheds properly functioning and in natural balance is critical to maintaining watershed health and productivity. Roadless areas generally have attributes that promote watershed health, primarily because minimal ground-disturbing activities have occurred. Ground disturbing activities can accelerate erosion, increase sediment yields, and disrupt normal flow processes. Roadless areas maintain healthy and productive soils, which promote water entry into aquifers, minimize accelerated runoff, and provide for a diverse and abundant plant community important to both human and animal health. Roadless areas are less likely to suffer from human-caused landslides and other soil movement that fill streams with sediment and debris and disrupt normal stream processes. Roadless areas also have less dust and vehicle emissions, which reduce air quality, elevate human health risks, and diminish water quality. Roadless areas help maintain the high quality visibility that forest users seek when visiting the national forests.

(2) *Sources of public drinking water.* National Forest System lands contain watersheds that are important sources of public drinking water. Careful management of these watersheds is crucial in maintaining the flow of clean, cool water to a growing population. While some land management activities are already restricted in designated municipal watersheds, multiple-use management is a common practice in most watersheds that serve as source areas for public drinking water. Allowing management activities that promote roadless characteristics while minimizing activities that increase pollution risk are critical steps in protecting public drinking water sources and in saving local communities the financial burden of the additional water filtration and treatment costs.

(3) *Diversity of plant and animal communities.* The diversity of plant and animal communities and the overall biodiversity supported by these areas represent an important part of the nation's natural heritage. Unroaded areas are more likely than roaded areas to support greater ecosystem health, including the diversity of native and desired non-native plant and animal communities, due to the absence of disturbances caused by roads and accompanying activities. Healthy ecosystems can be characterized by the degree to which ecological factors and their interactions are reasonably complete and functioning for continued resilience, productivity, and renewal of the ecosystem. Native plant and animal communities tend to be more intact in these less disturbed areas. Roadless areas also conserve native biodiversity, by providing a buffer against the spread of invasive species.

Conserving biodiversity offers many benefits to society. The public has recognized the importance of protecting species and ecosystems for their utilitarian, subsistence, and intrinsic values. Important benefits provided by healthy ecosystems, with diverse organisms and intact natural processes, include: (1) conservation of air, water, and soil quality and (2) sustainable levels of goods and services, including viable and desired levels of both game and non-game species. In addition to these important reasons for maintaining healthy ecosystems with a full component of biodiversity, many species are valuable for medicinal and agricultural purposes.

Protecting and maintaining biodiversity also provides the opportunity for the appreciation and enjoyment of natural beauty and gives future generations the chance to experience wild places, with their unique living plant and animal communities.

(4) *Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land.* Roadless areas function as biological strongholds and refuges for many species. These areas help to maintain native species viability and biodiversity. Based on scientific estimates, over 500 United States species are known, or are suspected, to be extinct. Of the nation's species currently listed as threatened, endangered, or proposed for listing under the Endangered Species Act, approximately 25 percent of animal species and 15 percent of plant species are likely to have habitat within inventoried roadless areas in the National Forest System. Many of these areas, individually and cumulatively, play an important role in maintaining habitat that provides for species viability and biological diversity, and may be instrumental in preserving many threatened, endangered or sensitive species.

(5) *Primitive, semi-primitive non-motorized, and semi-primitive motorized classes of dispersed recreation.* In roadless areas, people have the opportunity to enjoy unique recreational experiences that are usually not available in more developed areas. These opportunities include the chance to experience renewal, isolation, independence, and closeness to nature in mostly undisturbed settings. The Forest Service manages environmental settings to provide, among other things, opportunities for recreational

experiences. The Recreation Opportunity Spectrum (ROS Users Guide, FSM 2311 and FSH 2309.27) was developed to provide a framework for classifying and defining segments of outdoor recreational environments, potential activities, and experiential opportunities.

The Recreation Opportunity Spectrum's settings, activities, and opportunities represent a continuum that is divided into six classes: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural, and urban. Inventoried roadless and other unroaded areas are characterized mainly by the primitive, semi-primitive non-motorized, and semi-primitive motorized classes.

Primitive and semi-primitive non-motorized classes often have many wilderness attributes; however, unlike wilderness, the use of mountain bikes and other mechanized means of travel, such as those used by people with disabilities, can be permitted. In addition, these classes have fewer restrictions on motorized tools, search and rescue operations, and aircraft use than in wilderness areas.

In semi-primitive motorized settings, there is little evidence of managerial control, yet these areas allow some motorized activities, such as: off-highway vehicle, over-snow vehicle, motorboat, and helicopter use; chainsaw and other motorized tool use; and appropriate motor vehicle use for other resource management activities. In addition, persons with disabilities have enhanced access capability in semi-primitive motorized class areas.

Inventoried roadless and other unroaded areas may provide outstanding opportunities for other dispersed recreational activities, such as hiking, fishing, camping, hunting, picnicking, wildlife viewing, cross-country skiing, and canoeing. All of these activities and those mentioned for the semi-primitive motorized class may occur in areas on the developed end of the spectrum, but the experience is different. Roaded natural, rural, and urban classes are characterized by increased interactions with other people, more sights and sounds of human development and activity, more management restrictions and controls, and more landscape modification resulting from resource management activities.

Inventoried roadless and other unroaded areas are the last remaining relatively undisturbed landscapes outside of wilderness and similarly designated areas. The demand for motorized and non-motorized recreation opportunities is increasing. As these lands continue to be developed, the supply of unroaded lands that are available for dispersed recreation is reduced.

(6) *Reference landscapes.* An objective on National Forest System lands is to create and maintain sustainable ecosystems that can support human needs indefinitely. To reach that goal, both human and ecological processes and their interactions must be understood. The body of knowledge about the effects of management activities over long periods of time and on large landscapes is very limited. However, there is an increasing emphasis on the importance of obtaining information about large-scale ecological patterns, processes, and the impact of management activities.

Reference landscapes can provide comparison areas for evaluation and monitoring. These areas provide a natural setting that may be useful as a comparison to study the effects of more intensely managed areas.

Reference areas are not intended to exclude all management activities. The management approach used for these lands should be directed by the assessment of local conditions and the questions and solutions sought by scientists, managers, and the public. For example, reference areas may provide useful long-term information about approaches to restoring historical fire regimes and fuel loads in the intermountain West. In this case, various management scenarios can be applied: some areas may be allowed to burn only by wildland fire, some allowed to use prescribed fire, others allowed a combination of thinning and prescribed fire, and yet still other areas selected for fire suppression. By applying various management scenarios, the agency may better understand how to more effectively manage healthy diverse ecosystems.

(7) *Landscape character and scenic integrity.* High quality scenery, especially scenery with natural-appearing landscapes, is a primary reason that people choose to recreate. In addition, quality scenery contributes directly to real estate values in neighboring communities and residential areas.

Scenic quality is based on two definable elements—landscape character and scenic integrity. "Landscape character" is the overall visual impression of landscape attributes that provides a landscape with an identity and sense of place. It consists of the combination of physical, biological, and cultural attributes that makes each landscape identifiable and distinct. "Scenic integrity" is a measure of the wholeness or completeness of the visual landscape, including the degree of deviation from the overall landscape character. A landscape that is perceived to have minimal to no deviation from its natural landscape is rated as very high or high scenic integrity. Those landscapes that are heavily altered may have low to very low scenic integrity.

The scenic integrity of landscapes in inventoried roadless areas and other unroaded areas is generally high. However, altered landscapes, which exist in some of these areas due to activities such as mining, timber harvesting, grazing, and special uses, tend to have lower levels of scenic integrity.

(8) *Traditional cultural properties and sacred sites.* Traditional cultural properties are places, sites, structures, art, or objects that have played an important role in the cultural history of a group. Sacred sites are places that have special religious significance to a group. Traditional cultural properties and sacred sites may be eligible for protection under the National Historic Preservation Act. However, many of them have not yet been inventoried, especially those that occur in roadless areas.

Roadless areas may have traditional cultural properties and sacred sites, which are in a relatively unaltered state, thereby, maintaining their original character. There is reduced opportunity for vandalism, human disturbance, and unintended damage to these properties and sites in roadless areas because of the lack of disturbance in those areas.

Roadless areas also enhance the ability of groups to continue customary uses of traditional cultural properties and sacred sites. For example, many sacred sites are used by Native Americans for ceremonial purposes. These ceremonies may require privacy, which is possible due to the relative remoteness of roadless areas.

(9) *Other locally identified unique characteristics.* This optional provision is proposed to provide local officials, in partnership with interested members of the public, the opportunity to identify characteristics that are unique to a specific area. Inventoried roadless areas and other unroaded areas may offer unique characteristics and values, which are not covered by the other characteristics. Examples of additional characteristics might be uncommon geological formations, which are valued for their scientific and scenic qualities, or unique wetland complexes. While some of the unique characteristics may only have local importance, others could have regional or even global

significance, such as roadless areas that provide important stopover spots for long-ranging migratory birds. Such unique areas may become increasingly important, as other areas are developed.

Roadless areas may have unique social, cultural, or historical characteristics, which are dependent on the roadless character of the landscape. Examples of these characteristics include ceremonial sites, places for local events, areas prized for collection of non-timber forest products, exceptional hunting and fishing opportunities, or areas of historic significance.

In addition, the national requirement to evaluate characteristics of roadless areas, would safeguard many of the social values that are associated with those characteristics. These social values include: (1) the quality of human health through such actions as protecting air and water quality; (2) experiential values, such as appreciation of scenic beauty, solitude, and attachment to places or historical or cultural sites; (3) natural areas used for scientific research and teaching; and (4) other aspects, such as valuing the natural areas for their own sake or desiring to leave a legacy for future generations.

Proposed § 294.14—Scope and Applicability

If the proposed rule is adopted, it would apply prospectively, not retroactively. This provision is essential to avoid disruption and confusion among Forest Service officials and the public. Any project or activity decision signed prior to the effective date of the final regulation would be allowed, but not required, to proceed. The date of the responsible official's record of decision, decision notice, or decision memorandum would be the authorization date.

Furthermore, road construction or reconstruction associated with ongoing implementation of long-term special use authorizations would not be prohibited. For example, all activities anticipated in an authorized ski area's master plan, including associated road construction, would not be barred even if a specific decision authorizing road construction has not been made as of the effective date of the final regulation. Subsequent authorizations would remain subject to all applicable laws, regulations, and permit requirements. Requests to expand permitted use would be subject to the prohibition in § 294.12.

The proposed regulation also clarifies that forest plan amendments would not be required when the final rule becomes effective. Just as development and approval of forest plans must conform to existing laws and regulations, forest plan management direction can be superseded by new laws or regulations. The Forest Service believes that requiring "conforming amendments" to forest plans would be redundant of the rulemaking process.

Local responsible officials' discretion to initiate land and resource management plan amendments, as deemed necessary, would not be limited by this provision. There may be instances where local officials elect to initiate amendment or revision of forest and grassland plans following final promulgation of this rule. Forest Service officials have several mechanisms that allow for evaluation of forest and grassland plan implementation, including plan-specific monitoring requirements, the 5-year review, the amendment and revision process, and, of course, project-level decisionmaking. A determination to amend or revise a land and resource management plan is based on a variety of factors. Forest Supervisors and Regional Foresters have substantial discretion in determining whether or not to initiate plan amendments or revisions.

Summary

The Forest Service believes that it is important to protect the roadless characteristics of unroaded areas within the context of its multiple-use mandate. The agency seeks to protect these characteristics in two ways. First, the proposed rule proposes to place a national prohibition on road construction or reconstruction in inventoried roadless areas. Second, responsible officials would be required to consider and evaluate the characteristics of all roadless areas, including inventoried areas and smaller or uninventoried areas, in the context of forest plan revisions. Although the proposed rule emphasizes the importance of the characteristics of unroaded areas, it does not propose to direct local managers to reach particular results. Rather, it is intended to allow them the flexibility to consider the values of these areas in the larger context of multiple-use management. The Forest Service invites written comments on both the draft environmental impact statement and the proposed rule and will consider those comments in developing the final environmental impact statement and the final rule. The final rule will be published in the **Federal Register**.

Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. The Office of Management and Budget (OMB) has determined that this is a significant rule as defined by Executive Order 12866 because of the level of public interest expressed in response to the notice of intent to prepare a draft environmental impact statement. Accordingly, OMB has reviewed this proposed rule. A cost-benefit analysis has been prepared and is summarized in the following discussion.

Summary of the Results of the Cost-benefit Analysis

The agency has conducted a cost-benefit analysis on the impact of this proposed rulemaking. Table 2 presents the costs and benefits that the agency was able to quantify or qualitatively describe. The agency is soliciting public comment on all categories of costs and benefits and welcomes information to further describe these effects. Comments containing specific data to support estimates of potential costs and benefits will be most useful and are more likely to be incorporated into the agency's final cost-benefit analysis. The agency will make a reasonable effort to further pursue estimating the costs and benefits of this rulemaking, and will use the information gained in public comment to finalize the cost-benefit analysis to the extent feasible and appropriate.

Few of the benefits and costs associated with the proposed rule were quantifiable, and; therefore, many of the costs and benefits are described qualitatively. Although the analysis does not provide a quantitative measure of net benefits, the agency believes the benefits of the rule, as proposed, would outweigh the costs. Local level analysis cannot easily incorporate the economic effects associated with nationally significant issues. Therefore, the agency believes the aggregate transactions costs (costs associated with the time and effort needed to make decisions) of local level decisions would be much higher than the transactions costs of a national policy, because of the controversy surrounding roadless area management.

Most of the benefits of the rule result from maintaining roadless areas in their current state, and therefore maintaining the current stream of benefits from these areas. The costs are primarily associated with lost opportunities, since the proposed rule, if finalized as proposed, would limit some types of activities that might have occurred in the future without this rule. Table 2 summarizes the potential benefits and costs of the rule, as proposed. The benefits and costs, described in Table 2, are associated with the requirement to

prohibit road construction and reconstruction in the approximately 43 million acres of unroaded inventoried roadless areas.

Potential Benefits of the Prohibition on Road Construction

Undisturbed landscapes provide a variety of monetary and non-monetary benefits to the public. Many of these benefits are associated with the protection of ecological, social, and economic values in roadless areas.

Air and water quality would be maintained at a higher level than at the baseline (current management conditions). Higher water quality provides a higher level of protection for drinking water sources, reduces treatment costs at downstream facilities, and maintains the value of water-based recreation activities. Higher air quality protects values associated with visibility, including recreation and adjacent private property values.

A greater degree of protection of biological diversity and threatened and endangered species would occur if roads were prohibited in inventoried roadless areas as opposed to the baseline. As a result, ecological values would be maintained. Passive use values related to the existence of biological diversity and threatened and endangered species would be maintained, as well as values associated with protecting these areas for future generations.

A number of other benefits are associated with maintaining healthy wildlife and fish populations at a level higher than at the baseline. Some game species are likely to benefit from this protection, which would maintain quality hunting and fishing experiences both within the unroaded portions of inventoried roadless areas and beyond. Other types of recreation experiences, such as wildlife viewing, also would benefit.

Roadless areas are important in providing remote recreation opportunities. A greater number of acres in these recreation settings would be maintained than at the baseline. Remote areas are also important settings for many outfitter and guide services. Maintaining these areas increases the ability of the agency to accommodate additional demand for these types of recreation special use authorizations.

Roadless areas provide a remote recreation experience without the activity restrictions of wilderness use (for example, off-highway vehicle use and mountain biking). Maintaining roadless areas would likely lessen pressure on wilderness areas compared to the baseline.

The risk of introducing non-native invasive species would be reduced if road access were not available. This is beneficial to grazing permittees with allotments in roadless areas, and to collectors of non-timber forest products because forage quality and quantity, and forest products that cannot compete with invasive species would be maintained. The reduced probability of introduction would also be beneficial to forest health in inventoried roadless areas, and would contribute to the maintenance of biological diversity.

Some planned timber sales into the unroaded portions of inventoried roadless areas would likely be below cost. To the extent that these sales would not take place, a financial efficiency savings would be realized.

Implementing the rule, as proposed, could result in agency cost savings. First, local appeals and litigation about some management activities in roadless areas could be reduced, which would avoid future costs. Secondly, the reduction in miles of roads constructed would reduce the number of miles the agency is responsible for maintaining, resulting in avoiding up to an additional $565,000 per year of costs.

Potential Costs of the Prohibition on Road Construction

The prohibition on road construction and reconstruction would reduce roaded access to resources within the unroaded portions of inventoried roadless areas compared to the baseline. Roads are required for most timber sales to be economically feasible. For those sales that are financially profitable, the proposed rule would reduce net revenues. In addition to lost revenue, there would be fewer jobs (250 direct timber jobs) and less income ($11.7 million in timber-related labor income per year) generated from timber harvest.

Receipts from timber sales would also decline, which would reduce payments to states by about $1.4 million per year. Jobs associated with road construction and reconstruction for timber harvest and other activities would also be less than at the baseline. Somewhere between 6 and 32 direct jobs could be affected by reduced road construction and reconstruction.

The impact on mineral resources is expected to be greatest for leasable (such as oil, gas, coal, and geothermal) and saleable (such as sand, gravel, stone, and pumice) minerals, since development might not be economically feasible without road access. The agency also has more management discretion regarding whether to allow access to these commodities than locatables (metallic and nonmetallic minerals on public domain land). Exploration costs for locatable minerals may increase under the restrictions of this rule as well. The increase in exploration and development costs may reduce the number of leases relative to the baseline, which reduces the number of jobs, income, and payments to states associated with these activities. In the near term the impact is expected to be minimal, since there has been limited industry interest in most leasables on National Forest System lands.

New roads have the potential to reduce operating costs for other users, for example, grazing permittees and collectors of non-timber forest products by allowing faster and easier access. These potential cost reductions would not be realized if road construction is prohibited. However, it is unknown whether planned roads would in fact be useful to these groups, since their proximity to grazing allotments and desirable products is unknown.

New roads built for other purposes also provide additional access for recreationists, including hunters and anglers. The agency builds few roads for recreation purposes, and this pattern is unlikely to change. However, the costs imposed on these groups by not building new roads would be minimal, since the agency would close most of the roads built for resource extraction once the extraction is complete. Therefore, the number of road miles that would be available for recreational or other uses would be small.

Opportunities for some types of recreation special uses may be limited in the future. Developed recreation use and roaded recreation uses in general are likely to occur at higher densities than under the baseline, since expansion into the unroaded portions of inventoried roadless areas would not occur. However, this expansion would be a small area in any particular year. The development of new ski areas would be unlikely.

Other, non-recreation special uses may be limited in the future as well. Such special uses include communication sites, and energy-related transmission uses (such as ditches and pipelines, and electric transmission lines).

Fewer acres of inventoried roadless areas would likely be treated for forest health purposes. Most moderate and high risk forests in inventoried roadless areas would be given a low priority for treatment, unless there was an imminent threat to public safety, private property, water quality, or threatened and endangered species. The change in the number of acres that potentially would be treated is small relative to the

total acres at risk, but there could be a slight increase in the risk from catastrophic fire or insect and disease from reduced treatment opportunities.

Agency costs would increase compared to the baseline for some types of activities. Fuel treatment and other forest health treatment costs in the unroaded portions of inventoried roadless areas would increase.

The goods and services that could not be produced on the unroaded portions of inventoried roadless areas without road construction are likely to be produced either on other parts of National Forest System lands, or on other lands. Substitute production could result in adverse environmental effects on these other lands.

Potential Costs and Benefits of the Requirement to Consider Roadless Characteristics

The procedural provisions in the proposed rule do not directly implement or prohibit any ground-disturbing activity. The procedures are designed to give local decision-makers direction in design and implementation of local projects. The exact location and acreage of each potentially affected area is unknown. The procedural provisions would be applied to the 54 million acres of inventoried roadless areas, as well as up to 95 million acres of other National Forest System lands. The procedures would add about $11 million to planning costs over the next 5–15 years.

Since individual project proposals and local roadless characteristics are highly variable, estimating associated benefits and costs of implementing procedures would be speculative. Since it is reasonable to assume that the proposed procedural requirements would reinforce the effects achieved by the proposed requirements to prohibit road construction and reconstruction and that the procedural requirements would apply to a greater area than inventoried roadless areas, the economic effects are likely to be somewhat greater than the effects described by resource area.

TABLE 2.—SUMMARY OF COSTS AND BENEFITS OF THE PROHIBITION ON ROAD CONSTRUCTION IN THE PROPOSED ROADLESS AREA CONSERVATION RULE COMPARED TO CONTINUATION OF CURRENT MANAGEMENT PRACTICES

Category	Assessment method
Potential Benefits:	
Air quality maintained at higher level in roadless and unroaded areas	Qualitative discussion.
Water quality maintained at higher level in roadless and unroaded areas	Qualitative discussion.
Larger land base for dispersed recreation activities in remote settings in roadless and unroaded areas	Qualitative discussion.
Quality of fishing and hunting maintained at higher level for recreation, commercial, and subsistence users in roadless and unroaded areas.	Qualitative discussion.
Forage quality for livestock grazing and some non-timber forest products maintained at higher level due to smaller probability of introduction of non-native invasive species.	Qualitative discussion.
Existence and bequest values maintained at higher levels because of increased protection of biological diversity and threatened and endangered species..	Qualitative discussion.
Agency costs savings from reduced appeals and litigation on roadless management	Qualitative discussion.
Agency cost savings of up to $565,000 per year from reduced road maintenance costs	Agency estimate based on previous expenditures.
Potential Costs:	
Fewer timber related jobs: about 250 direct and 480 total jobs	Agency estimate using TSPIRS [1] data and IMPLAN [2] model multipliers.
Less timber related income per year: $11.7 million direct income and $21 million total income	Agency estimate using TSPIRS data and IMPLAN [2] model multipliers.
Less timber-related payments to states, up to $1.4 million per year	Agency estimate using TSPIRS data and National Forest Fund receipts data.
Fewer jobs associated with road construction, ranging from 6–36 jobs	Agency estimate using previous expenditures and IMPLAN model multipliers.
Increased exploration and development costs for leasable minerals (such as oil, gas, coal, geothermal)	Qualitative discussion.
Increased exploration costs for locatable minerals (metallic or nonmetallic minerals)	Qualitative discussion.
Increased exploration costs for saleable minerals (such as sand, stone, gravel, pumice)	Qualitative discussion.
Increased operating costs for grazing permittees and collectors of non-timber products	Qualitative discussion.
Reduced opportunities for roaded recreation	Qualitative discussion.
Decline in special-use authorizations (such as communications sites, electric transmission lines, pipelines).	Qualitative discussion.
Fewer opportunities for forest health treatments	Qualitative discussion.

[1] TSPIRS is the Forest Service's Timber Sales Program Information Reporting System.
[2] IMPLAN (Impact Analysis for Planning) is the input-output model used by the Forest Service.

Summary of the Results of the Initial Regulatory Flexibility Analysis

For any agency that is subject to the notice and comment requirements of 5 U.S.C. 553 or any other law, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) directs that the agency prepare and make available for public comment an initial regulatory flexibility analysis. If the agency determines that the rulemaking will not have a significant impact on a substantial number of small entities, the initial regulatory flexibility analysis requirement does not apply, but the agency must make a certification of no significant impact.

The Forest Service expects that this roadless area conservation rulemaking will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (RFA). Moreover, because the proposed rule does not directly regulate small entities, the Forest Service does not believe that an initial regulatory

flexibility analysis is required. Nevertheless, given the significant public interest in the rulemaking and the comment received on this specific issue during the scoping process, the agency has prepared an initial regulatory flexibility analysis. Public comment is invited on the initial regulatory flexibility analysis, a summary of which follows. The full analysis is available upon request by calling the telephone number noted in the **FOR FURTHER INFORMATION CONTACT** section of this document and on the world wide web at roadless.fs.fed.us/.

Data for linking the proposed rule to effects on small businesses is limited. The agency does not typically collect information about the size of businesses that seek permission to operate on National Forest System lands.

The rulemaking has the potential to affect a subset of small businesses that may seek opportunities on National Forest System lands in the future. The primary effect of the rule, when finalized, is the potential to affect the future supply of outputs or opportunities for businesses. The effect of the rulemaking on local governments is tied to any possible reductions in commodity outputs in cases where some portion of federal receipts is returned to the states for distribution to counties.

Small businesses in the wood products sector most likely to be affected are logging and sawmill operations. Reductions in the harvest of softwood sawtimber, particularly in the western United States are most likely to affect small businesses, since these sectors are dominated by small business. With the exception of the Forest Service Intermountain Region (Utah, Nevada, western Wyoming, and southern Idaho), reductions in harvest are estimated to range from less than 1 percent to 2 percent. The reduction in the Intermountain Region is estimated to be 8 percent.

Small businesses in the mineral sector most likely to be affected are businesses that develop saleable minerals such as sand and gravel, and leasable minerals such as oil, gas, and coal. The prohibition on road construction and reconstruction could reduce opportunities in the future to develop mineral commodities that cannot be extracted without road access. Small businesses are more likely to be involved in the development of saleable minerals, and less likely to be involved in development of energy minerals.

The potential effects on small businesses involved in livestock grazing and the collection of non-timber forest products are expected to be negligible. There will be fewer roads available for their future use under the proposed rule, but the number of miles is minor compared to the entire National Forest System road system.

Special use authorizations on National Forest System land could be affected by the proposed rule, if road access is required. Most of the special uses potentially affected are dominated by large businesses, such as businesses in communication, electric services, gas production and distribution, and resort development. Small businesses with outfitter and guide permits are expected to benefit from the proposed rule, since these businesses are often dependent on providing services to recreation users interested in remote recreation activities that are often found in inventoried roadless and other unroaded areas.

The proposed rule is also likely to affect small governments that qualify as small entities. Many small communities around National Forest System lands receive a portion of receipts from commodity sales on National Forest System lands. A reduction in commodity production is likely to reduce revenues to these entities, although the estimated reduction is expected to be small in most regions. The estimated reduction in payments to states related to timber receipts would be about 1 to 2 percent, except in the Intermountain Region, where the reduction is estimated to be 8 percent.

The agency is soliciting comment and information on the potential impacts that this proposed rule and the alternatives to this rule (detailed in the Draft Environmental Impact Statement) might have on small entities. (Pursuant to the Regulatory Flexibility Act, these entities include small businesses, small organizations, and small governmental jurisdictions.) The agency welcomes information on the number and types of small entities potentially impacted and the significance of these potential impacts, specifically information about potential costs, changes in revenue or prices, regional or community-level impacts, and characteristics of the potentially impacted entities. The agency also welcomes suggestions from the public on how alternatives to this rule may minimize the impacts on small businesses. For more information on the agency's small entity impact analysis, including a list of specific questions on small entity impacts to which the agency is seeking responses from the public, please see the Initial Regulatory Flexibility Analysis, available at the website address listed under **ADDRESSES** or by calling the telephone number listed under the **FOR FURTHER INFORMATION CONTACT** sections of the preamble. The agency will use the information provided to make a determination on the regulatory flexibility analysis needed at the final rule stage.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of this proposed rule on state, local, and tribal governments, and on the private sector. This proposed rule does not compel the expenditure of $100 million or more by any state, local, or tribal government, or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Environmental Impact

The agency has elected to prepare a draft environmental impact statement in concert with this proposed rule. This document may be obtained from various sources as indicated in the **ADDRESSES** section of this document. Reviewers are encouraged to include comments on the draft environmental impact statement along with any comments submitted on the proposed rule.

No Takings Implications

This proposed rule has been reviewed for its impact on private property rights under Executive Order 12630. It has been determined that this proposed rule does not pose a risk of taking Constitutionally-protected private property; in fact, the proposed rule honors access to private property pursuant to statute and to outstanding or reserved rights.

Civil Justice Reform Act

This proposed rule revision has been reviewed under Executive Order 12988, Civil Justice Reform. The proposed revision: (1) Preempts all state and local laws and regulations that are found to be in conflict with or that would impede its full implementation; (2) does not retroactively affect existing permits, contracts, or other instruments authorizing the occupancy and use of National Forest System lands, and (3) does not require administrative proceedings before parties may file suit in court challenging these provisions.

Controlling Paperwork Burdens on the Public

This proposed rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR Part 1320 and, therefore, imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995

(44 U.S.C. 3501, *et seq.*) and implementing regulations at 5 CFR Part 1320 do not apply.

Federalism

The agency has considered this proposed rule under the requirements of Executive Order 12612 and has made a preliminary assessment that the proposed rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment on federalism implications is necessary at this time. In addition, the agency has reviewed the consultation requirements under Executive Order 13132, effective November 2, 1999. This new Order calls for enhanced consultation with state and local government officials and emphasizes increased sensitivity to their concerns.

In the spirit of these new requirements, Forest Service line officers in the field were asked to make contact with tribes to ensure awareness of the initiative and of the rulemaking process. Outreach to tribes has been conducted at the national forest and grassland level, which is how Forest Service government-to-government dialog with tribes is typically conducted.

Outreach to state and local governments has taken place both in the field and Washington offices. Forest Service officials have contacted state and local governmental officials and staffs to explain the notice of intent and the rulemaking process. The agency has met with and responded to a variety of information requests from local officials and state organizations, such as the National Governors Association and the Western Governors Association.

Also, the agency has carefully considered, in the development of this proposed rule, the comments received from states, tribes, and local governments in response to the Notice of Intent to Prepare an Environmental Impact Statement published October 19, 1999 (64 FR 56306). Following publication of this proposed rule, the agency will meet with state, tribal, and local government officials to explain and clarify the proposed rule and the accompanying environmental impact statement. Finally, prior to adopting a final rule, the agency will consider the extent to which additional consultation is appropriate under Executive Order 13132.

Conclusion

The Forest Service proposes to prohibit road construction in inventoried roadless areas with certain limited exceptions. In addition, the agency proposes to require responsible officials to consider and evaluate roadless characteristics at the time of forest plan revision. The Forest Service invites written comments and will consider those comments in developing the final rule that will be published in the **Federal Register** and in preparing the Final Environmental Impact Statement.

List of Subjects in 36 CFR Part 294

National forests, Navigation (air), Recreation and recreation areas, Wilderness areas.

For the reasons set forth in the preamble, the Forest Service proposes to amend Chapter II of Title 36 of the Code of Federal Regulations as follows:

PART 294—SPECIAL AREAS

1. Designate §§ 294.1 and 294.2 as subpart A and add a subpart heading to read as follows:

Subpart A—Special Areas

2. Add subpart B to part 294 to read as follows:

Subpart B—Protection of Roadless Areas

Sec.

Authority: 16 U.S.C. 472, 551, 1131, 1608, 1613; 23 U.S.C. 201, 205.

Subpart B—Protection of Roadless Areas

§ 294.10 Purpose.

The purpose of this subpart is to provide lasting protection in the context of multiple-use management for inventoried roadless areas and other unroaded areas within the National Forest System.

§ 294.11 Definitions.

The following definitions apply to this subpart:

Inventoried roadless areas. Undeveloped areas typically exceeding 5,000 acres that met the minimum criteria for wilderness consideration under the Wilderness Act and that were inventoried during the Forest Service's Roadless Area Review and Evaluation (RARE II) process, subsequent assessments, or forest planning. These areas are identified in a set of inventoried roadless area maps, contained in *Forest Service Roadless Area Conservation, Draft Environmental Impact Statement, Volume 2,* dated May 2000, which are held at the National headquarters office of the Forest Service.

Responsible official. The Forest Service line officer with the authority and responsibility to make decisions regarding protection and management of inventoried roadless areas and other unroaded areas pursuant to this subpart.

Road. A motor vehicle travelway over 50 inches wide, unless classified and managed as a trail. A road may be classified or unclassified.

(1) *Classified road.* A road within the National Forest System planned or managed for motor vehicle access including state roads, county roads, private roads, permitted roads, and Forest Service roads.

(2) *Unclassified road.* A road not intended to be part of, and not managed as part of, the forest transportation system, such as temporary roads, unplanned roads, off-road vehicle tracks, and abandoned travelways.

Road construction. A capital improvement that results in the addition of new road miles to the forest transportation system.

Road maintenance. The ongoing minor restoration and upkeep of a road necessary to retain the road's approved traffic service level.

Road reconstruction. A capital improvement that requires the alteration or expansion of a road and usually results in realignment, improvement, or rebuilding as defined as follows:

(1) *Realignment.* Construction activities that result in the new location of an existing road or portions of roads in order to expand its capacity, change its original design function, or increase its traffic service level. The investment may include decommissioning the abandoned sections of roadway.

(2) *Improvement.* Construction activities that are needed to increase a road's traffic service level, expand its capacity, or change its original design function.

(3) *Rebuilding.* Construction activities that are needed to restore a road to its approved traffic service level and that result in increasing its capacity or changing its original design function.

Unroaded area. Any area, without the presence of a classified road, of a size and configuration sufficient to protect the inherent characteristics associated with its unroaded condition.

Unroaded portion of an inventoried roadless area. A portion of an

inventoried roadless area in which no classified road has been constructed since the area was inventoried.

§ 294.12 Prohibition on road construction and reconstruction in inventoried roadless areas.

(a) Roads may not be constructed or reconstructed in the unroaded portions of inventoried roadless areas of the National Forest System, except as provided in paragraphs (b) through (c) of this section. This prohibition covers classified and unclassified roads.

(b) Notwithstanding the prohibition in paragraph (a) of this section, a road may be constructed or reconstructed in an inventoried roadless area if the responsible official determines that one of the following circumstances exists:

(1) A road is needed to protect public health and safety in cases of an imminent threat of flood, fire, or other catastrophic event that, without intervention, would cause the loss of life or property;

(2) A road is needed to conduct a response action under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or to conduct a natural resource restoration action under CERCLA (42 U.S.C. 9601, 9603, 9607, 9620), section 311 of the Clean Water Act (33 U.S.C. 1251, 1254, 1323, 1324, 1329, 1342, 1344), or the Oil Pollution Act (33 U.S.C. 2701 *et seq.*);

(3) A road is needed pursuant to reserved or outstanding rights or as provided for by statute or treaty; or

(4) Road realignment is needed to prevent irreparable resource damage by an existing road that is deemed essential for public or private access, management, or public health and safety, and such damage cannot be corrected by maintenance.

(c) The prohibition in paragraph (a) of this section does not apply to the Tongass National Forest, except as provided for in § 294.13(e).

(d) The responsible official may maintain classified roads that were constructed in inventoried roadless areas prior to the effective date of this rule.

§ 294.13 Consideration of roadless area conservation during forest plan revision.

(a) At the time of land and resource management plan revision, for the areas listed in paragraph (b) of this section, the responsible official must evaluate the quality and importance of the following characteristics:

(1) Soil, water, and air;

(2) Sources of public drinking water;

(3) Diversity of plant and animal communities;

(4) Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land;

(5) Primitive, semi-primitive non-motorized, and semi-primitive motorized classes of dispersed recreation;

(6) Reference landscapes;

(7) Landscape character and scenic integrity;

(8) Traditional cultural properties and sacred sites; and

(9) Other locally identified unique characteristics.

(b) The evaluation of characteristics required in paragraph (a) of this section applies to the following areas:

(1) The unroaded portions of inventoried roadless areas; and

(2) Unroaded areas (other than inventoried roadless areas) that, in the judgment of the responsible official, are of a sufficient size, shape, and position within the landscape to reasonably achieve the long-term conservation of the characteristics in paragraph (a) of this section. Such areas may include those that provide important corridors for wildlife movement, or areas that share a common boundary of considerable length with an inventoried roadless area, with a component of the National Wild and Scenic River System, or with unroaded areas of 5,000 acres or more on lands administered by Federal agencies. In selecting areas, the responsible official should consider the distance from, and the scarcity of, other unroaded areas, particularly for those areas east of the 100th meridian.

(c) At the time of land and resource management plan revision, based on the evaluation required by paragraph (a) of this section, the responsible official must determine, in the context of overall-multiple use objectives, whether management protections, in addition to those set forth in § 294.12, should apply to the unroaded portions of inventoried roadless areas.

(d) At the time of land and resource management plan revision, based on the evaluation required by paragraph (a) of this section, the responsible official must determine with respect to unroaded areas, other than inventoried roadless areas, in the context of overall multiple-use objectives, which areas warrant protection and the level of protection to be afforded.

(e) As part of the 5-year review of the April 1999 revised Tongass Land and Resource Management Plan pursuant to § 219.10 (g) of this chapter, the responsible official must initiate an evaluation pursuant to paragraph (a) of this section for the unroaded portions of inventoried roadless areas in the Tongass National Forest and must determine whether the prohibitions and provisions in § 294.12 (a), (b), and (d) should be applied to any or all of such inventoried roadless areas. In making that determination, the responsible official must consider the provisions of section 101 of the Tongass Timber Reform Act (Public Law 101–626, 104 Stat. 4426).

(f) No provision in this section authorizes the responsible official to reconsider or set aside the prohibition established in § 294.12.

§ 294.14 Scope and applicability.

(a) This subpart does not suspend or modify any existing permit, contract, or other legal instrument authorizing the occupancy and use of National Forest System land.

(b) This subpart does not compel the amendment or revision of any land and resource management plan.

(c) This subpart does not suspend or modify any decision made prior to [Effective date of final rule].

(d) If any provision of the regulations in this subpart or its application to any person or circumstances is held invalid, the remainder of the regulations in this subpart and their application remain in force.

Dated: April 21, 2000.

Mike Dombeck,

Chief.

[FR Doc. 00–11304 Filed 5–9–00; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 294

RIN 0596–AB77

Special Areas; Roadless Area Conservation

AGENCY: Forest Service, USDA.

ACTION: Proposed rule; public meetings.

SUMMARY: The Forest Service gives notice of public meetings to be held to address the proposed Roadless Area Conservation rule that appears elsewhere in this separate part of today's **Federal Register**. The agency will host two separate sets of regional and local public meetings: Informational meetings and public comment forums held later in the public comment period. In addition to sending written comment on the proposed rule, the draft environmental impact statement, and other accompanying documents to the address listed in the proposed rule,

individuals and organizations may also submit written comments at both sets of public meetings. Oral comments will be accepted at the public comment forums. All comments will be added to the rulemaking record and considered by the agency in drafting the final rule. A schedule of meeting types, locations, dates, times, and contacts is set out in the appendix to this document.

DATES: The dates for the public meetings are listed in a table in an appendix to this document. Written comments on the proposed rule and accompanying documents must be received by July 17, 2000.

ADDRESSES: The locations for the public meetings are set out in the appendix to this document. Written comments on the proposed rule and draft environmental impact statement may be sent via postal delivery to: USDA Forest Service—CAET; Attention: Roadless Areas Proposed Rule; Post Office Box 221090; Salt Lake City, Utah, 84122. Written comments also may be submitted via facsimile machine to 1–877–703–2494 or by accessing the worldwide web at roadless.fs.fed.us and selecting the comment option.

FOR FURTHER INFORMATION CONTACT: Scott D. Conroy, Project Director, at 703–605–5299.

SUPPLEMENTARY INFORMATION: Public meetings are scheduled for the times and locations shown in the table in the appendix to this document. Those interested in attending the public meetings are strongly encouraged to contact the hosting Forest Service office or to check the Roadless Area Conservation Project website at roadless.fs.fed.us to verify that the meeting information given in the appendix of this notice has not changed and to be informed if additional meetings are added. The Forest Service's worldwide website at fs.fed.us/links/forests.shtml contains an index of Forest Service offices by name, State, and region.

Dated: May 2, 2000.

Mike Dombeck,

Chief.

Appendix—Proposed Rule for Roadless Area Conservation Public Meetings

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
AL:					
National Forests In Alabama.	Information	May 30	Holiday Inn, I–65 and Oxmoor Road, Birmingham.	6:00 p.m. to 8:00 p.m	Joy Patty, (334) 241–8130, jpatty@fs.fed.us.
National Forests In Alabama.	Comment	June 28	Holiday Inn, I–65 and Oxmoor Road, Birmingham.	6:00 p.m. to 8:00 p.m	Joy Patty, (334) 241–8130 jpatty@fs.fed.us.
AK:					
Chugach National Forest Supervisor's Office.	Information	May 31	Loussac Library, 3600 Denali Street, Anchorage.	7:00 p.m. to 9:00 p.m	Doug Stockdale, (907) 272–2500, dstockdale@fs.fed.us.
Chugach National Forest Supervisor's Office.	Comment	June 28	Loussac Library 3600 Denali Street, Anchorage.	7:00 p.m. to 9:00 p.m	Doug Stockdale, (907) 272–2500, dstockdale@fs.fed.us.
Chugach National Forest Cordova Ranger District.	Information	May 24	Cordova Ranger District, 612 Second Street, Cordova.	5:00 p.m. to 7:00 p.m	Cal Baker, (907) 424–4728, cbaker@fs.fed.us.
Chugach National Forest Cordova Ranger District.	Comment	June 22	Cordova Ranger District, 612 Second Street, Cordova.	5:00 p.m. to 7:00 p.m	Cal Baker, (907) 424–4728, cbaker@fs.fed.us.
Chugach National Forest Glacier Ranger District.	Information	June 1	Glacier Ranger District, Forest Station Road, Girdwood.	7:00 p.m. to 9:00 p.m	Deidre St. Louis, (907) 754–2317 dstlouis@fs.fed.us.
Chugach National Forest Glacier Ranger District.	Comment	June 27	Glacier Ranger District Forest, Station Road, Girdwood.	7:00 p.m. to 9:00 p.m.	Deidre St. Louis, (907) 754–2317, dstlouis@fs.fed.us.
Chugach National Forest Seward Ranger District.	Information	May 25	Alaska Sealife Center, 301 Railway Avenue Seward.	7:00 p.m. to 9:00 p.m	Mike Kania, (907) 224–4107, mkania@fs.fed.us.
Chugach National Forest Seward Ranger District.	Comment	June 21	Avtec Building, Fourth Avenue, Seward.	7:00 p.m. to 9:00 p.m	Mike Kania, (907) 224–4107, mkania@fs.fed.us.
Tongass National Forest Regional Office, Juneau Ranger District and Admiralty National Monument.	Information	May 24	Centennial Hall, 101 Egan Drive, Juneau.	7:00 p.m. to 10:00 p.m	Bruce Rene, (907) 586–8701, brene@fs.fed.us.
Tongass National Forest Regional Office, Juneau RD, And Admiralty National Monument.	Comment	June 19	ANB Hall, 320 West Willoughby, Juneau.	5:00 p.m. to 10:00 p.m	Bruce Rene, (907) 586–8701, brene@fs.fed.us.
Tongass National Forest, Craig Ranger District.	Information	May 26	Craig City Hall, 500 Third Street, Craig.	4:00 p.m. to 9:00 p.m	Dale Kanen, (907) 826–1600, dkanen@fs.fed.us.
Tongass National Forest, Craig Ranger District.	Comment	June 30	Craig City Hall, 500 Third Street, Craig.	4:00 p.m. to 9:00 p.m	Dale Kanen, (907) 826–1600, dkanen@fs.fed.us.
Tongass National Forest, Hoonah Ranger District.	Information	May 23	District Office, 430A Airport Way, Hoonah.	6:00 p.m. to 8:00 p.m	Paul Matter, (907) 945–3631, pmatter@fs.fed.us.
Tongass National Forest, Hoonah Ranger District.	Comment	June 22	District Office, 430A Airport Way, Hoonah.	6:00 p.m. to 8:00 p.m	Paul Matter, (907) 945–3631, pmatter@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Tongass National Forest, Ketchikan Supervisor's Office and Ketchikan-Misty Ranger District.	Information	May 25	Southeast Alaska, Discovery Center 50 Main Street, Ketchikan.	6:00 p.m. to 10:00 p.m	Susan Marthaller, (907) 228–4124, smarthaller @fs.fed.us.
Tongass National Forest, Ketchikan Supervisor's Office and Ketchikan-Misty Ranger District.	Comment	June 22	Southeast Alaska. Discovery Center 50 Main Street, Ketchikan.	6:00 p.m. to 10:00 p.m	Susan Marthaller, (907) 228–4124, smarthaller @fs.fed.us.
Tongass National Forest, Petersburg Supervisor's Office and Ranger District.	Information	May 31	City Council Chambers, 10 South Nordic Drive, Petersburg.	7:00 p.m. to 9:30 p.m	Patty Grantham, (907) 772–5900, pagrantham @fs.fed.us.
Tongass National Forest, Petersburg Supervisor's Office and Ranger District.	Comment	June 28	City Council Chambers 10 South Nordic Drive, Petersburg.	7:00 p.m. to 9:30 p.m	Patty Grantham, (907) 772–5900, pagrantham @fs.fed.us.
Tongass National Forest, Petersburg Ranger District.	Information	May 25	Kake Community Hall, Kake.	7:00 p.m. to 9:30 p.m	Patty Grantham, (907) 772–5900, pagrantham @fs.fed.us.
Tongass National Forest, Petersburg, Ranger District.	Comment	June 29	Kake Community Hall, Kake.	7:00 p.m. to 9:30 p.m	Patty Grantham, (907) 772–5900, pagrantham @fs.fed.us.
Tongass National Forest, Sitka Ranger District.	Information	May 30	Harrigan Centennial Hall, 330 Harbor Drive, Sitka.	7:00 p.m. to 10:00 p.m	Jim Franzel, (907) 747–4218, jfranzel@fs.fed.us.
Tongass National Forest, Sitka Ranger District.	Comment	June 26	Harrigan Centennial Hall, 330 Harbor Drive, Sitka.	7:00 p.m. to 10:00 p.m	Jim Franzel, (907) 747–4218. jfranzel@fs.fed.us.
Tongass National Forest, Thorne Bay Ranger District.	Information	May 30	Bay Chalet, 1008 Sandy Beach Road, Thorne Bay.	6:30 p.m. to 8:00 p.m	Dave Schmid, (907) 828–3304, dschmid@fs.fed.us.
Tongass National Forest, Thorne Bay Ranger District.	Comment	June 27	Bay Chalet, 1008 Sandy Beach Road, Thorne Bay.	6:30 p.m. to 8:00 p.m	Dave Schmid, (907) 828–3304, dschmid@fs.fed.us.
Tongass National Forest, Wrangell Ranger District.	Information	May 31	Wrangell District Office, 525 Bennett, Wrangell.	1:00 p.m. to 7:00 p.m	Randy Hojem, (907) 874–7556, rhojem@fs.fed.us.
Tongass National Forest, Wrangell Ranger District.	Comment	June 28	Wrangell District Office, 525 Bennett, Wrangell.	6:00 p.m. to 9:00 p.m	Randy Hojem, (907) 874–7556, rhojem@fs.fed.us.
Tongass National Forest, Yakutat Ranger District.	Information	May 25	Yakutat District Office, 712 Ocean Cape, Yakutat.	9:00 a.m. to 4:00 p.m	Meg Mitchell, (907) 784–3359, mmitchel01 @fs.fed.us.
Tongass National Forest, Yakutat Ranger District.	Comment	June 29	Yakutat District Office, 712 Ocean Cape, Yakutat.	7:00 p.m. to 9:00 p.m	Meg Mitchell, (907) 784–3359, mmitchel01 @fs.fed.us.
AR:					
Ozark—Saint Francis National Forests.	Information	June 1	Arkansas Technical University, Old Student Union, 207 West O Street, Russellville.	6:00 p.m. to 9:00 p.m	Deryl Jevons, (501) 964–7210, djevons@fs.fed.us.
Ozark—Saint Francis National Forests.	Comment	June 27	Arkansas Technical University, Old Student Union, 207 West O Street, Russellville.	6:00 p.m. to 9:00 p.m	Deryl Jevons, (501) 964–7210, djevons@fs.fed.us.
AR/OK:					
Ouachita National Forest.	Information	June 5	Clarion Hotel, Highway 7, South Hot Springs, Arkansas.	6:00 p.m. to 8:00 p.m	Bill Pell, (501) 321–5320, bpell@fs.fed.us.
Ouachita National Forest.	Information	June 8	Rich Mountain Community College, 1100 College Drive, Mena.	6:00 p.m. to 9:00 p.m	Bill Pell, (501) 321–5320, bpell@fs.fed.us.
Ouachita National Forest.	Comment	June 20	Rich Mountain Community College, 1100 College Drive, Mena.	6:00 p.m. to 9:00 p.m	Bill Pell, (501) 321–5320, bpell@fs.fed.us.
Ouachita National Forest.	Comment	June 22	Clarion Hotel, Highway 7, South Hot Springs, Arkansas.	6:00 p.m. to 9:00 p.m	Bill Pell, (501) 321–5320, bpell@fs.fed.us.
AZ:					
Apache-Sitgreaves National Forests.	Information	May 26	309 South Mountain Avenue, Springerville.	7:00 p.m. to 10:00 p.m	Jim Anderson, (520) 333–4301 janderson08, @fs.fed.us.
Apache-Sitgreaves National Forests.	Comment	June 22	309 South Mountain Avenue, Springerville.	7:00 p.m. to 10:00 p.m	Jim Anderson, (520) 333–4301, janderson08 @fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Coconino-Kaibab National Forests.	Information	May 16	Flagstaff High School, 400 West Elm Street, Flagstaff.	4:00 p.m. to 7:00 p.m	Katherine Farr, (520) 527–3411, kfarr@fs.fed.us or Karen Malis-Clarke, (520) 527–3492 keclark@fs.fed.us.
Coconino-Kaibab National Forests.	Comment	June 14	Flagstaff High School, 400 West Elm Street, Flagstaff.	4:00 p.m. to 7:00 p.m	Katherine Farr, (520) 527–3411 kfarr@fs.fed.us or Karen Malis-Clarke (520) 527–3492 keclark@fs.fed.us.
Coronado National Forest.	Information	May 22	Doubletree Hotel, 455 South Alvernon Way, Tucson	6:00 p.m. to 8:00 p.m	Gail Aschenbrenner, (526) 670–4552 gaschenbrenner@fs.fed.us.
Coronado National Forest.	Comment	June 26	Doubletree Hotel, 455 South Alvernon Way, Tucson.	6:00 p.m. to 8:00 p.m	Gail Aschenbrenner, (526) 670–4552 gaschenbrenner@fs.fed.us.
Prescott National Forest.	Information	May 24	Prescott Fire Center, 2400 Melville Drive, Prescott.	7:00 p.m. to 9:00 p.m	Cynthia Moody, (520) 771–4874 cmoody@fs.fed.us.
Prescott National Forest.	Comment	June 21	Prescott Fire Center, 2400 Melville Drive, Prescott.	7:00 p.m. to 9:00 p.m	Cynthia Moody, (520) 771–4874 cmoody@fs.fed.us.
Tonto National Forest	Information	May 23	Tonto Supervisor's Office, Conference Room, 2324 East McDowell Road, Phoenix.	1:00 p.m. to 8:00 p.m	Jim Payne or Paul Stewart (602) 225–5200 jwpayne@fs.fed.us.
Tonto National Forest	Comment	June 21	Embassy Suites, 44th and McDowell Road, Phoenix.	6:00 p.m. to 9:00 p.m	Jim Payne or Paul Stewart, (602) 225–5200 jwpayne@fs.fed.us.
CA:					
Angeles National Forest.	Information	May 31	Glendora Public Library, 140 Glendora Avenue, Glendora.	2:00 p.m. to 8:00 p m	Randi Jorgensen, (626) 574–5206 rjorgensen@fs.fed.us.
Angeles National Forest.	Information	June 1	Antelope Valley College, 3041 West Avenue K, Lancaster.	2:00 p.m. to 8:00 p.m	Randi Jorgensen, (626) 574–5206 rjorgensen@fs.fed.us.
Angeles National Forest.	Comment	June 27	Valencia Town Center, 24201 West Valencia Boulevard, Santa Clarita.	1:00 p.m. to 4:00 p.m	Randi Jorgensen, (626) 574–5206 rjorgensen@fs.fed.us.
Angeles National Forest.	Comment	June 28	Glendora Public Library, 140 Glendora Avenue, Glendora.	6:00 p.m. to 9:00 p.m	Randi Jorgensen, (626) 574–5206 rjorgensen@fs.fed.us.
Angeles National Forest.	Comment	June 29	Antelope Valley College, 3041 West Avenue K, Lancaster.	6 p.m. to 9:00 p.m	Randi Jorgensen, (626) 574–5206 rjorgensen@fs.fed.us.
Cleveland National Forest.	Information	May 31	Supervisor's Office, 10845 Rancho Bernardo Road #200, San Diego.	7:00 p.m. to 9:00 p.m	Joan Wynn, (858) 674–2984 jwynn01@fs.fed.us.
Cleveland National Forest.	Comment	June 28	Supervisor's Office, 10845 Rancho Bernardo Road #200, San Diego.	7:00 p.m. to 9:00 p.m	Joan Wynn, (858) 674–2984 jwynn01@fs.fed.us.
Eldorado National Forest.	Information	May 24	Ponderosa High School Cafeteria, 3361 Ponderosa Road, Shingle Springs.	7:00 p.m. to 9:00 p.m	Holly Salvestrin, (530) 621–5205 hsalvestrin@fs.fed.us, or Frank Mosbacher, (530) 622–5061 fmosbacher@fs.fed.us.
Eldorado National Forest.	Comment	June 13	Ponderosa High School Theatre, 3361 Ponderosa Road, Shingle Springs.	3:00 p.m. to 9:30 p.m	Holly Salvestrin, (530) 621–5205, hsalvestrin@fs.fed.us or Frank Mosbacher, (530) 622–5061, fmosbacher@fs.fed.us.
Inyo National Forest	Information	May 31	Mammoth Lakes Community Center, Forest Trail, Mammoth Lakes.	4:00 p.m. to 7:30 p.m	Nancy Upham, (760) 873–2427, nupham/r5_Inyo NF@fs.fed.us.
Inyo National Forest	Information	June 1	Our Lady of Perpetual Help Parish Hall, 849 Home Street, Bishop.	4:00 p.m. to 7:30 p.m	Nancy Upham, (760) 873–2427, nupham/r5_Inyo NF@fs.fed.us.
Inyo National Forest	Comment	June 20	Mammoth Lakes Community Center, Forest Trail, Mammoth Lakes.	6:00 p.m. to 9:00 p.m	Nancy Upham, (760) 873–2427, nupham/r5_Inyo NF@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Inyo National Forest	Comment	June 21	Our Lady of Perpetual Help Parish Hall, 849 Home Street, Bishop.	5:00 p.m. to 9:00 p.m	Nancy Upham, (760) 873–2427 nupham/ r5_Inyo NF@fs.fed.us.
Klamath National Forest.	Information	May 25	Miner's Inn Convention Center, 211 East Main Yreka.	7:00 p.m. to 9:00 p.m	Jon Silvius, (530) 842–6131, jsilvius@fs.fed.us.
Klamath National Forest.	Comment	June 29	Miner's Inn Convention Center, 211 East Main, Yreka.	4:00 p.m. to 8:00 p.m	Jon Silvius, (530) 842–6131, jsilvius@fs.fed.us.
Lassen National Forest	Information	May 23	Almanor Ranger District Memorial Building, 225 Gay Street, Chester.	7:00 p.m. to 9:00 p.m	Jeanette Ling. (530) 258–2141, jling@fs.fed.us.
Lassen National Forest	Information	May 24	Hat Creek Ranger District Conference Room, 43225 East Highway 299, Falls Mills.	7:00 p.m. to 9:00 p.m	Jeanette Ling, (530) 335–5521, jling@fs.fed.us.
Lassen National Forest	Information	May 25	Lassen Supervisor's Office, 2550 Riverside Drive, Susanville.	7:00 p.m. to 9:00 p.m	Jeanette Ling, (530) 257–2151, jling@fs.fed.us.
Lassen National Forest	Comment	June 27	Almanor Ranger District Memorial Building, 225 Gay Street Chester.	7:00 p.m. to 9:00 p.m	Jeanette Ling, (530) 258–2141, jling@fs.fed.us.
Lassen National Forest	Comment	June 28	Hat Creek Ranger District Conference Room, 43225 East Highway 299, Falls Mills.	7:00 p.m. to 9:00 p.m	Jeanette Ling, (530) 335–5521, jling@fs.fed.us.
Lassen National Forest	Comment	June 29	Lassen County Fairgrounds, Jensen Hall, 195 Russell Avenue, Susanville.	7:00 p.m. to 9:00 p.m	Jeanette Ling, (530) 257–2151, jling@fs.fed.us.
Los Padres National Forest.	Information	May 25	San Luis Obispo Veterans Building, Main Hall, 801 Grand Avenue, San Luis Obispo.	7:00 p.m. to 10:00 p.m ...	Kathy Good, (805) 683–6711, kggood@fs.fed.us or Jim Turner, (805) 683–6711, jtumer01@fs.fed.us.
Los Padres National Forest.	Comment	June 27	San Luis Obispo Veterans Building, Main Hall, 801 Grand Avenue, San Luis Obispo.	7:00 p.m. to 10:00 p.m ...	Kathy Good, (805) 683–6711, kggood@fs.fed.us or Jim Turner (805) 683–6711, jturner01@fs.fed.us.
Los Padres National Forest.	Information	May 30	Goleta Community Center, 5679 Hollister Avenue, Goleta.	7:00 p.m. to 10:00 p.m ...	Kathy Good, (805) 683–6711, kggood@fs.fed.us or Jim Turner, (805) 683–6711, jturner01@fs.fed.us.
Los Padres National Forest.	Comment	June 29	Goleta Community Center, 5679 Hollister Avenue, Goleta.	7:00 p.m. to 10:00 p.m ...	Kathy Good, (805) 683–6711, kggood@fs.fed.us or Jim Turner (805) 683–6711, jturner01@fs.fed.us.
Los Padres National Forest.	Information	June 5	Frazier Park Senior Community Center, 300 Park Drive, Frazier Park.	7:00 p.m. to 10:00 p.m ...	Kathy Good, (805) 683–6711, kggood@fs.fed.us or Jim Turner (805) 683–6711, jturner01@fs.fed.us.
Mendocino National Forest.	Information	May 24	Ukiah Convention Center, 200 South School Street, Ukiah.	6:30 p.m. to 9:00 p.m	Phoebe Brown, (530) 934–3316, pybrown @fs.fed.us.
Mendocino National Forest.	Comment	June 22	Ukiah Convention Center, 200 South School Street, Ukiah.	6:30 p.m. to 9:00 p.m	Phoebe Brown (530) 934–3316, pybrown@fs.fed.us.
Modoc National Forest	Information	May 23	USDA Conference Room, 800 West Twelfth Street, Alturas.	6:30 p.m. to 9:00 p.m	Curt Aarstad, (530) 233–8846, CAarstad/ r5_modoc@fs.fs.us.
Modoc National Forest	Comment	June 22	USDA Conference Room, 800 West Twelfth Street, Alturas.	6:30 p.m. to 9:00 p.m	Curt Aarstad, (530) 233–8846, CAarstad/ r5_modoc@fs.fs.us
Plumas National Forest	Information	May 31	Tulsa Scott Pavilion, Plumas-Sierra County, Fairgrounds Road, Quincy.	7:00 p.m. to 10:00 p.m ...	Lee Anne Shramel Taylor, (530) 283–7850, eataylor@fs.fed.us.
Plumas National Forest	Comment	June 21	Tulsa Scott Pavilion, Plumas-Sierra County, Fairgrounds Road, Quincy.	7:00 p.m. to 10:00 p.m ...	Lee Anne Shramel Taylor,(530) 283–7850, eataylor@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Plumas National Forest	Information	May 25	Chico Area Recreation District Community Center, 545 Vallombrosa Avenue, Chico.	7:00 p.m. to 10:00 p.m	Lee Anne Shramel Taylor, (530) 283–7850, eataylor@fs.fed.us or Phoebe Brown, (530) 934–3316, pybrown@fs.fed.us.
Plumas National Forest	Comment	6/26/00	Chico Area Recreation District Community Center, 545 Vallombrosa Avenue, Chico.	7:00 p.m. to 10:00 p.m	Lee Anne Shramel Taylor, (530) 283–7850, eataylor@fs.fed.us; Phoebe Brown (530) 934–3316, pybrown@fs.fed.us.
San Bernardino National Forest.	Information	May 24	University of Redlands, Case Loma Room, Redlands.	7:00 p.m. to 9:00 p.m	Ruth Wenstrom, (909) 383–5588, rwenstrom@fs.fed.us.
San Bernardino National Forest.	Comment	June 27	University of Redlands, Case Loma Room, Redlands.	2:00 p.m. to 4.30 p.m and 6:00 p.m. to 9:00 p.m.	Ruth Wenstrom, (909) 383–5588, rwenstrom@fs.fed.us.
San Bernardino National Forest.	Information	May 22	James Simpson Hall, Hemet.	7:00 p.m. to 9:00 p.m	Ruth Wenstrom (909) 383–5588, rwenstrom@fs.fed.us.
San Bernardino National Forest.	Comment	June 29	James Simpson Hall, Hemet.	2:00 p.m. to 4.30 p.m. and 6:00 p.m to 9:00 p.m..	Ruth Wenstrom, (909) 383–5588, rwenstrom@fs.fed.us.
Sequoia National Forest.	Information	May 24	Porterville College Theater, 100 East College Drive, Porterville.	7:00 p.m. to 9:30 p.m	Julie Allen, (559) 784–1500, extension 1160 jallen/r5_sequoia@fs.fed.us or jallen/sequoia@fs.fed.us.
Sequoia National Forest.	Comment	June 24	Visalia Convention Center, San Joaquin Room, 303 East Acequia, Visalia.	10:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:00 p.m.	Julie Allen (559) 784–1500, ext 1160, jallen/r5_sequoia@fs.fed.us or jallen/sequoia@fs.fed.us.
Shasta-Trinity National Forests.	Information	May 23	Holiday Inn, 1900 Hilltop Drive, Redding.	7.00 p.m. to 9:00 p.m	Duane Lyon, (530) 242–2207, dlyon/r5_shastatrinity@fs.fed.us.
Shasta-Trinity National Forests.	Comment	June 28	Holiday Inn, 1900 Hilltop Drive, Redding.	3:00 p.m. to 8:00 p.m	Duane Lyon, (530) 242–2207 dlyon/r5_shastatrinity@fs.fed.us.
Sierra National Forest ..	Information	May 30	Clovis Veterans Memorial Building, Third and Hughes, Clovis,	6:00 p.m. to 8:30 p.m	Sue Exline, (559) 297–0706., ext. 4804, skexline@fs.fed.us.
Sierra National Forest ..	Information	June 1	Clovis Veterans Memorial Building, Third and Hughes, Clovis.	6:00 p.m. to 8:30 p.m	Sue Exline, (559) 297–0706 ext. 4804, skexline@fs.fed.us.
Sierra National Forest ..	Comment	June 20	Clovis Veterans Memorial Building, Third and Hughes, Clovis.	3:00 p.m. to 5:00 p.m. and 6:30 p.m to 8:30 p.m.	Sue Exline, (559) 297–0706 ext. 4804, skexline@fs.fed.us.
Six Rivers National Forest.	Information	May 23	Redwood Acres Turf Room, 3750 Harris Avenue, Eureka.	6:00 p.m. to 9:00 p.m	Bill Pidanick, (707) 441–3673, bpidanick@fs.fed.us.
Six Rivers National Forest.	Information	May 25	Crescent City Cultural Center, 1001 Front Street, Crescent City.	6:00 p.m. to 9:00 p.m	Bill Pidanick, (707) 441–3673, bpidanick@fs.fed.us.
Six Rivers National Forest.	Comment	June 22	Crescent City Cultural Center, 1001 Front Street, Crescent City.	6:00 p.m. to 9:00 p.m	Bill Pidanick, (707) 441–3673 bpidanick@fs.fed.us.
Six Rivers National Forest.	Comment	June 28	Redwood Acres Turf Room, 3750 Harris Avenue, Eureka.	6:00 p.m. to 9:00 p.m	Contact Bill Pidanick, (707) 441–3673, bpidanick@fs.fed.us.
Stanislaus National Forest.	Information	May 24	Sonora Oaks Best Western, Hess Avenue, Highway 108, Sonora.	7:00 p.m. to 9:00 p.m	John J. Maschi, (209) 532–3671 ext. 317, jmaschi@fs.fed.us.
Stanislaus National Forest.	Comment	June 24	Sonora Oaks Best Western, Hess Avenue, Highway 108, Sonora.	1:00 p.m. to 5:00 p.m	John J. Maschi, (209) 532–3671 ext. 317, jmaschi@fs.fed.us.
Tahoe National Forest	Information	May 23	Truckee Donner Recreation and Park District Community Center, 10046 Church Street, Truckee.	7:00 p.m. to 9:00 p.m	Ann Westling, (530) 478–6205, awestling@fs.fed.us.
Tahoe National Forest	Information	May 30	Board of Realtors Crown Point Hall, 226 Crown Point Circle, Grass Valley.	6.30 p.m. to 8.30 p.m	Ann Westling, (530) 478–6205, awestling@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Tahoe National Forest	Comment	June 20	Board of Realtors Crown Point Hall, 226 Crown Point Circle, Grass Valley.	6.30 p.m. to 8.30 p.m	Ann Westling, (530) 478–6205, awestling@fs.fed.us.
Tahoe National Forest	Comment	June 27	Truckee Donner Recreation and Park District Community Center 10046 Church Street, Truckee.	7:00 p.m. to 9:00 p.m	Ann Westling, (530) 478–6205, awestling@fs.fed.us.
Lake Tahoe Basin Management Unit.	Information	May 24	Eldorado City Library, 1000 Rufas Allen Road, South Lake, Tahoe.	7:00 p.m. to 9:00 p.m	Linda Massey, (530) 573–2688 lmassey@fs.fed.us.
Lake Tahoe Basin Management Unit.	Information	May 25	North Tahoe Conference Center, 8318 North Lake Boulevard, Kings Beach.	7:00 p.m. to 9:00 p.m	Linda Massey, (530) 573–2688 lmassey@fs.fed.us.
Lake Tahoe Basin Management Unit.	Comment	June 21	Eldorado City Library, 1000 Rufas Allen Road, South Lake, Tahoe.	7:00 p.m. to 9:00 p.m	Linda Massey, (530) 573–2688 lmassey@fs.fed.us.
Lake Tahoe Basin Management Unit.	Comment	June 22	North Tahoe Conference Center, 8318 North Lake Boulevard, Kings Beach.	7:00 p.m. to 9:00 p.m	Linda Massey, (530) 573–2688 lmassey@fs.fed.us.
Regional Office	Information	May 31	Sacramento Convention Center, 1400 J Street, Sacramento.	1:00 p.m. to 4:00 p.m. and 6:30 p.m. to 9:30 p.m.	Mike Srago, (777) 562–8951 msrago@fs.fed.us.
Regional Office	Comment	June 28	Holiday Inn Northeast, 5321 Date Avenue, Sacramento.	1:00 p.m. to 5:00 p.m. and 6:00 p.m. to 10:00 p.m.	Mike Srago, (777) 562–8951 msrago@fs.fed.us.
CO:					
Regional Office	Information	May 22	Regional Office, 740 Simms Street, Golden.	4:00 p.m. to 8:00 p.m	Pam Skeels, (303) 275–5152 pskeels@fs.fed.us.
Regional Office	Comment	June 22	Regional Office, 740 Simms Street, Golden.	3:00 p.m. to 8:00 p.m	Pam Skeels, (303) 275–5152 pskeels@fs.fed.us.
Arapaho-Roosevelt National Forests.	Information	May 24	Boulder Ranger District, 2140 Yarmouth Avenue, Southeast corner of US Highway 36 and Yarmouth, Boulder.	4:00 p.m. to 8:00 p.m	Karen Roth, (970) 498–1377 kroth@fs.ied.us.
Arapaho-Roosevelt National Forests.	Comment	June 20	Boulder Ranger District, 2140 Yarmouth Avenue, Southeast comer of US Highway 36 and Yarmouth, Boulder.	3:00 p.m. to 8:00 p.m	Karen Roth, (970) 498–1377 kroth@fs.fed.us.
White River National Forest.	Information	June 5	First Choice Inns, 51359 US Highway 6, Glenwood Springs.	4:00 p.m. to 7:00 p.m	Sue Froeschle, (970) 945–3249 sfroeschle@fs.fed.us.
White River National Forest.	Comment	June 22	First Choice Inns, 51359 US Highway 6, Glenwood Springs.	4:00 p.m. to 7:00 p.m	Sue Froeschle, (970) 945–3249 sfroeschle@fs.fed.us.
Pike—San Isabel National Forests.	Information	May 23	Pueblo Convention Center Ballroom, 320 Central Main Street, Pueblo.	5:00 p.m. to 7:30 p.m	Barb Timock, (719) 585–3738 btimock@fs.fed.us.
Pike—San Isabel National Forests.	Comment	June 28	Pueblo Convention Center Ballroom, 320 Central Main Street, Pueblo.	4:00 p.m. to 8:00 p.m	Barb Timock, (719) 585–3738 btimock@fs.fed.us.
Pike—San Isabel National Forests.	Information	May 31	Chafee County Fairgrounds, 10165 County Road 120, Salida.	5:00 p.m. to 7:00 p.m	Barb Timock, (719) 585–3738 btimock@fs.fed.us.
Pike—San Isabel National Forests.	Comment	June 20	Chafee County Fairgrounds, 10165 County Road 120 Salida.	4:00 p.m. to 8:00 p.m	Barb Timock, (719) 585–3738 btimock@fs.fed.us.
Grand Mesa, Uncompahgre, and Gunnison National Forests.	Information	May 22	Mesa College Liff Auditorium, Twelfth and Elm, Grand Junction.	4:00 p.m. to 8:00 p.m	Pamella Wilson, plwilson@fs.fed.us or Lew French lfrench@fs.fed.us, (970) 874–6627.
Grand Mesa, Uncompahgre, and Gunnison National Forests.	Comment	June 27	Mesa College, Liff Auditorium, Twelfth and Elm, Grand Junction.	4:00 p.m. to 8:00 p.m	Pamella Wilson, plwilson@fs.fed.us or Lew French, lfrench@fs.fed.us, (970) 874–6627.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
San Juan National Forest.	Information	May 31	San Juan Public Lands Center, 15 Burnett Court Durango.	4:00 p.m. to 8:00 p.m	Thurman Wilson, (970)385–1246, twilson02@fs.fed.us.
San Juan National Forest.	Comment	June 27	San Juan Public Lands Center, 15 Burnett Court Durango.	3:00 p.m. to 8:00 p.m	Thurman Wilson, (970)385–1246 twilson02@fs.fed.us.
Rio Grande National Forest.	Information	May 24	Bill Metz Elementary School, Second Avenue and Broadway, Monte Vista.	7:00 p.m. to 10:00 p.m	Dean Erhard (719)852–5941, derhard@fs.fed.us.
Rio Grande National Forest.	Comment	June 21	Bill Metz Elementary School, Second Avenue and Broadway, Monte Vista.	7:00 p.m. to 10:00 p.m	Dean Erhard (719)852–5941, derhard@fs.fed.us.
CO/WY:					
Medicine Bow-Routt National Forests.	Information	May 23	Hahns Peak/Bears Ear Ranger Station, 925 Weiss Drive, Steamboat Springs.	4:00 p.m. to 7:00 p.m	Denise Germann, (970)870–2214, dgermann@fs.fed.us.
Medicine Bow-Routt National Forests.	Comment	June 21	Hahns Peak/Bears Ear Ranger Station, 925 Weiss Drive, Steamboat Springs.	5:30 p.m. to 8:00 p.m	Denise Germann, (970)870–2214, dgermann@fs.fed.us.
DC:					
Washington Office	Information	May 24	Hyatt Hotel 1325 Wilson Boulevard Arlington Virginia.	5:00 p.m. to 9:00 p.m	Martin Esparza (703) 605–5168, mesparza@fs.fed.us.
Washington Office	Comment	June 26	Hyatt Hotel, 1325 Wilson Boulevard, Arlington, Virginia.	5:00 p.m. to 10:00 p.m	Martin Esparza (703) 605–5168, mesparza@fs.fed.us.
FL:					
National Forests In Florida.	Information	May 31	Sheraton Gainesville, 2900 Southwest Thirteenth Street, Gainesville.	6:00 p.m. to 9:00 p.m	Richard Shelfer, (850) 942–9353, rshelfer@fs.fed.us. or Denise Rains, (850) 942–9838.
National Forests In Florida.	Comment	June 29	Sheraton Gainesville, 2900 Southwest Thirteenth Street, Gainesville.	6:00 p.m. to 9:00 p.m	Richard Shelfer, (850) 942–9353, rshelfer@fs.fed.us. or Denise Rains, (850) 942–9838.
GA:					
Regional Office	Information	May 31	Gwinnett Civic Center, 6400 Sugarloaf Parkway, Duluth.	6:30 p.m. to 9:30 p.m	Robert Wilhelm, (404) 347–7076, rwilhelm@fs.fed.us.
Regional Office	Comment	June 28	Gwinnett Civic Center, 6400 Sugarloaf Parkway, Duluth.	6:30 p.m. to 9:30 p.m	Robert Wilhelm, (404) 347–7076, rwilhelm@fs.fed.us.
Chattahoochee-Oconee National Forests.	Information	May 25	Gainesville College Continuous Education Auditorium, 3820 Mundy Mill Road, Gainesville.	6:00 p.m. to 9:00 p.m	John Petrick, (770) 297–3005, jpetrick@fs.fed.us.
Chattahoochee-Oconee National Forests.	Comment	June 21	Gainesville College Continuous Education Auditorium, 3820 Mundy Mill Road, Gainesville.	6:00 p.m. to 9:00 p.m	John Petrick, (770) 297–3005, jpetrick@fs.fed.us.
ID:					
Boise National Forest	Information	May 22	Idaho City Community Hall Idaho City.	7:00 p.m. to 9:00 p.m	Jennifer Jones, (208) 373–4100 jjones11@fs.fed.us.
Boise National Forest	Information	May 23	Boise Centre On the Grove, Eagle Room, 850 West Front Street, Boise.	2:00 p.m. to 5:00 p.m. and 6:00 p.m. to 9:00 p.m.	Jennifer Jones, (208) 373–4100, jjones11@fs.fed.us.
Boise National Forest	Comment	June 29	Nampa Civic Center, 311 Third Street South, Nampa.	9:00 a.m. to 9:00 p.m	Jennifer Jones, (208) 373–4100, jjones11@fs.fed.us.
Caribou-Targhee National Forests.	Information	May 17	University Place, 2000 Science Center Drive, Idaho Falls.	7:00 p.m. to 9:00 p.m	Jerry Reese, (208) 236–7500 or (208) 624–3151, jbreese@fs fed.us
Caribou-Targhee National Forests.	Information	May 18	Idaho State University, Student Union, Little Wood Room, 1065 South Eighth Street, Pocatello.	7:00 p.m. to 9:00 p.m	Jerry Reese, (208) 236–7500 or (208) 624–3151, jbreese@fs. fed.us.
Caribou-Targhee National Forests.	Comment	June 21	University Place, 2000 Science Center Drive, Idaho Falls.	7:00 p.m. to 10:00 p.m	Jerry Reese, (208) 236–7500 or (208) 624–3151, jbreese@fs. fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Idaho Panhandle National Forest.	Information	May 24	Supervisor's Office, 3815 Schrieiber Way, Coeur d'Alene.	4:00 p.m. to 7:00 p.m	Dave O'Brien, 208–765–7319, dobrien/r1IPNF@fs.fed.us.
Idaho Panhandle National Forest.	Comment	June 21	Supervisor's Office, 3815 Schrieiber Way, Coeur d'Alene.	4:00 p.m. to 7:00 p.m	Dave O'Brien (208) 765–7319, dobrien/r1IPNF@fs.fed.us.
Nez Perce National Forest.	Information	May 17	Kooskia City Hall 026 South Main, Kooskia.	4:00 p.m. to 8:00 p.m	Cliff Mitchell, cmitchell@fs.fed.us or Elayne Murphy, (208) 476–4541 emurphy@fs.fed. us.
Nez Perce National Forest.	Information	May 18	Salmon River High School Riggins.	6:00 p.m. to 9:00 p.m	Dick Artley, dartley@fs.fed.us or Laura Smith, (208) 983–1950, lasmith@fs.fed.us.
Nez Perce National Forest.	Information	May 30	Elk City Public School, Elk City.	6:00 p.m. to 9:00 p.m	Dick Artley, dartley@fs.fed.us or Laura Smith, 208) 983–1950, lasmith@fs.fed.us.
Nez Perce National Forest.	Information	May 31	Grangeville High School, Grangeville.	6:00 p.m. to 9:00 p.m	Dick Artley, dartley@fs.fed.us or Laura Smith, (208) 983–1950, lasmith@fs.fed.us.
Nez Perce National Forest.	Information	May 24	Lewis and Clark College, Clearwater and Snake Conference Rooms, 500 Eighth Avenue, Lewiston.	6:00 p.m. to 9:00 p.m	Cliff Mitchell, cmitchell@fs.fed.us or Elayne Murphy, (208) 476–4541 emurphy@fs.fed.us
Nez Perce National Forest.	Comment	June 21 (and June 22, if needed).	Grangeville High School, Grangeville.	1:00 p.m. to 8:00 p.m	Dick Artley, dartley@fs.fed.us or Laura Smith, (208) 983–1950, lasmith@fs.fed.us.
Nez Perce National Forest.	Information	June 27	Lewiston High School Auditorium, 1114 Ninth Street, Lewiston.	1:00 p.m. to 10:00 p.m	Cliff Mitchell, cmitchell@fs.fed.us. or Elayne Murphy, (208) 476–,4541 emurphy@fs.fed.us.
Payette National Forest	Information	May 23	Payette Lakes Middle School, Dinehard and Sampson Streets, McCall.	5:00 p.m. to 9:00 p.m	Dave Alexander, dalexander@fs.fed.us or Miera Crawford (208) 634–0700.
Payette National Forest	Comment	June 20	Payette Lakes Middle School, Multipurpose Room, Payette.	6:00 p.m. to 10:00 p.m	Dave Alexander, dalexander@fs.fed.us or Miera Crawford, (208) 634–0700.
Salmon-Challis National Forests.	Information	May 24	Challis Ranger District Office Conference Room, Hwy 93, Challis.	7:00 p.m. to 9:00 p.m	Kent Fuellenbach, (208) 756–5145, kfullenbach@fs.fed.us.
Salmon-Challis National Forests.	Information	May 25	Salmon Valley Community Center, 200 Main Street, Salmon.	7:00 p.m. to 9:00 p.m	Kent Fuellenbach, (208) 756–5145, kfullenbach@fs.fed.us.
Salmon-Challis National Forests.	Information	May 30	Business Incubation Center, 159 North Idaho Street, Arco.	7:00 p.m. to 9:00 p.m	Kent Fuellenbach, (208) 756–5145, kfullenbach@fs.fed.us.
Salmon-Challis National Forests.	Information	May 31	Mackay Senior Citizens Building, 301 Cedar Avenue, Mackay.	7:00 p.m. to 9:00 p.m	Kent Fuellenbach, (208) 756–5145, kfullenbach@fs.fed.us.
Salmon-Challis National Forests.	Comment	June 19	Challis Middle School Auditorium, Challis.	7:00 p.m. to 9:00 p.m	Kent Fuellenbach, (208) 756–5145, kfullenbach@fs.fed.us.
Salmon-Challis National Forests.	Comment	June 20	Salmon Valley Community Center, 200 Main Street, Salmon.	7:00 p.m. to 9:00 p.m	Kent Fuellenbach, (208) 756–5145, kfullenbach@fs.fed.us.
Sawtooth National Forest.	Information	May 24	College of Southern Idaho, Taylor Administration Building, Cedar and Sage Rooms, 315 Falls Avenue, Twin Falls.	7:00 p.m. to 9:00 p.m	Ed Waldapfel, (208) 737–3200, waldapfel@fs.fed.us.
Sawtooth National Forest.	Information	May 24	Ketchum City Hall, 480 East Avenue North, Ketchum.	7:00 p.m. to 9:00 p.m	Kurt Nelson, (208) 622–5371 knelson@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Sawtooth National Forest.	Comment	June 22	College of Southern Idaho, Taylor Administration Building, Cedar and Sage Rooms, 315 Falls Avenue, Twin Falls.	6:30 p.m. to 9:30 p.m	Ed Waldapfel, (208) 737–3200, waldapfel@fs.fed.us.
Sawtooth National Forest.	Comment	June 22	Ketchum City Hall, 480 East Avenue North, Ketchum.	6:30 p.m. to 9:30 p.m	Kurt Nelson, (208) 622–5371, knelson@fs.fed.us.
Clearwater National Forest.	Information	May 16	Orofino High School Cafeteria, 1115 School Road, Orofino.	4:00 p.m. to 8:00 p.m	Cliff Mitchell or Elayne Murphy, (208) 476–4541, emurphy@fs.fed.us.
Clearwater National Forest.	Information	May 17	Kooskia City Hall, 026 South Main, Kooskia.	4:00 p.m. to 8:00 p.m	Cliff Mitchell or Elayne Murphy, (208) 476–4541, emurphy@fs.fed.us.
Clearwater National Forest.	Information	May 18	Latah County Fairgrounds Exhibit Building, 1021 Harold, Moscow.	4:00 p.m. to 8:00 p.m	Cliff Mitchell or Elayne Murphy, (208) 476–4541, emurphy@fs.fed.us.
Clearwater National Forest.	Information	May 23	Lewis Clark College, Clearwater and Snake Conference Rooms, Lewiston.	4:00 p.m. to 8:00 p.m	Cliff Mitchell or Elayne Murphy, (208) 476–4541, emurphy@fs.fed.us.
Clearwater National Forest.	Comment	June 20	Orofino High School Gym, 1115 School Road, Orofino.	1:00 p.m. to 10:00 p.m	Cliff Mitchell or Elayne Murphy, (208) 476–4541, emurphy@fs.fed.us.
Clearwater National Forest.	Comment	June 27	Lewiston High School Auditorium, 1114 Ninth Street, Lewiston.	1:00 p.m. to 10:00 p.m	Cliff Mitchell or Elayne Murphy, (208) 476–4541, emurphy@fs.fed.us.
IL:					
Midewin National Tallgrass Prairie.	Information	May 24	Wilmington City Hall, 1165 South Water Street, Wilmington.	3:00 p.m. to 6:00 p.m	Marta Witt, (815) 423–6370, mwitt@fs.fed.us.
Midewin National Tallgrass Prairie.	Comment	June 21	Wilmington City Hall, 1165 South Water Street; Wilmington.	3:00 p.m. to 6:00 p.m	Marta Witt, (815) 423–6370, mwitt@fs.fed.us.
Shawnee National Forest.	Information	May 30	Marion Convention Center, 2600 West DeYoung, Marion.	6:30 p.m. to 9:30 p.m	Steve Hupe, (618) 253–7114, shupe@fs.fed.us.
Shawnee National Forest.	Comment	June 20	Marion Convention Center, 2600 West DeYoung, Marion.	6:00 p.m. to 9:30 p.m	Steve Hupe, (618) 253–7114, shupe@fs.fed.us.
IN:					
Hoosier National Forest	Information	May 22	Morgan County Fair Building. Kendall Room, 1749 Hospital Drive, Martinsville.	6:00 p.m. to 9:00 p.m	Wilma Reed Marine, (812) 277–3580, (812) 275–5987, wmarine@fs.fed.us.
Hoosier National Forest	Comment	June 27	Morgan County Fair Building, Kendall Room, 1749 Hospital Drive, Martinsville.	6:00 p.m. to 9:00 p.m	Wilma Reed Marine, (812) 277–3580, (812) 275–5987, wmarine@fs.fed.us.
Hoosier National Forest	Information	May 23	Fulton Hill Community Center, 855 Walnut Street, Troy.	6:00 p.m. to 9:00 p.m	Wilma Reed Marine, (812) 277–3580, (812) 275–5987, wmarine@fs.fed.us.
Hoosier National Forest	Comment	June 28	Fulton Hill Community Center, 855 Walnut Street, Troy.	6:00 p.m. to 9:00 p.m	Wilma Reed Marine, (812) 277–3580, (812) 275–5987, wmarine@fs.fed.us.
KY:					
Daniel Boone National Forest.	Information	May 22	Clark County Public Library, 370 South Burns Avenue, Winchester.	3:00 p.m. to 5:00 p.m. and 7:00 p.m. to 9:00 p.m.	Kevin Lawrence, (859) 745–3152, klawrence01 @fs.fed.us.
Daniel Boone National Forest.	Comment	June 27	Fayette County Extension Office, 1145 Red Mile Place, Lexington.	3:00 p.m. to 4:30 p.m. and 7:00 p.m. to 8:30 p.m.	Kevin Lawrence, (859) 745–3152, klawrence01 @fs.fed.us.
LA:					
Kisatchie National Forest.	Information	May 25	Alexandria Forestry Center, Third Floor Conference Room, 2500 Shreveport Highway, Pineville.	6:00 p.m. to 9:00 p.m	Cindy Dancak, (318) 473–7109, cdancak@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Kisatchie National Forest.	Comment	June 22	Alexandria Forestry Center, Third Floor Conference Room, 2500 Shreveport Highway, Pineville.	6:00 p.m. to 9:00 p.m	Cindy Dancak, (318) 473–7109, cdancak@fs.fed.us.
MI:					
Hiawatha National Forest.	Information	June 1	Manistique High School, 100 North Cedar. Manistique.	5:00 p.m. to 8:00 p.m	Lee Ann Loupe, (906) 789–3329, lloupe@fs.fed.us.
Hiawatha National Forest.	Comment	June 28	Schoolcraft County Courthouse, 300 Walnut, Manistique.	5:00 p.m. to 8:00 p.m	Lee Ann Loupe, (906) 789–3329, lloupe@fs.fed.us.
Huron—Manistee National Forests.	Information	May 24	Holiday Inn 2650 South I–75 Business Loop, Grayling.	6:30 p.m. to 9:00 p.m	Tracy Tophooven, (231) 775–2421 ttophooven@fs.fed.us.
Huron—Manistee National Forests.	Comment	June 21	Holiday Inn 2650 South I–75 Business Loop, Grayling.	6:30 p.m. to 9:00 p.m	Tracy Tophooven, (231) 775–2421 ttophooven@fs.fed.us.
Ottawa National Forest	Information	May 31	Ewen Town Hall, Ewen	6:30 p.m. to 9:00 p.m	Bob Brenner, (906) 932–1330, extension 317, rbrenner@fs.fed.us.
Ottawa National Forest	Comment	June 28	Ewen Town Hall, Ewen	6:00 p.m. to 9:30 p.m	Bob Brenner, (906) 932–1330, extension 317, rbrenner@fs.fed.us.
MN:					
Chippewa National Forest.	Information	May 17	Sawmill Inn, 2301 Pokegama Avenue, Grand Rapids.	6:00 p.m. to 9:00 p.m	Kay Getting, (218) 335–8673, kgetting@fs.fed.us.
Chippewa National Forest.	Comment	June 28	Sawmill Inn, 2301 Pokegama Avenue, Grand Rapids.	6:00 p.m. to 9:00 p.m	Kay Getting, (218) 335–8673, kgetting@fs.fed.us.
Superior National Forest.	Information	May 23	Barkers Island Inn and Convention Center, 300 Marina Drive, Superior, Wisconsin.	12:30 p.m. to 4:30 p.m	Duane Lula, (218) 626–4383, dlula@fs.fed.us.
Superior National Forest.	Comment	June 22	Holiday Inn, 200 West Superior Street, Duluth.	12:30 p.m. to 4:30 p.m	Duane Lula, (218) 626–4383, dlula@fs.fed.us.
MS:					
National Forests In Mississippi.	Information	June 1	Ramada Inn Southwest Conference Center, 1525 Ellis Avenue, Jackson.	2:30 p.m. to 5:30 p.m. and 6:00 p.m. to 8:30 p.m.	Jeff Long, (601) 965–4391, extension 149, Jlong@fs.fed.us.
National Forests In Mississippi.	Comment	June 29	Ramada Inn Southwest Conference Center, 1525 Ellis Avenue, Jackson.	2:30 p.m. to 5:30 p.m. and 6:00 p.m. to 8:30 p.m.	Jeff Long, (601) 965–4391, Ext. 149, Jlong@fs.fed.us.
MO:					
Mark Twain National Forest.	Information	June 2	University Center, Room 101, East Eleventh and Rolla Streets, Rolla.	7:00 p.m. to 10:00 p.m	Laura Watts, (573) 364–4621, ljwatts@fs.fed.us.
Mark Twain National Forest.	Information	June 3	University Center, Room 101, East Eleventh and Rolla Streets, Rolla.	12:00 p.m. to 3:00 p.m	Laura Watts, (573) 364–4621, ljwatts@fs.fed.us.
Mark Twain National Forest.	Comment	June 24	Rolla Middle School Auditorium, 1111 Soest Road, Rolla.	12:00 p.m. to 3:00 p.m	Laura Watts, (573) 364–4621, ljwatts@fs.fed.us.
MT:					
Beaverhead—Deerlodge National Forests, Wisdom Ranger District.	Information	May 22	Wisdom Community Center, Wisdom.	4:00 p.m. to 8:00 p.m	Jack de Golia, (406) 683–3984, jdegolia@fs.fed.us.
Beaverhead—Deerlodge National Forests, Butte Ranger District.	Information	May 23	Butte Ranger Station, 1820 Meadowlark Lane, Butte.	4:00 p.m. to 8:00 p.m	Jack de Golia, (406) 683–3984, jdegolia@fs.fed.us.
Beaverhead—Deerlodge National Forests, Wise River Ranger District.	Information	May 23	Grange Hall Divide	4:00 p.m. to 8:00 p.m	Jack de Golia, (406) 683–3984, jdegolia@fs.fed.us.
Beaverhead—Deerlodge National Forests, Dillon Ranger District.	Information	May 24	USDA Service Center, 420 Barrett Street, Dillon.	4:00 p.m. to 8:00 p.m	Jack de Golia, (406) 683–3984, jdegolia@fs.fed.us.
Beaverhead—Deerlodge National Forests, Pintler Ranger District.	Information	May 25	USDA Service Center 1, Hollenback Road, Deer Lodge.	4:00 p.m. to 8:00 p.m	Jack de Golia, (406) 683–3984, jdegolia@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Beaverhead—Deerlodge National Forests, Pintler Ranger District.	Information	May 26	Forest Service Office, Philipsburg.	12:00 p.m. to 4:00 p.m.	Jack de Golia, (406) 683–3984, jdegolia@fs.fed.us.
Beaverhead—Deerlodge National Forests, Jefferson Ranger District.	Information	May 30	Forest Service Bunkhouse, 12 Depot Hill Road, Boulder.	4:00 p.m. to 8:00 p.m	Jack de Golia, (406) 683–3984, jdegolia@fs.fed.us.
Beaverhead—Deerlodge National Forests, Jefferson Ranger District.	Information	May 31	USDA Service Center, #3 Whitetail Road, Whitehall.	4:00 p.m. to 8:00 p.m	Jack de Golia, (406) 683–3984, jdegolia@fs.fed.us.
Beaverhead—Deerlodge National Forests, Madison Ranger District.	Information	June 1	Forest Service Office, Main Street, Sheridan.	4:00 p.m. to 8:00 p.m	Jack de Golia, (406) 683–3984, jdegolia@fs.fed.us.
Beaverhead—Deerlodge National Forests, Madison Ranger District.	Information	June 2	Forest Service Office, 5 Forest Service Road, Ennis.	4:00 p.m. to 8:00 p.m	Jack de Golia (406) 683–3984, jdegolia@fs.fed.us.
Beaverhead—Deerlodge National Forests.	Comment	June 22	Ramada Copper King Inn, 4655 Harrison Avenue, Butte.	4:00 p.m. to 5:30 p.m. and 7:00 p.m. to 8:30 p.m.	Jack de Golia (406) 683–3984, jdegolia@fs.fed.us.
Beaverhead—Deerlodge National Forests.	Comment	June 26	Western Montana College, Beier Auditorium (formerly Main Auditorium), Dillon.	4:00 p.m. to 5:30 p.m. and 7:00 p.m. to 8:30 p.m.	Jack de Golia (406) 683–3984, jdegolia@fs.fed.us.
Bitterroot National Forest.	Information	May 30	Community Center, 223 South Second Street, Hamilton.	7:00 p.m. to 9:00 p.m	Dixie Dies (406) 363–7154, ddies@fs.fed.us.
Bitterroot National Forest.	Comment	June 20	Community Center, 223 South Second Street, Hamilton.	7:00 p.m. to 9:00 p.m	Dixie Dies (406) 363–7154, ddies@fs.fed.us.
Custer National Forest	Information	May 23	Forest Supervisor's Office, 1310 Main Street, Billings.	4:30 p.m. to 8:30 p.m	Mark Slacks, 406–657–6200, extension 240, or Buck Feist, 406–657–6200, extension 239.
Custer National Forest	Comment	June 27	Billings Hotel and Convention Center (formerly Clarion Hotel), 1223 Mullowney Lane, Billings.	5:00 p.m. to 9:00 p.m	Mark Slacks, 406–657–6200, extension 240, or Buck Feist, 406–657–6200, extension 239.
Flathead National Forest.	Information	May 31	Outlaw Inn, 1701 Hwy 93 South, Kalispell.	7:00 p.m. to 9:00 p.m	Allen Rowley, (406) 758–5252, arowley@fs.fed.us.
Flathead National Forest.	Information	June 1	Outlaw Inn, 1701 Hwy 93 South, Kalispell.	7:00 p.m. to 9:00 p.m	Allen Rowley, (406) 758–5252, arowley@fs.fed.us.
Flathead National Forest.	Comment	June 26	Cavanaugs Center, 20 North Main, Kalispell.	7:00 p.m. to 9:00 p.m	Allen Rowley, (406) 758–5252, arowley@fs.fed.us.
Flathead National Forest.	Comment	June 27	Cavanaugs Center, 20 North Main, Kalispell.	7:00 p.m. to 9:00 p.m	Allen Rowley, (406) 758–5252, arowley@fs.fed.us.
Flathead National Forest.	Comment	June 28	Cavanaugs Center, 20 North Main, Kalispell.	7:00 p.m. to 9:00 p.m	Allen Rowley, (406) 758–5252, arowley@fs.fed.us.
Gallatin National Forest	Information	May 23	Gallatin Room, Holiday Inn, 5 Baxter Lane, Bozeman.	7:00 p.m. to 9:00 p.m	Jim Devitt, (406) 587–6749, jdevitt@fs.fed.us.
Gallatin National Forest	Comment	June 20	Gallatin Room, Holiday Inn, 5 Baxter Lane, Bozeman.	3:30 p.m. to 5:30 p.m. and 6:30 p.m. to 8:30 p.m.	Jim Devitt, (406) 587–6749, jdevitt@fs.fed.us.
Helena National Forest	Information	May 23	Helena NF Supervisors Office, 2880 Skyway Drive, Helena.	4:00 p.m. to 8:00 p.m	Maggie Pittman, (406) 449–5201, mpittman@fs.fed.us.
Kootenai National Forest.	Information	May 30	City Hall, 925 East Spruce Street, Libby.	7:00 p.m. to 10:00 p.m	Jeff Scussel (406) 293–6211, jscussel@fs.fed.us.
Helena National Forest	Comment	June 20	Cavanaugh's Colonial Inn, 2301 Colonial Drive, Helena.	6:00 p.m. to 9:00 p.m	Maggie Pittman, (406) 449–5201, mpittman@fs.fed.us.
Kootenai National Forest.	Comment	June 27	City Hall, 925 East Spruce Street, Libby.	7:00 p.m. to 10:00 p.m	Jeff Scussel (406) 293–6211, jscussel@fs.fed.us.
Lewis and Clark National Forests.	Information	June 1	Lewis and Clark Interpretive Center, 4201 Giant Springs Road, Great Falls.	7:00 p.m. to 9:00 p.m	Bonnie Dearing, 406–791–7754, bdearing@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Lewis and Clark National Forests.	Comment	June 19	Civic Center, Central Avenue. Great Falls.	7:00 p.m. to 9:00 p.m	Bonnie Dearing, 406–791–7754, bdearing@fs.fed.us.
Northern Region and Lolo National Forest.	Information	May 23	Doubletree Hotel, 100 Madison Street, Missoula.	6:30 p.m. to 9:00 p.m	Marcia Hogan (406) 329–1024, mlhogan@fs.fed.us.
Lolo National Forest, Thompson Falls/ Plains, Ranger District.	Information	May 24	Plains High School, 412 Rittenour Street, Plains.	6:30 p.m. to 9:00 p.m	Marcia Hogan (406) 329–1024, mlhogan@fs.fed.us.
Northern Region and Lolo National Forest.	Comment	June 21	Doubletree Hotel, 100 Madison Street, Missoula.	7:00 p.m. to 9:00 p.m	Marcia Hogan (406) 329–1024, mlhogan@fs.fed.us.
NE/SD:					
Nebraska National Forest.	Information	May 30	Country Kitchen, 1250 West Tenth Street, Chadron.	5:00 p.m. to 8:00 p.m	Cheri Bashor, (308) 432–0300, ebashor/r2__nebraska@fs.fed.us.
Nebraska National Forest.	Information	May 30	Country Kitchen, 1250 West Tenth Street, Chadron.	5:00 p.m. to 8:00 p.m	Cheri Bashor, (308) 432–0300, cbashor/r2__nebraska@fs.fed.us
Nebraska National Forest.	Comment	June 20	Country Kitchen, 1250 West Tenth Street, Chadron.	6:30 p.m. to 9:00 p.m	Cheri Bashor, (308) 432–0300, cbashor/r2__nebraska@fs.fed.us.
NV:					
Humboldt—Toiyabe National Forests, Tonopah Ranger District.	Information	May 15	Tonopah Convention Center, 310 Brougher Avenue, Tonopah.	6:00 p.m. to 9:30 p.m	John Haney, (775) 482–6286, jhaney@fs.fed.us.
Humboldt—Toiyabe National Forests, Ely Ranger District.	Information	May 22	Bristlecone Convention Center, 160 Sixth Street, Ely.	6:00 p.m. to 9:30 p.m	Jay Pence, (775) 289–3031, jpence@fs.fed.us.
Humboldt—Toiyabe National Forests, Austin Ranger District.	Information	May 23	Austin Town Hall, 135 Court Street, Austin.	6:00 p.m. to 9:30 p.m	Joe Shaw, (775) 964–2671 jshaw@fs.fed.us.
Humboldt—Toiyabe National Forests, Northeast Nevada EcoUnit.	Information	May 25	EcoUnit Forest Service Office, 2035 Last Chance Road.	6:00 p.m. to 8:30 p.m	Erin Oconner, (775) 738–5171, Joe Shaw, eoconner@fs.fed.us.
Humboldt—Toiyabe National Forests, Santa Rosa Ranger District.	Information	May 25	Santa Rosa Ranger District, 1200 Winnemucca Boulevard, Winnemucca.	6:00 p.m. to 9:30 p.m	Erin Oconner, (775) 623–5025, eoconner@fs.fed.us.
Humboldt—Toiyabe National Forests, Supervisor's Office and Carson Ranger District.	Information	May 30	Galena High School, 3600 Butch Cassidy, Reno.	6:00 p.m. to 9:30 p.m	Rick Connell, (775) 331–6444, rconnell@fs.fed.us.
Humboldt—Toiyabe National Forests, Spring Mountains National Recreation Area.	Information	May 31	Sahara West Library. 9600 West Sahara Avenue, Multipurpose Room, Las Vegas.	1:00 p.m. to 4:30 p.m. and 6:00 p.m. to 8:30 p.m.	Betty Blodgett, (702) 873–8800, eblodgett@fs.fed.us.
Humboldt—Toiyabe National Forests, Bridgeport Ranger District.	Information	June 1	Memorial Hall, 100 Sinclair Street, Bridgeport, CA.	6:00 p.m. to 9:30 p.m	Kathy Lucich, (760) 932–7070, klucich@fs.fed.us.
Humboldt—Toiyabe National Forests, Ely Ranger District.	Comment	June 12	Bristlecone Convention Center, 160 Sixth Street, Ely.	6:00 p.m. to 9:30 p.m	Jay Pence, (775) 289–3031, jpence@fs.fed.us.
Humboldt—Toiyabe National Forests, Austin Ranger District.	Comment	June 13	Austin Town Hall, 135 Court Street, Austin.	6:00 p.m. to 9:30 p.m	Joe Shaw, (775) 964–2671, jshaw01@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Humboldt—Toiyabe National Forests, Santa Rosa Ranger District.	Comment	June 15	Humboldt County Convention Center, 50 West Winnemucca Boulevard, Winnemucca.	6:00 p.m. to 9:30 p m	Erin Oconner, (775) 623–5025, eoconner@fs.fed.us.
Humboldt—Toiyabe National Forests, Bridgeport Ranger District.	Comment	June 19	Memorial Hall, 100 Sinclair Street, Bridgeport, CA.	6:00 p.m. to 9:30 p.m	Kathy Lucich, (760) 932–7070, klucich@fs.fed.us.
Humboldt—Toiyabe National Forests, Tonopah Ranger District.	Comment	June 14	Tonopah Convention Center, 310 Brougher Avenue, Tonopah.	6:00 p.m. to 9:30 p.m	John Haney, (775) 482–6286, jhaney@fs fed.us.
Humboldt—Toiyabe National Forests, Northeast Nevada EcoUnit.	Comment	June 21	Elko Convention Center, 700 Moren Way Elko.	6:00 p.m. to 9:30 p.m	Erin Oconner, (775) 738–5171, eoconner@fs.fed.us.
Humboldt—Toiyabe National Forests, Supervisor's Office and Carson Ranger District.	Comment	June 22	Galena High School, 3600 Butch Cassidy, Reno.	6:00 p.m. to 9:30 p.m	Rick Connell, (775) 331–6444, rconnell@fs.fed.us.
Humboldt—Toiyabe National Forests, Spring Mountains National Recreation Area.	Comment	June 29	Sahara West Library, Multipurpose Room 9600 West Sahara Avenue, Las Vegas.	2:00 p.m. to 4:30 p.m. and 6:00 p.m. to 8:30 p.m.	Betty Blodgett, (702) 873–8800, eblodgett@fs.fed.us
NH:					
White Mountain National Forest..	Information	May 23	Holiday Inn 172 North Main, Concord.	6:00 p.m. to 9:00 p.m	Colleen Mainville, (603) 528–8796, cmainvil@fs.fed.us.
White Mountain National Forest.	Information	May 24	Town and Country Motor Inn, Route 2 Gorham.	6:00 p.m. to 9:00 p.m	Colleen Mainville (603) 528–8796, cmainvil@fs.fed. us.
White Mountain National Forest.	Information	June 26	Holiday Inn, 172 North Main Concord.	3:00 p.m. to 9:00 p.m	Colleen Mainville, (603) 528–8796, cmainvil@fs.fed. us.
White Mountain National Forest.	Comment	June 28	Town and Country Motor Inn, Route 2, Gorham.	3:00 p.m. to 9:00 p.m	Colleen Mainville (603) 528–8796 cmainvil@fs.fed. us.
NM:					
Carson National Forest	Information	May 23	El Taoseno Room, Coronado Hall Civic Center Plaza Drive, Taos.	7:00 p.m. to 9:00 p.m	Audrey Kuykendall, (505) 758–6212, akuykendall @fs.fed.us.
Carson National Forest	Comment	June 26	Council Chambers, Coronado Hall Civic Center, Plaza Drive, Taos.	7:00 p.m. to 9:00 p.m	Audrey Kuykendall, (505) 758–6212, akuykendall @fs.fed.us.
Cibola National Forest	Information	May 18	Albuquerque Convention Center, La Cienega Room Second and Copper Streets, Albuquerque.	6:30 p.m. to 9:30 p.m	Vicky Estrada, (505) 346–2650 vestrada@fs.fed.us.
Cibola National Forest	Comment	June 20	Albuquerque Convention Center, La Cienega Room, Second and Copper Streets, Albuquerque.	6:30 p.m. to 9:30 p.m	Vicky Estrada, (505) 346–2650, vestrada@fs.fed.us.
Gila National Forest	Information	May 22	Bayard Community Center, 209 Hurley Avenue, Bayard.	6:00 p.m. to 8:00 p.m	Laura Browning, (505) 388–8201, lbrowning @fs.fed.us
Gila National Forest	Comment	June 26	Bayard Community Center, 209 Hurley Avenue, Bayard.	6:00 p.m. to 8:00 p.m	Laura Browning, (505) 388–8201, lbrowning @fs.fed.us.
Lincoln National Forest	Information	May 23	Cloudcroft Middle School, Highway 82, Cloudcroft.	6:00 p.m. to 9:00 p.m	Johnny Wilson, (505) 434–7230, jwilson @fs.fed.us.
Lincoln National Forest	Information	May 25	Riodoso District Civic Center, 111 Sierra Blanca Drive, Riodoso.	6:00 p.m. to 9:00 p.m	Johnny Wilson, (505) 434–7230, jwilson @fs.fed.us.
Lincoln National Forest	Information	May 31	Carlsbad Municipal Library Annex, Halaguena Park, Carlsbad.	6:00 p.m. to 9:00 p.m	Johnny Wilson, (505) 434–7230, jwilson @fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Lincoln National Forest	Comment	June 22	Cloudcroft Middle School, Highway 82, Cloudcroft.	5:00 p.m. to 9:00 p.m	Johnny Wilson, (505) 434–7230, jwilson @fs.fed.us.
Santa Fe National Forest.	Information	May 18	Albuquerque Convention Center, La Cienega Room, Second and Copper Streets, Albuquerque.	6:00 p.m. to 9:30 p.m	Susan Bruin, (505) 438–7829, vestrada @fs.fed.us.
Santa Fe National Forest.	Information	May 23	El Taoseno Room, Coronado Hall Civic Center, Plaza Drive, Taos.	7:00 p.m. to 9:00 p.m	Susan Bruin, (505) 438–7829, vestrada @fs.fed.us.
Santa Fe National Forest.	Comment	June 20	Albuquerque Convention Center, La Cienega Room, Second and Copper Streets, Albuquerque.	6:30 p.m. to 9:30 p.m	Susan Bruin, (505) 438–7829, vestrada @fs.fed.us.
Santa Fe National Forest.	Comment	June 26	Council Chambers, Coronado Hall Civic Center, Plaza Drive Taos.	7:00 p.m. to 9:00 p.m	Susan Bruin, (505) 438–7829, vestrada@fs.fed.us.
Regional Office	Information	May 18	Albuquerque Convention Center, La Cienega Room, Second and Copper Streets, Albuquerque.	6:00 p.m. to 9:30 p.m	Ron Pugh, (505) 842–3256, rlpugh @fs.fed.us.
Regional Office	Comment	June 20	Albuquerque Convention Center, La Cienega Room, Second and Copper Streets, Albuquerque.	6:00 p.m. to 9:30 p.m	Ron Pugh, (505) 842–3256, rlpugh @fs.fed.us.
NC:					
National Forests In North Carolina.	Information	May 17	Owen Conference Center, University of North Carolina at Asheville, One University Heights, Ashville.	6:00 p.m. to 9:00 p.m	Carol Milholen, (828) 257–4860, cmilholen @fs.fed.us
National Forests In North Carolina.	Comment	June 10	Owen Conference Center, University of North Carolina at Asheville, One University Heights, Asheville.	9:00 a.m. to 12:00 p.m	Carol Milholen, (828) 257–4860, cmilholen @fs.fed.us.
ND:					
Dakota Prairie National Grassland.	Information	May 24	Supervisor's Office, 240 West Century Avenue, Bismark.	7:00 p.m. to 9:00 p.m	Steve Williams, (701) 250–4443, swilliams/r1dpng@fs.fed.us.
Dakota Prairie National Grassland.	Comment	June 28	Supervisor's Office, 240 West Century Avenue, Bismark.	7:00 p.m. to 9:00 p.m	Steve Williams, (701) 250–4443, swilliams/r1dpng@fs.fed.us.
OH:					
Wayne National Forest	Information	May 31	Ramada Inn, 15770 State Route 691, Nelsonville.	6:30 p.m. to 9:30 p.m	Bob Gianniny, (740) 592–0200, rgianniny@fs.fed.us.
Wayne National Forest	Comment	June 21	Ramada Inn, 15770 State Route 691, Nelsonville.	7:00 p.m. to 9:00 p.m	Bob Gianniny, (740) 592–0200, rgianniny@fs.fed.us.
OR/WA:					
Columbia River, Gorge National Scenic Area, Gifford Pinchot National Forest, Mount Hood National Forest.	Information	May 30	Best Western Inn, I–84 Exit 64, Hood River.	3:00 p.m. to 8:00 p.m	Virginia Kelly, (541) 308–1720, vkelly@fs.fed.us; John Roland, (360) 891–5099, jroland@fs.fed.us; Glen Sachet, (503) 668–1791, gsachet@fs.fed.us.
Columbia River, Gorge National Scenic Area, Gifford Pinchot National Forest, Mount Hood National Forest.	Comment	June 29	Best Western Inn, I–84 Exit 64, Hood River.	3:00 p.m. to 8:00 p.m	Virginia Kelly, (541) 308–1720, vkelly@fs.fed.us; John Roland, (360) 891–5099, jroland@fs.fed.us.; Glen Sachet, (503) 668–1791 gsachet@fs.fed.us.
OR:					
Deschutes National Forest.	Information	May 23	National Guard Armory, 875 SW Simpson Avenue, Bend.	6:00 p.m. to 9:00 p.m	Gery Ferguson, (541) 383–5538, gferguson@fs.fed.us.,
Deschutes National Forest and Ochoco National Forest.	Comment	June 20	National Guard Armory, 875 SW Simpson Avenue, Bend.	6:00 p.m. to 9:00 p.m	Gery Ferguson, (541) 383–5538, gferguson@fs.fed.us or Bill Rice, (541) 416–6647, wjrice@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Fremont National Forest.	Information	May 25	Lakeview Inter-agency Office, 1300 South G Street, Lakeview.	6:00 p.m. to 8:00 p.m	Steve Egeline, (541) 947–6205, segeline@fs.fed.us.
Fremont National Forest.	Comment	June 29	Lakeview Inter-agency Office, 1300 South G Street, Lakeview.	6:00 p.m. to 8:00 p.m	Steve Egeline, (541) 947–6205, segeline@fs.fed.us.
Malheur National Forest.	Information	May 23	Forest Headquarters, 431 Patterson Bridge Road, John Day.	6:30 p.m. to 9:00 p.m	Sharon Sweeney, (541) 575–3144, srsweeney@fs.fed.us.
Malheur National Forest.	Information	May 31	Senior Center 17, South Alder, Avenue, Burns.	6:30 p.m. to 8:30 p.m	Sharon Sweeney, (541) 575–3144, srsweeney@fs.fed.us
Malheur National Forest.	Comment	June 28	Forest Headquarters, 431 Patterson Bridge Road, John Day.	5:00 p.m. to 8:00 p.m	Lyle Powers, (541) 575–3141, lepowers@fs.fed.us.
Mount Hood National Forest and Regional Office.	Information	May 31	Oregon Convention Center, 777 NE Martin Luther King Junior Boulevard, Portland.	1:00 p.m. to 9:00 p.m	Glen Sachet (503) 668–1791 gsachet@fs.fed.us or Tom Hussey, (503) 808–2285, thussey@fs.fed.us.
Mount Hood National Forest.	Comment	June 27	Briarwood Inn 2752 Hogan Road Gresham.	3:00 p.m. to 8:00 p.m	Glen Sachet, (503) 668–1791, gsachet@fs.fed.us.
Ochoco National Forest	Information	May 31	Forest Headquarters, 3160 NE Third Street, Prineville.	7:00 p.m. to 9:00 p.m	Bill Rice, (541) 416–6647, wjrice@fs.fed.us.
Regional Office	Comment	June 20	Oregon Convention Center, 777 NE Martin Luther King Junior Boulevard, Portland.	2:00 p.m. to 9:00 p.m	Tom Hussey, (503) 808–2285, thussey@fs.fed.us.
Regional Office	Comment	June 21	Oregon Convention Center, 777 NE Martin Luther King Junior Boulevard, Portland.	2:00 p.m. to 10:00 p.m	Tom Hussey, (503) 808–2285 thussey@fs.fed.us.
Rogue River National Forest.	Information	May 31	Red Lion Hotel, 200 North Riverside Avenue, Medford.	6:00 p.m. to 9:00 p.m	Mary Marrs, (541) 471–6515, mmarrs@fs.fed.us.
Rogue River National Forest.	Comment	June 28	Red Lion Hotel, 200 North Riverside Avenue, Medford.	6:00 p.m. to 9:00 p.m	Mary Marrs, (541) 471–6515, mmarrs@fs.fed.us.
Siskiyou National Forest.	Information	May 30	Gold Beach Resort, Convention Center, 29232 South Ellensburg, Gold Beach.	6:00 p.m. to 9:00 p.m	Mary Marrs, (541) 471–6515, mmarrs@fs.fed.us.
Siskiyou National Forest.	Information	June 1	Rogue Bank, Floral Exhibit Building, Josephine County Fairgrounds, Grants Pass.	6:00 p.m. to 9:00 p.m	Mary Marrs, (541) 471–6515, mmarrs@fs.fed.us.
Siskiyou National Forest.	Comment	June 27	Gold Beach Resort Convention Center, 29232 South Ellensburg, Gold Beach.	6:00 p.m. to 9:00 p.m	Mary Marrs, (541) 471–6515, mmarrs@fs.fed.us.
Siuslaw National Forest and Willamette National Forest.	Information	May 22	Red Lion Hotel, Jefferson Room, 3301 Market Street, Salem.	6.30 p.m. to 9:00 p.m	Craig Snider, (541) 750–7077, cbsnider@fs.fed.us or Neal Forrester, (541) 465–6924, nforrester@fs.fed.us.
Siuslaw National Forest	Information	May 25	Eugene Water and Electric Board, 500 East Fourth Avenue, Eugene.	6:30 p.m. to 9:00 p.m	Craig Snider, (541) 750–7077, cbsnider@fs.fed.us.
Siuslaw National Forest	Information	May 30	Highland View Middle School, 1920 Highland Drive, Corvallis.	6:30 p.m. to 9:00 p.m	Craig Snider, (541) 750–7077, cbsnider@fs.fed.us.
Siuslaw National Forest	Information	May 31	Florence Events Center, 715 Quince Street, Florence.	6:30 p.m. to 9:00 p.m	Craig Snider, (541) 750–7077, cbsnider@fs.fed.us.
Siuslaw National Forest	Information	June 1	Beaver Fire Hall, 20055 Blaine Road, Beaver.	6:30 p.m. to 9:00 p.m.	Craig Snider, (541) 750–7077, cbsnider@fs.fed.us.
Siuslaw National Forest and Willamette National Forest.	Comment	June 19	Salem City Council Chambers, 555 Liberty Street SE, Salem.	6:30 p.m. to 9:00 p.m	Craig Snider, (541) 750–7077 cbsnider@fs.fed.us or Neal Forrester, (541) 465–6924, nforrester@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Siuslaw National Forest	Comment	June 20	Florence Events Center, 715 Quince Street, Florence.	6:30 p.m. to 9:00 p.m	Craig Snider, (541) 750–7077, cbsnider@fs.fed.us.
Siuslaw National Forest	Comment	June 21	Highland View Middle School, 1920 Highland Drive, Corvallis.	6:30 p.m. to 9:00 p.m	Craig Snider, (541) 750–7077, cbsnider@fs.fed.us.
Siuslaw National Forest	Comment	June 22	Eugene City Council Chambers, 777 Pearl Street, Eugene.	6:30 p.m. to 9:00 p.m	Craig Snider, (541) 750–7077, cbsnider@fs.fed.us.
Umatilla National Forest.	Information	May 24	Supervisor's Office, 2517 SW Hailey Avenue, Pendleton.	6:00 p.m. to 9:00 p.m	Ed Pugh, (541) 278–3716, epugh@fs.fed.us.
Umatilla National Forest.	Information	May 30	Ukiah High School, Hill Street, Ukiah.	6:00 p.m. to 9:00 p.m	Craig Smith-Dixon, (541) 427–3231, cmdixon@fs.fed.us.
Umatilla National Forest.	Comment	June 28	Supervisor's Office, 2517 SW Hailey Avenue, Pendleton.	6:00 p.m. to 8:30 p.m	Ed Pugh, (541) 278–3716, epugh@fs.fed.us.
Umpqua National Forest.	Information	May 23	Cottage Grove Ranger Station, 78405 Cedar Park Road, Cottage Grove.	7:00 p.m. to 8:30 p.m	Cheryl Walters, (541) 957–3259, crwalters@fs.fed.us.
Umpqua National Forest.	Information	May 25	Douglas County Library, 1409 NE Diamond Lake Boulevard, Roseburg.	5:30 p.m. to 8:00 p.m	Cheryl Walters, (541) 957–3259, crwalters@fs.fed.us.
Umpqua National Forest.	Comment	June 20	Ranger Station, 78405 Cedar Park Road, Cottage Grove.	7:00 p.m. to 8:30 p.m	Cheryl Walters, (541) 957–3259, crwalters@fs.fed.us.
Umpqua National Forest.	Comment	June 22	Douglas County Library, 1409 NE Diamond Lake Boulevard, Roseburg.	5:30 p.m. to 8:00 p.m	Cheryl Walters, (541) 957–3259, crwalters@fs.fed.us.
Wallowa Whitman National Forest.	Information	May 31	Sunridge inn, 1 Sunridge Lane, Baker City.	5:00 p.m. to 8:00 p.m	Annie Hanson, (541) 523–6391, ahanson@fs.fed.us.
Wallowa Whitman National Forest.	Comment	June 28	Sunridge Inn, 1 Sunridge Lane, Baker City.	5:00 p.m. to 8:00 p.m	Annie Hanson, (541) 523–6391, ahanson@fs.fed.us.
Willamette National Forest.	Information	May 25	Eugene Water and Electric Board, 500 East Fourth Avenue, Eugene.	6:30 p.m. to 9:00 p.m	Neal Forrester, (541) 465–6924, nforrester@fs.fed.us.
Willamette National Forest.	Information	May 30	Highland View Middle School, 1920 Highland Drive, Corvallis.	6:30 p.m. to 9:00 p.m	Neal Forrester, (541) 465–6924, nforrester@fs.fed.us.
Willamette National Forest.	Information	May 31	McKenzie School District Office, 51187 Blue River Drive, Vida.	6:30 p.m. to 9:00 p.m	Neal Forrester, (541) 465–6924, nforrester@fs.fed.us.
Willamette National Forest.	Information	June 1	Sweet Home Ranger Station, 3225 Hwy 20, Sweet Home.	6:30 p.m. to 9:00 p.m	Neal Forrester, (541) 465–6924, nforrester@fs.fed.us.
Willamette National Forest.	Information	June 5	Mill City Middle School, 450 Southwest Evergreen, Mill City.	6:30 p.m. to 9:00 p.m	Neal Forrester, (541) 465–6924, nforrester@fs.fed.us.
Willamette National Forest.	Information	June 6	Middle Fork Ranger District Office, 49098 Salmon Creek Road, Oakridge.	6:30 p.m. to 9:00 p.m	Neal Forrester, (541) 465–6924, nforrester@fs.fed.us.
Willamette National Forest.	Comment	June 19	Salem City Council Chambers, 555 Liberty Street, Salem.	6:30 p.m. to 9:00 p.m	Neal Forrester, (541) 465–6924, nforrester@fs.fed.us.
Willamette National Forest.	Comment	June 21	Highland View Middle School, 1920 Highland Drive, Corvallis.	6:30 p.m. to 9:00 p.m	Neal Forrester, (541) 465–6924, nforrester@fs.fed.us.
Willamette National Forest.	Comment	June 22	Eugene City Council Chambers, 77 Pearl Street, Eugene.	6:30 p.m. to 9:00 p.m	Neal Forrester, (541) 465–6924, nforrester@fs.fed.us.
Winema National Forest.	Information	May 23	Forest Headquarters, 2819 Dahlia Street, Klamath Falls.	6:00 p.m. to 8:00 p.m	Frank Erickson, (541) 883–6715, fserickson@fs.fed.us.
Winema National Forest.	Comment	June 28	Forest Headquarters, 2819 Dahlia Street, Klamath Falls.	5:00 p.m. to 9:00 p.m	Frank Erickson, (541) 883–6715, fserickson@fs.fed.us.
PA:					
Allegheny National Forest.	Information	June 3	Slater Room, Warren Public Library, Market Street, Warren.	9:00 a.m. to 12:00 p.m	Gary Kell, (814) 723–5150, gkell@fs.fed.us.
Allegheny National Forest.	Comment	June 20	Sheffield Fire Hall, Route 948, Sheffield.	6:00 p.m. to 8:00 p.m	Gary Kell, (814) 723–5150, gkell@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
PR:					
Caribbean National Forest.	Information	May 24	Catalina Service Center, Highway PR 191 Km 44.	6:00 p.m. to 8:00 p.m	Ricardo Garcia, (787) 888–1810, rgarcia@fs.fed.us.
Caribbean National Forest.	Comment	June 28	Catalina Service Center, Highway PR 191 Km 44.	6:00 p.m. to 8:00 p.m	Ricardo Garcia, (787) 888–1810, rgarcia@fs.fed.us.
SC:					
Francis Marion—Sumter National Forests.	Information	May 30	Forest Supervisor's Office, 4931 Broad River Road, Columbia.	5:30 p.m. to 8:30 p.m	Robbin Cooper, (803) 561–4000, rcooper&@fs.fed.us.
Francis Marion—Sumter National Forests.	Comment	June 27	Forest Supervisor's Office, 4931 Broad River Road, Columbia.	5:30 p.m. to 8:30 p.m	Robbin Cooper, (803) 561–4000, rcooper@fs.fed.us.
SD/WY:					
Black Hills—Nebraska National Forests.	Information	May 25	Ramkota, 2110 LaCrosse Street, Rapid City.	6:00 p.m. to 9:00 p.m	Dennis Neill, 605–673–2251, dneill@fs.fed.us; Jerry Schumacher, (308) 432–0300, jschumacher@fs.fed.us.
Black Hills—Nebraska National Forests.	Comment	June 27	Ramkota, 2110 LaCrosse Street, Rapid City.	11:00 p.m. to 8:00 p.m	Dennis Neill, 605–673–2251, dneill@fs.fed.us; Jerry Schumacher, (308) 432–0300, jschumacher@fs.fed.us.
TN:					
Cherokee National Forest.	Information	May 23	Cleveland State Community College, 3535 Adkisson Drive NW. Cleveland.	1:00 p.m. to 3:00 p.m. and 7:00 p.m. to 9:00 p.m.	Keith Sandifer, (423) 476–9736, ksandifer@fs.fed.us.
Cherokee National Forest.	Comment	June 20	Cleveland State Community College, 3535 Adkisson Drive NW. Cleveland.	7:00 p.m. to 9:30 p.m	Keith Sandifer, (423) 476–9736, ksandifer@fs.fed.us.
TX:					
National Forests and Grasslands in Texas.	Information	June 6	Federal Building, Room 116, 701 North First Street, Lufkin.	6:00 p.m. to 8:00 p.m	Gay Ippolito, (409) 639–8501, gippolito@fs.fed.us.
National Forests and Grasslands in Texas.	Information	June 27	Federal Building, Room 116, 701 North First Street, Lufkin.	6:00 p.m. to 8:00 p.m	Gay Ippolito, (409) 639–8501, gippolito@fs.fed.us.
UT:					
Ashley National Forest	Information	May 16	Western Wyoming College, Meeting Room, Green River Center 1, Green River.	3:00 p.m. to 7:00 p.m	Laura Jo West, (435) 789–1181, ljwest@fs.fed.us.
Ashley National Forest	Information	May 17	Crossroads Senior center, 50 East 200 South, Roosevelt.	7:00 p.m. to 9:00 p.m	Laura Jo West, (435) 789–1181, ljwest@fs.fed.us.
Ashley National Forest	Information	May 23	Western Park Convention Center, 302 East 200 South, Vernal.	7:00 p.m. to 9:00 p.m	Laura Jo West, (435) 789–1181, ljwest@fs.fed.us.
Ashley National Forest	Comment	June 27	Western Wyoming College Meeting Room, Green River Center 1, Green River, WY.	5:00 p.m. to 8:00 p.m	Laura Jo West, (435) 789–1181, ljwest@fs.fed.us.
Ashley National Forest	Comment	June 28	Golden Age Center, 155 South 100 West, Vernal.	5:00 p.m. to 8:00 p.m	Laura Jo West, (435) 789–1181, ljwest@fs.fed.us.
Dixie National Forest	Information	May 31	Hunter Conference Center, Southern Utah University, Cedar City.	7:00 p.m. to 9:00 p.m	Fran Reynolds, (435) 865–3700, freynolds@fs.fed.us.
Dixie National Forest	Comment	June 27	Hunter Conference Center, Southern Utah University, Cedar City.	7:00 p.m. to 9:00 p.m	Fran Reynolds, (435) 865–3700, freynolds@fs.fed.us.
Fishlake National Forest,.	Information	May 30	Sevier County Courthouse auditorium (basement), 250 North Main, Richfield.	7:00 p.m. to 9:00 p.m	Linda Jackson, (435) 896–9233, lljackson@fs.fed.us.
Fishlake National Forest.	Comment	June 21	Sevier County Courthouse Commissioner's Chambers, 250 North Main, Richfield.	7:00 p.m. to 9:00 p.m	Linda Jackson, (435) 896–9233, lljackson@fs.fed.us.
Manti-LaSal National Forest.	Information	May 16	Courthouse, 75 East Main Castle, Dale.	6:00 p.m. to 8:00 p.m	Glenn Casamassa, (435) 637–2817, gcasamassa@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Manti-LaSal National Forest.	Information	May 17	Courthouse, 117 South Main, Monticello.	6:30 p.m. to 8:00 p.m	Glenn Casamassa, (435) 637–2817, gcasamass-a@fs.fed.us.
Manti-LaSal National Forest.	Information	May 18	Courthouse, 160 North Main, Manti, Utah.	6:30 p.m. to 8.30 p.m	Glenn Casamassa, (435) 637–2817, gcasamass-a@fs.fed.us.
Manti-LaSal National Forest.	Comment	June 7	Courthouse, 120 East Main, Castle, Dale.	1:00 p.m. to 5:30 p.m	Glenn Casamassa, (435) 637–2817, gcasamass-a@fs.fed.us.
Uinta National Forest	Information	June 1	Provo Marriott Hotel, 101 West 100 North, Provo.	6:30 p.m. to 9:30 p.m	Loyal Clark, (801) 342–5100, lfclark@fs.fed.us.
Uinta National Forest	Comment	June 28	Provo Marriott Hotel, 101 West 100 North, Provo.	6:30 p.m. to 9:30 p.m	Loyal Clark, (801) 342–5100, lfclark@fs.fed.us.
Wasatch—Cache National Forest.	Information	May 22	Sweet Library, 455 F Street, Salt Lake City.	6:00 p.m. to 8:00 p.m	Donna Wilson, (801) 524–3900, dlwilson@fs.fed.us.
Wasatch—Cache National Forest.	Comment	June 20	Highland High School Little Theater, 2166 South 1700 East, Salt Lake City.	4:30 p.m. to 8:30 p.m	Wasatch-Cache NF, (801) 524–3900, dlwilson@fs.fed.us.
VA:					
George Washington—Jefferson National Forests.	Information	May 22	Holiday Inn—Airport, 6626 Thirlane Road, Roanoke.	6:00 p.m. to 9:00 p.m	Ken Landgraf, (540) 265–5100, klandgraf@fs.fed.us.
George Washington—Jefferson National Forests.	Comment	June 20	Holiday Inn—Airport, 6626 Thirlane Road, Roanoke.	5:30 p.m. to 9:00 p.m	Ken Landgraf, (540) 265–5170, klandgraf@fs.fed.us.
VT:					
Green Mountain—Finger Lakes National Forest.	Information	May 24	Franklin Room Howe Center, 1 Scale Avenue, Rutland.	6:00 p.m. to 9:00 p.m	Rob Clark, (802) 362–2307, ext. 222, rclark01@fs.fed.us.
Green Mountain—Finger Lakes National Forest.	Comment	June 27	Franklin Room Howe Center, 1 Scale Avenue, Rutland.	3:00 p.m. to 9:00 p.m	Rob Clark, (802)362–2307, ext. 222, rclark01@fs.fed.us.
WA:					
Colville National Forest	Information	May 31	Colville Community College, 985 South Elm, Colville.	7:00 p.m. to 9:00 p.m	George Buckingham, (509) 684–7106, gbuckingham @fs.fed.us.
Colville National Forest	Information	June 6	Spokane City Hall, Spokane.	7:00 p.m. to 9:00 p.m	George Buckingham, (509) 684–7106 gbuckingham, @fs.fed.us.
Colville National Forest	Comment	June 15	Spokane City Hall, Spokane.	2:00 p.m. to 10:00 p.m	George Buckingham, (509) 684–7106, gbuckingham, @fs.fed.us.
Colville National Forest	Comment	June 19	Colville Community College, 985 South Elm, Colville.	2:00 p.m. to 10:00 p.m	George Buckingham, (509) 684–7106, gbuckingham, @fs.fed.us
Gifford Pinchot National Forest.	Information	June 1	Forest Headquarters, 51st Circle, Vancouver.	3:00 p.m. to 8:00 p.m	John Roland, (360) 891–5099, jroland@fs.fed.us
Gifford Pinchot National Forest.	Comment	June 27	Forest Headquarters, 51st Circle, Vancouver.	1:00 p.m. to 9:00 p.m	John Roland, (360) 891–5099, jroland@fs.fed.us.
Gifford Pinchot National Forest.	Information	May 25	Morton High School Auditorium, 152 West Lake Avenue, Morton.	7:00 p.m. to 10:00 p.m	Harry Cody, (360) 497–1105, hcody@fs.fed.us.
Gifford Pinchot National Forest.	Comment	June 20	Morton High School Auditorium, 152 West Lake Avenue, Morton.	3:00 p.m. to 8:00 p.m	Harry Cody, (360) 497–1105, hcody@fs.fed.us.
Mount Baker—Snoqualmie National Forest.	Comment	June 28	Seattle Center, Olympic Room, 305 Harrison Street, Seattle.	1:00 p.m. to 10:00 p.m	Ron Dehart, (425) 744–3573, rdehart@fs.fed.us.
Mount Baker—Snoqualmie National Forest.	Comment	June 24	Everett Pacific Hotel, Orcas Room, 3105 Pine Street, Everett.	9:00 a.m. to 4:00 p.m	Ron Dehart, (425) 744–3573, rdehart@fs.fed.us.
Mount Baker—Snoqualmie National Forest.	Information	June 1	Mount Baker Ranger District Office, 2105 Highway, 20 Sedro, Woolley.	4:00 p.m. to 8:00 p.m	Ron Dehart, (425) 744–3573, rdehart@fs.fed.us.

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
Mount Baker—Snoqualmie National Forest.	Information	May 31	Everett Pacific Hotel, Orcas Room, 3105 Pine Street, Everett.	4:00 p.m. to 8:00 p.m	Ron Dehart, (425) 744–3573, rdehart@fs.fed.us.
Okanogan National Forest.	Information	May 24	Agriplex Fairgrounds, 175 Rodeo Trail Road, Okanogan.	1:30 p.m. to 4:00 p.m., and 6:30 p.m. to 9.00 p.m.	Jan Flatten, (509) 826–3277, jflatten@fs.fed.us.
Okanogan National Forest.	Comment	June 22	Performing Arts Center, 14 South Cedar, Omak.	10:00 a.m. to 12:00 p.m., and 1:00 p.m. to 4:00 p.m., and 6:30 p.m. to 9:00 p.m.	Jan Flatten, 826–3277, jflatten@fs.fed.us.
Olympic National Forest.	Information	May 31	City of Port Angeles Council Chambers, 321 East Fifth Street, Port Angeles.	6:00 p.m. to 9:00 p.m	Ward Hoffman, (360) 956–2375, whoffman@fs.fed.us.
Olympic National Forest.	Information	May 22	Forest Headquarters, 1835 Black Lake Boulevard Southwest, Olympia.	6:00 p.m. to 9:00 p.m	Ward Hoffman, (360) 956–2375, whoffman@fs.fed.us.
Olympic National Forest.	Comment	June 21	City of Port Angeles Council Chambers, 321 East Fifth Street, Port Angeles.	5:00 p.m. to 9:00 p.m	Ward Hoffman, (360) 956–2375, whoffman@fs.fed.us.
Olympic National Forest.	Comment	June 22	Forest Headquarters, 1835 Black Lake Boulevard Southwest, Olympia.	5:00 p.m. to 9:00 p.m	Ward Hoffman, (360) 956–2375, whoffman@fs.fed.us.
Umatilla National Forest.	Information	May 31	Walla Walla Ranger Station, 1415 West Rose, Walla Walla.	6:00 p.m. to 9:00 p.m	Mary Gibson, (509) 522–6290, mgibson@fs.fed.us.
Umatilla National Forest.	Comment	June 29	Walla Walla Ranger Station, 1415 West Rose, Walla Walla.	6:00 p.m. to 8:30 p.m	Mary Gibson, (509) 522–6290, mgibson@fs.fed.us.
Wenatchee National Forest.	Information	May 25	Wenatchee Convention Center, 121 North Wenatchee Avenue, Wenatchee.	1:30 p.m. to 4:00 p.m., and 6:30 p.m. to 9:00 p.m.	Marti Ames, (509) 662–4335, mames@fs.fed.us.
Wenatchee National Forest.	Information	May 30	Hal Holmes Center, 201 North Ruby, Ellensburg.	1:30 p.m. to 4:00 p.m., and 6:30 p.m. to 9:00 p.m.	Marti Ames, (509) 662–4335, mames@fs.fed.us.
Wenatchee National Forest.	Information	June 1	Cavanaugh's Gateway, 9 North Ninth Street, Yakima.	1:30 p.m. to 4:00 p.m., and 6:30 p.m. to 9:00 p.m.	Marti Ames, (509) 662–4335, mames@fs.fed.us.
Wenatchee National Forest.	Comment	June 20	Wenatchee Convention Center, 121 North Wenatchee Avenue, Wenatchee.	10:00 a.m. to 12:00 p.m., and 1:00 p.m. to 4:00 p.m., and 6:30 p.m. to 9:00 p.m.	Marti Ames, (509) 662–4335, mames@fs.fed.us.
Wenatchee National Forest.	Comment	June 27	Hal Holmes Center, 201 North Ruby, Ellensburg.	10:00 a.m. to 12:00 p.m., and 1:00 p.m. to 4:00 p.m., and 6:30 p.m. to 9:00 p.m.	Marti Ames, (509) 662–4335, mames@fs.fed.us
Wenatchee National Forest.	Comment	June 29	Cavanaugh's Gateway, 9 North Ninth Street, Yakima.	10:00 a.m. to 12:00 p.m., and 1:00 p.m. to 4:00 p.m., and 6:30 p.m. to 9:00 p.m.	Marti Ames, (509) 662–4335, mames@fs.fed.us.
WI:					
Regional Office	Information	May 22	Hyatt Hotel, 333 West Kilbourne, Milwaukee.	4:00 p.m. to 8:00 p.m	Gary Harris, (414) 297–3199, grharris@fs.fed.us.
Regional Office	Comment	June 20	Hyatt Hotel, 333 West Kilbourne, Milwaukee.	4:00 p.m. to 9:00 p.m	Gary Harris, (414) 297–3199, grharris@fs.fed.us.
Chequamegon—Nicolet National Forest.	Information	May 24	Crandon High School, Highway 8 West, Crandon.	6:00 p.m. to 9:00 p.m	Michael T. Miller, (715) 362–1343,
Chequamegon—Nicolet National Forest.	Comment	June 21	Park Falls City Library, 410 Division Street, Park Falls.	6:00 p.m. to 9:00 p.m	Michael T. Miller, (715) 362–1343,
Chequamegon—Nicolet National Forest.	Information	May 25	Park Falls City Library, 410 Division Street, Park Falls.	6:00 p.m. to 9:00 p.m	Michael T. Miller, (715) 362–1343,
Chequamegon—Nicolet National Forest.	Comment	June 20	Crandon High School, Highway 8 West, Crandon.	6:00 p.m. to 9:00 p.m	Michael T. Miller, (715) 362–1343,
WV:					
Monongahela National Forest.	Information	May 30	Seneca Rocks Discovery Center, Route 28, Seneca Rocks.	7:00 p.m. to 10:00 p.m	Joe Rozich, (304) 636–1800 ext. 277;
Monongahela National Forest.	Comment	June 24	Seneca Rocks Discovery Center, Route 28, Seneca Rocks.	9:00 a.m. to 12:00 p.m	Joe Rozich, (304) 636–1800 ext. 277,

APPENDIX—PROPOSED RULE FOR ROADLESS AREA CONSERVATION PUBLIC MEETINGS—Continued

State and administrative unit	Meeting purpose (information or comment)	Meeting date (2000)	Meeting location (street city)	Meeting time	Contact person (name, phone number, and electronic mail address)
WY:					
Bridger—Teton National Forests.	Information	May 30	Teton County Library, Jackson, Wyoming.	7:00 p.m. to 9:00 p.m	Rick Anderson, (307) 739–5500,
Bridger—Teton National Forests.	Comment	June 27	Teton County Library, Jackson, Wyoming.	6:00 p.m. to 9:00 p.m	Rick Anderson, (307) 739–5500,
Bridger—Teton National Forests.	Information	May 31	Afton City Hall, 416 Washington Street, Large Conference Room, Afton.	7:00 p.m. to 9:00 p.m	Rick Anderson, (307) 739–5500,
Bridger—Teton National Forests.	Comment	June 28	Afton City Hall, 416 Washington Street, Large Conference Room, Afton.	6:00 p.m. to 9:00 p.m	Rick Anderson, (307) 739–5500,
Medicine Bow-Routt National Forests.	Information	May 23	Casper Parkway Plaza, 123 West E Street, Casper.	3:00 p.m. to 8:00 p.m	Dee Hines, (307) 745–2473, dhines@fs.fed.us.
Medicine Bow—Routt National Forests.	Comment	June 27	Casper Parkway Plaza, 123 West E Street, Casper.	2:00 p.m. to 8:00 p.m	Dee Hines, (307) 745–2473, dhines@fs.fed.us.
Medicine Bow—Routt National Forests.	Information	May 22	Holiday Inn, 2313 Soldier Springs Road, Laramie.	3:00 p.m. to 8:00 p.m	Dee Hines, (307) 745–2473, dhines@fs.fed.us.
Medicine Bow—Routt National Forests.	Comment	June 28	Holiday Inn, 2313 Soldier Springs Road, Laramie.	2:00 p.m. to 8:00 p.m	Dee Hines, (307) 745–2473, dhines@fs.fed.us.
Shoshone National Forest.	Information	May 30	Holiday Inn, 1701 Sheridan, Cody.	4:00 p.m. to 7:00 p.m	Gordon Warren, (307) 527–6241,
Shoshone National Forest.	Information	May 31	Holiday Inn, 1701 Sheridan, Cody.	4:00 p.m. to 7:00 p.m	Gordon Warren, (307) 527–6241,
Shoshone National Forest.	Comment	June 27	Holiday Inn, 900 East Sunset, Riverton.	2:00 p.m. to 7:00 p.m	Gordon Warren, (307) 527–6241,
Shoshone National Forest.	Comment	June 28	Holiday Inn, 900 East Sunset, Riverton.	2:00 p.m. to 7:00 p.m	Gordon Warren, (307) 527–6241,
Bighorn National Forest	Information	June 1	Holiday Inn Convention Center, 1809 Sugarland Drive, Sheridan.	4:00 p.m. to 8:00 p.m	Joel Strong, (307) 672–0751,
Bighorn National Forest	Comment	June 26	Sheridan Center Best Western, 612 North Main, Sheridan.	4:00 p.m. to 8:00 p.m	Joel Strong, (307) 672–0751,
Bighorn National Forest	Information	June 2	BLM Conference Room, 101 South 23rd, Worland.	4:00 p.m. to 8:00 p.m	Joel Strong, (307) 672–0751,
Bighorn National Forest	Comment	June 27	BLM Conference Room, 101 South 23rd, Worland.	4:00 p.m. to 8:00 p.m	Joel Strong, (307) 672–0751,

[FR Doc. 00–11305 Filed 5–9–00; 8:45 am]
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Federal Register

Wednesday,
May 10, 2000

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 2, 11, 15, 23, and 42
Federal Acquisition Regulation; Energy Efficiency of Supplies and Services; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 11, 15, 23, and 42

[FAR Case No. 1999–011]

RIN 9000–AI71

Federal Acquisition Regulation; Energy Efficiency of Supplies and Services

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13123 of June 3, 1999, Greening the Government through Efficient Energy Management.

DATES: Interested parties should submit comments in writing on or before July 10, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.1999–011@gsa.gov. Please submit comments only and cite FAR case 1999–011 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Paul Linfield, Procurement Analyst, at (202) 501–1757. Please cite FAR case 1999–011.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends the FAR to implement E.O. 13123. The proposed rule—

1. Defines in subpart 2.1, Definitions—

(a) "Energy-efficient product" (relocated and revised from FAR 23.704);

(b) "Energy-savings performance contract" (see 10 CFR 436, Subpart B); and

(c) "Renewable energy" and "renewable energy technology" (see sections 710 and 711 of E.O. 13123);

2. Revises the policies and sources of authority in Part 11;

3. Revises part 15 to alert agencies to the special procedures at 10 CFR 436.33(b) that agencies must use when evaluating unsolicited proposals for energy-savings performance contacts (ESPCs);

4. Revises and relocates guidance on energy-efficient products and services from subpart 23.7 to subpart 23.2 so that subpart 23.7 now focuses exclusively on environmentally preferable products and services;

5. Revises subpart 23.2 by—

(a) Renaming the subpart "Energy and Water Efficiency, and Renewable Energy" to reflect its expanded subject area;

(b) Deleting outdated definitions and guidance;

(c) Adding guidance on energy- and water-efficient products (*e.g.*, ENERGY STAR®) and services, and ESPCs; and

(d) Directing contracting officers to sources for more detailed guidance and information; and

6. Makes a number of editorial changes.

The Councils proposed in FAR case 1998–015 other FAR amendments to Subpart 23.7 to implement E.O. 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition. The Councils published a proposed rule on FAR case 1998–015 in the **Federal Register** on September 23, 1999 (64 FR 51656). After comments have been reconciled, the Councils will publish a final rule on these other changes to Subpart 23.7.

This rule was not subject to Office of Management and Budget review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule simply provides additional guidance to Government contracting and technical personnel with respect to the Government's preference, currently set forth in FAR subpart 23.7, for buying environmentally preferable and energy-efficient products and services. This rule requires a contracting officer, when acquiring an energy-using product, to purchase an energy-efficient product (where life-cycle cost-effective and available), *i.e.*, a product that is in the upper 25 percent of energy efficiency as designated by the Department of Energy's (DOE's) Federal Energy Management Program or that meets DOE and Environmental Protection Agency (EPA) criteria for use of the "ENERGY STAR®" trademark label. The 25 percent benchmark for determining energy efficiency is currently addressed at FAR 23.704. Small entities that offer products to the Government may use the ENERGY STAR® label, if the product meets DOE and EPA criteria. The rule also provides guidance to contracting officers on the use of energy-savings performance contracts as alternatives to the traditional method of financing energy efficiency improvements.

An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR subparts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 1999–011), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 2, 11, 15, 23, and 42

Government procurement.

Dated: May 4, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 2, 11, 15, 23, and 42 be amended as set forth below:

1. The authority citation for 48 CFR parts 2, 11, 15, 23, and 42 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. In section 2.101, add, in alphabetical order, the definitions "Energy-efficient product," "Energy-savings performance contract," "Renewable energy," and "Renewable energy technology" to read as follows:

2.101 Definitions.

* * * * *

Energy-efficient product means a product that—

(1) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label; or

(2) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

Energy-savings performance contract means a contract that requires the contractor to—

(1) Perform services for the design, acquisition, financing, installation, testing, operation, and where appropriate, maintenance and repair, of an identified energy conservation measure or series of measures at one or more locations;

(2) Incur the costs of implementing the energy savings measures, including at least the cost (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel in exchange for a predetermined share of the value of the energy savings directly resulting from implementation of such measures during the term of the contract; and

(3) Guarantee future energy and cost savings to the Government.

* * * * *

Renewable energy means energy produced by solar, wind, geothermal, and biomass power.

Renewable energy technology means—

(1) Technologies that use renewable energy to provide light, heat, cooling, or mechanical or electrical energy for use in facilities or other activities; or

(2) The use of integrated whole-building designs that rely upon renewable energy resources, including passive solar design.

* * * * *

PART 11—DESCRIBING AGENCY NEEDS

3. In section 11.002, revise paragraph (d) to read as follows:

11.002 Policy.

* * * * *

(d)(1) The Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, *et seq.*), Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, and Executive Order 13123 of June 3, 1999, Greening the Government through Efficient Energy Management, establish requirements for acquiring—

(i) Products containing recovered materials;

(ii) Environmentally preferable products and services;

(iii) Energy-efficient products and services; and

(iv) Products and services that utilize renewable energy technologies.

(2) Executive agencies must consider use of recovered materials, energy efficiency, environmentally preferable purchasing criteria developed by the EPA, and environmental objectives (see subparts 23.2 and 23.4 and 23.703(b)) when—

(i) Developing, reviewing, or revising Federal and military specifications, product descriptions (including commercial item descriptions) and standards;

(ii) Describing Government requirements for supplies and services; and

(iii) Developing source selection factors.

* * * * *

4. In section 11.101, revise paragraph (b) to read as follows:

11.101 Order of precedence for requirements documents.

* * * * *

(b) Agencies must prepare requirements documents to achieve maximum practicable—

(1) Energy efficiency, including using renewable energy technologies; and

(2) Use of recovered material, other materials that are environmentally preferable, energy-efficient and water-efficient products, and renewable energy technologies (see subparts 23.2, 23.4, and 23.7).

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

5. In section 15.603, add paragraph (e) to read as follows:

15.603 General.

* * * * *

(e) Agencies must evaluate unsolicited proposals for energy-savings performance contracts in accordance with the procedures in 10 CFR 436.33(b).

PART 23—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

6. Revise the heading and text of section 23.000 to read as follows:

23.000 Scope.

This part prescribes acquisition policies and procedures supporting the Government's program for ensuring a drug-free workplace and for protecting and improving the quality of the environment by—

(a) Controlling pollution;

(b) Managing energy and water use in Government facilities efficiently;

(c) Using renewable energy and renewable energy technologies;

(d) Acquiring energy-efficient products and services, environmentally preferable products, and products that use recovered materials; and

(e) Requiring contractors to identify hazardous materials.

7. Revise subpart 23.2 to read as follows:

Subpart 23.2—Energy and Water Efficiency and Renewable Energy

Sec.

23.200 Scope.

(a) This subpart prescribes policies and procedures for—

(1) Acquiring energy- and water-efficient products and services, and products that use renewable energy technology; and

(2) Using an energy-savings performance contract to obtain energy-efficient technologies at Government facilities without Government capital expense.

(b) This subpart applies to acquisitions in the United States, its possessions and territories, Puerto Rico, and the Northern Mariana Islands. Agencies conducting acquisitions outside of these areas must use their best efforts to comply with this subpart.

23.201 Authorities.

(a) Energy Policy and Conservation Act (42 U.S.C. 6361(a)(1)) and Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, *et seq.*).

(b) National Energy Conservation Policy Act (42 U.S.C. 8253, 8262g, and 8287).

(c) Executive Order 11912 of April 13, 1976, Delegations of Authority under the Energy Policy and Conservation Act.

(d) Executive Order 13123 of June 3, 1999, Greening the Government through Efficient Energy Management.

23.202 Policy.

The Government's policy is to acquire supplies and services that promote energy and water efficiency, advance the use of renewable energy products, and help foster markets for emerging technologies.

23.203 Energy-efficient products.

(a) If life-cycle cost-effective and available—

(1) When acquiring energy-using products, contracting officers must purchase ENERGY STAR® or other energy-efficient products designated by the Department of Energy's Federal Energy Management Program (FEMP); or

(2) When contracting for design, construction, renovation, or maintenance of a public building that will include energy-using products, the design specification must specify or the agency specifications must require that the contractor provide ENERGY STAR® or other energy-efficient products.

(b) Information is available via the Internet on—

(1) ENERGY STAR® at http://www.energystar.gov/; and

(2) FEMP at http://www.eren.doe.gov/femp/procurement.

23.204 Energy-savings performance contracts (ESPC).

(a) Section 403 of Executive Order 13123 of June 3, 1999, Greening the Government through Efficient Energy Management, requires an agency to make maximum use of the authority provided in the National Energy Conservation Policy Act (42 U.S.C. 8287) to use an ESPC, when life-cycle cost-effective, to reduce energy use and cost in the agency's facilities and operations.

(b) Under an ESPC, an agency can contract with an energy service company for a period not to exceed 25 years to improve energy efficiency in one or more agency facilities at no direct capital cost to the United States Treasury. The energy service company finances the capital costs of implementing energy conservation measures and receives, in return, a contractually determined share of the cost savings that result.

(c) To solicit and award an ESPC, the contracting officer—

(1) Must use the procedures, selection method, and terms and conditions provided at 10 CFR part 436, subpart B; and

(2) May use the "Qualified List" of energy service companies established by the Department of Energy and other agencies.

Subpart 23.7—Contracting for Environmentally Preferable Products and Services

8. Revise the heading of Subpart 23.7 to read as set forth above.

9. Revise section 23.701 to read as follows:

23.701 Applicability.

This subpart prescribes policies for acquiring environmentally preferable products and services.

10. Amend section 23.702 by revising paragraph (f) to read as follows:

23.702 Authorities.

* * * * *

(f) Executive Order 13123 of June 3, 1999, Greening the Government through Efficient Energy Management.

23.703 [Removed]

23.704 through 23.706 [Redesignated as 23.703 through 23.705]

11. Remove section 23.703 and redesignate sections 23.704 through 23.706 as sections 23.703 through 23.705, respectively.

12. In addition to the changes above, in newly redesignated section 23.703, remove paragraph (b)(2) and redesignate paragraphs (b)(3) through (b)(6) as paragraphs (b)(2) through (b)(5), respectively.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

13. In section 42.302, revise paragraph (a)(68) to read as follows:

42.302 Contract administration functions.

(a) * * *

(68) Ensure contractor environmental practices are evaluated for possible adverse impact on contract performance or cost, and, as part of quality assurance procedures (part 46), monitor contractor compliance with environmental requirements specified in the contract. ACO responsibilities include, but are not limited to—

(i) Requesting environmental technical assistance, if needed; and

(ii) Ensuring that the contractor complies with—

(A) Specifications requiring the use of environmentally preferable products, energy-efficient products, and materials or delivery of end items with specified recovered material content; and

(B) Reporting requirements relating to recovered material content utilized in contract performance (see subpart 23.4).

* * * * *

[FR Doc. 00–11595 Filed 5–9–00; 8:45 am]

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Federal Register

Wednesday,
May 10, 2000

Part V

Department of Education

34 CFR Part 300

Assistance to States for the Education of Children With Disabilities; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 300

RIN 1820–AB51

Assistance to States for the Education of Children With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Assistance to States for the Education of Children with Disabilities program under Part B of the Individuals with Disabilities Education Act (IDEA). This amendment is needed to implement the statutory provision that for any fiscal year in which the appropriation for section 611 of part B of IDEA exceeds $4.1 billion, a local educational agency (LEA) may treat as local funds up to 20 percent of the amount it receives under that part that exceeds the amount it received during the prior fiscal year. The proposed regulation would ensure effective implementation of this statutory provision by providing clarity about the funds that can be included in this calculation, and would reduce the potential for audit exceptions.

DATES: We must receive your comments on or before August 8, 2000.

ADDRESSES: Address all comments about these proposed regulations to Thomas B. Irvin, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3090, Mary E. Switzer Building, 330 C Street, SW., Washington, DC 20202–2570.

If you prefer to send your comments through the internet, use the following address: Comments@ed.gov.

You must use the term "4.1 billion provision" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: JoLeta Reynolds (202) 205–5507. If you use a telecommunication device for the deaf (TDD), you may call the TDD number at (202) 205–5465.

Individuals with disabilities may obtain this document in an alternate format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to Katie Mimcey, Director of the Alternate Formats Center. Telephone: (202) 205–8113.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding this proposed regulation.

We also invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from the proposed regulation. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed regulation in Room 3090, Mary E. Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed regulation. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service at 1–800–877–8339.

Background

The IDEA Amendments of 1997 (Pub. L. 105–17) added a provision related to the permissive treatment of a portion of Part B funds by LEAs for maintenance of effort and non-supplanting purposes in certain fiscal years (see section 613(a)(2)(C) of the Act and § 300.233 of the current regulations). Under that provision, for any fiscal year (FY) for which the appropriation for section 611 of IDEA exceeds $4.1 billion, an LEA may treat as local funds, for maintenance of effort and non-supplanting purposes, up to 20 percent of the amount it receives that exceeds the amount it received under Part B during the prior year. Under § 300.233 an LEA is able to meet the maintenance of effort requirement of § 300.231 and non-supplant requirement of § 300.230(c) even though it reduces the amount of local or local and State funds that it spends on the Part B program, by an amount equal to the amount of Federal funds that may be treated as local funds. The Federal fiscal year 1999 was the first year that section 611 appropriation exceeded $4.1 billion.

State and local educational agency officials have told the Department that they believe it is not clear from the provision whether the funds affected are only those that an LEA receives through statutory subgrants under section 611(g), or whether the provision also applies to other Part B funding sources (*i.e.*, subgrants to LEAs for capacity-building and improvement under section 611(f)(4); other funds the SEA may provide to LEAs under section 611(f); or funds provided under section 619 (Preschool Grants program)). Further, because section 613(a)(2)(C) refers to an amount of funds that an LEA "receives" in one fiscal year compared to the amount it "received" in the prior fiscal year, and because agencies may, at any one point in time, be using funds appropriated in several Federal fiscal years, agency officials are uncertain as to how to determine that an LEA has "received" Federal funds.

Because section 613(a)(2)(C) of IDEA and § 300.233(a)(1) (which tracks the statutory language) may not be sufficiently clear with respect to which precise funds are affected, this could result in the provision being interpreted and applied differently from LEA to LEA. If that situation were to occur, it could result in a significant increase in the number of audit exceptions against LEAs. Thus, it is important to set out in the regulations a clear interpretation of section 613(a)(2)(C) to support its consistent application across LEAs and States, and to reduce the potential for audit exceptions.

In light of the statutory structure for distribution of Federal funds to LEAs, we believe that the most reasonable interpretation is to apply that provision only to subgrants to LEAs under section 611(g) of the Act (§ 300.712 of the regulations) from funds appropriated for one Federal fiscal year compared to funds appropriated for the prior Federal fiscal year. This interpretation (as reflected in the proposed regulation) would ensure that an LEA could treat as local funds up to 20 percent of the increase in the amount it is entitled to receive as a subgrant under § 300.712 for any fiscal year for which the Federal appropriation to carry out section 611 of the IDEA exceeds $4,100,000,000. Excluded from the Federal funds that can be treated as local funds will be subgrants to LEAs for capacity-building and improvement under section 611(f)(4) (§ 300.622); other funds the SEA may provide to LEAs under section 611(f) (§ 300.602); and funds provided under section 619 (Preschool Grants program) (34 CFR Part 301).

First, if IDEA funds that States have the authority to provide to LEAs on a discretionary basis, such as subgrants to LEAs for capacity building and improvement under section 611(f)(4) (§ 300.622) and other funds the SEA may provide to LEAs under section

611(f) (§ 300.602), are included in this calculation, it would result in some LEAs receiving a proportionately greater benefit from this provision than other LEAs based on receipt of funds that may be earmarked for a specific, time-limited purpose. This would lead to inequitable results of the § 300.233 exception across LEAs in a State. In addition, including section 619 formula grant funds (34 CFR Part 301) in the calculation does not appear to be justified as the 'trigger' appropriation is the amount appropriated under section 611.

The proposed regulation also would provide that if funds are being withheld from an LEA or have been reallocated to other LEAs, those funds would not be included in this calculation, as they would not be available to the LEA for the provision of special education and related services to children with disabilities.

Below are examples showing how this proposed regulation would apply under several situations:

- *Example 1*: An LEA receives $100,000 in Federal LEA Subgrant funds under section 611(g) of the Act in one fiscal year (FY–1), and $120,000 in section 611(g) funds in the following fiscal year (FY–2). The LEA may treat as local funds up to 20 percent of the $20,000 in section 611(g) funds it receives in FY–2 (*i.e.*, up to $4,000), since this is the amount that exceeds the amount it received in the prior year.
- *Example 2*: An LEA, in one fiscal year (FY–1), receives $100,000 in section 611(g) funds, and $20,000 in LEA discretionary funds under section 611(f) of the Act; and in the following fiscal year (FY–2), the LEA receives $120,000 in section 611(g) funds, but does not receive any funds under section 611(f). The LEA may treat as local funds up to 20 percent of the $20,000 in section 611(g) funds it receives in FY–2 (*i.e.*, up to $4,000), since this is the amount of section 611(g) funds that exceeds the amount it received in FY–1.
- *Example 3*: An LEA had all of its section 611(g) funds ($100,000) withheld in one fiscal year (FY–1); but in the next fiscal year (FY–2), the LEA received a total of $220,000 in section 611(g) funds (*i.e.*, $100,000 for FY–1, plus $120,000 for FY–2). Because the LEA would have been entitled to $100,000 in FY–1, the LEA may treat as local funds up 20 percent of the $20,000 in FY–2 that exceeded its FY–1 allotment, or up to $4,000.
- *Example 4*: An LEA received $100,000 under section 611(g) in one fiscal year (FY–1), and would have received $120,000 in section 611(g) funds for the next fiscal year (FY–2); but the LEA has all of its section 611(g) funds withheld in FY–2. The LEA would have no section 611(g) funds that could be treated as local funds in FY–2.

By clearly articulating that the standard refers to funds that an LEA is eligible to receive from a particular Federal appropriation, the proposed regulation would provide for consistent application from year to year across LEAs. It also would provide necessary clarity to budget officials and auditors, and ensure that each LEA receives a comparable benefit from this statutory provision.

It is important to note that § 303.233(b) of the existing regulation (which tracks the statutory language under section 613(a)(2)(C)(ii)) provides that "If an SEA determines that an LEA is not meeting the requirements of this part, the SEA may prohibit the LEA from treating funds received under Part B of the Act as local funds under paragraph (a)(1) of this section for any fiscal year, but only if it is authorized to do so by the State constitution or a State statute."

Federal fiscal year 1999 was the first year that the section 611 appropriation exceeded $4.1 billion. However, since awards for fiscal year 1999 have already been made, these proposed regulations would be effective only for fiscal year 2000 and later appropriations. Thus, under the proposed regulation, FY 1999 would be the "previous fiscal year" for purposes of determining the amount of an LEA's FY 2000 grant under § 300.712 that it may treat as local funds. The amount of increase from FY 1999 to FY 2000 for purposes of this calculation would be based on the amount of funds the LEA was eligible to receive under § 300.712 in each of those years, rather than the amount it received during a particular year, or some other amount. Funds that were withheld from the LEA could not be considered.

Executive Order 12866

1. Potential Cost and Benefits

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this regulatory action, we have determined that the benefits would justify the costs.

We have also determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of Potential Costs and Benefits

The potential costs and benefits of this proposed regulation are discussed elsewhere in this document under the Supplementary Information section.

2. Clarity of the Regulations

Executive Order 12866 and the President's Memorandum of June 1, 1998 on "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

We invite comments on how to make this proposed regulation easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulation clearly stated?
- Does the proposed regulation contain technical terms or other wording that interferes with its clarity?
- Does the format of the proposed regulation (use of headings, paragraphing, *etc.*) aid or reduce it's clarity?
- Could the description of the proposed regulation in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulation easier to understand? If so, how?
- What else could we do to make the proposed regulation easier to understand?

Send any comments that concern how the Department could make this proposed regulation easier to understand to the person listed in the **ADDRESSES** section of the preamble.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have significant economic impact on a substantial number of small entities. The small entities affected would be small LEAs. The regulations would benefit the small entities affected by clarifying the statutory requirements and reducing the possibility of audit exceptions. By ensuring consistency, the regulations would promote more effective and efficient program administration.

Paperwork Reduction Act of 1995

This proposed regulation does not contain any information collection requirements.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34

CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Assessment of Educational Impact

The Secretary particularly requests comments on whether this proposed regulation would require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
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To use the PDF you must have Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–800–293–6498; or in the Washington, D.C., area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at:

http://www.access.gpo.gov/nara/index.html

(Catalog of Federal Domestic Assistance Number: 84.027 Assistance to States for the Education of Children with Disabilities)

List of Subjects in 34 CFR Part 300

Administrative practice and procedure, Education of individuals with disabilities, Elementary and secondary education, Equal educational opportunity, Grant programs—education, Privacy, Private schools, Reporting and recordkeeping requirements.

Dated: February 29, 2000.

Richard W. Riley,

Secretary of Education.

For the reasons described in the preamble, the Secretary proposes to amend title 34 of the Code of Federal Regulations as follows:

PART 300—ASSISTANCE TO STATES FOR THE EDUCATION OF CHILDREN WITH DISABILITIES PROGRAM

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

Authority: 20 U.S.C. 1411–1420, unless otherwise noted.

2. Section 300.233 is amended by revising paragraph (a)(1), and by adding a new paragraph (a)(3), to read as follows:

§ 300.233 Treatment of Federal funds in certain fiscal years.

(a)(1) Subject to paragraphs (a)(2), (a)(3), and (b) of this section, for any fiscal year for which amounts appropriated to carry out section 611 of the Act exceed $4,100,000,000, an LEA may treat as local funds up to 20 percent of the amount of funds it is eligible to receive under § 300.712 from that appropriation that exceeds the amount from funds appropriated for the previous fiscal year that the LEA was eligible to receive under § 300.712.

* * * * *

(3) For purposes of this section, an LEA is not eligible to receive funds that have been withheld under § 300.197 or 300.587 or have been reallocated to other LEAs in the State under § 300.714.

* * * * *

[FR Doc. 00–11601 Filed 5–9–00; 8:45 am]
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Federal Register

Wednesday,
May 10, 2000

Part VI

Department of Housing and Urban Development

Notice of PHAs Eligible for FY 2000 Funding and Final Opportunity To Obtain FY 1999 Funding Under the Public Housing Drug Elimination Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4451–N–07]

Notice of PHAs Eligible for FY 2000 Funding and Final Opportunity To Obtain FY 1999 Funding Under the Public Housing Drug Elimination Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of PHAs eligible for FY 2000 funding and final opportunity to obtain FY 1999 funding under the Public Housing Drug Elimination Program (PHDEP).

SUMMARY: The Department of Housing and Urban Development (HUD) is publishing the list of public housing agencies (PHAs) eligible to receive FY 2000 PHDEP funding and also notifying PHAs that are eligible, but have not applied, to receive Public Housing Drug Elimination Program (PHDEP) FY 1999 funding that they have one final opportunity to apply for this funding.

DATES: Application due date (for PHAs listed in this notice that are eligible for FY 1999 PHDEP funding but that have not yet applied): June 26, 2000.

A PHA that qualifies to receive PHDEP funding for FY 2000 must include a PHDEP plan that meets the requirements of 24 CFR 761.21 with its PHA Plan submitted pursuant to 24 CFR part 903 and applicable PIH Notices.

ADDRESSES: For FY 1999 PHDEP funding: Submit an original and two copies of the information requested to the local Field Office with delegated public housing responsibilities: Attention: Director, Office of Public Housing. For a listing of Field Offices, please see the application kit, or the Appendix published in the February 26, 1999 SuperNOFA at 64 FR 9767.

FOR FURTHER INFORMATION CONTACT: Bertha M. Jones, Program Analyst, Community Safety and Conservation Division, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–1197 x.4237 (this is not a toll-free number). For further information on the PHA Plan (including applicable PIH Notices) see HUD's PHA Plan website at http://www.hud.gov/pih/pha/plans/phaps-home.html or contact Beth Cooper, Program Analyst, Office of Policy, Program and Legislative Initiatives, telephone (202) 708–0713. Hearing or speech-impaired individuals may access these numbers via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Final Opportunity To Obtain FY 1999 PHDEP Funding

In a final rule published September 14, 1999 (64 FR 49899) implementing the formula allocation of PHDEP funding, HUD published a list of PHAs eligible for FY 1999 funding. The listed PHAs were required to submit an application in accordance with the Notice Withdrawing and Reissuing the FY 1999 PHDEP NOFA published on May 12, 1999 (64 FR 25746) in order to receive this funding.

Of the approximately $231,750,000 in FY 1999 funding made available, $5,960,669 has not been claimed by 110 PHAs that were eligible to receive funding but did not submit applications. HUD is providing these PHAs, listed below along with the amounts they are eligible to receive, one final opportunity to receive FY 1999 PHDEP funding. Any PHA included in the list must submit an application in accordance with the May 12, 1999 notice by the date listed in the **DATES:** heading at the beginning of this notice in order to receive FY 1999 PHDEP funding.

PHA code and PHA name	Amount
AL175—Livingston Housing Authority	$25,000
AL178—Dadeville Housing Authority	25,000
AR037—Prescott Housing Authority	25,000
AZ003—Glendale Housing Authority	34,091
AZ008—Winslow Housing Authority	25,000
AZ013—Yuma County Housing Authority	34,971
AZ023—Nogales Housing Authority	49,926
AZ038—Peoria Housing Authority	25,000
CA007—County of Sacramento Housing & Redevelopment Agency	234,017
CA009—Upland Housing Authority	25,000
CA025—City of Eureka Housing Authority	43,548
CA030—Tulare County Housing Authority	157,037
CA058—City of Berkeley Housing Authority	25,000
CA059—County of Santa Clara Housing Authority	116,568
CA067—ALameda County Housing Authority	51,026
CA142—Dublin Housing Authority	32,991
CO0014—Wellington Housing Authority	21,000
CO028—Colorado Springs Housing Authority	155,498
CO035—Greeley Housing Authority	25,000
CO041—Fort Collins Housing Authority	33,871
CO049—Lakewood Housing Authority	45,968
CO052—Aurora Housing Authority	44,208
CO059—Louisville Housing Authority	6,500
CO061—Boulder County Housing Authority	25,000
FL061—Dunedin Housing Authority	25,000
FL119—Boca Raton Housing Authority	25,000
FL136—Hollywood Housing Authority	26,393
GA081—Hartwell Housing Authority	39,589
GA085—Quitman Housing Authority	47,727
GA161—Harris County Housing Authority	21,500
GA214—Ellaville Housing Authority	20,000
IA018—Sioux City Housing Authority	15,000
IA023—Council Bluffs Housing Authority	64,882
IA050—Waterloo Housing Authority	25,000

PHA code and PHA name	Amount
IA131—Central Iowa Housing AUthority	30,352
ID021—Ada Housing Authority	5,000
IL009—Henry County Housing AUthority	102,492
IL078—Bond City Housing Authority	33,871
IN020—Mishawaka Housing	65,762
IN021—Terre Haute	191,788
KS004—Wichita Housing Authority	127,126
KS038—Salina Housing Authority	35,850
KS043—Olathe Housing Authority	28,592
KS063—Manhattan Housing Authority	57,624
KS068—Leavenworth Housing Authority	25,000
MD012—Havre De Grace Housing Authority	25,000
MI003—Dearborn Housing Commission Housing Authority	73,240
MI004—Hamtramck Housing Commission Housing Authority	98,973
MI014—Albion Housing Commission	48,387
MI031—Muskegon Heights Housing Authority	76,759
MI035—Battle Creek Housing Commission	91,715
MI055—Livonia Housing Commission	38,929
MI089—Taylor Housing Commission	25,000
MI157—Sterling Heights Housing Commission	33,651
MN152—Bloomington HRA Housing Authority	10,000
MO003—St. Joseph Housing Authority	39,589
MO030—Lee's Summit Housing Authority	25,513
MO070—Richmond Housing Authority	25,953
MT002—Great Falls Housing Authority	107,771
NC059—Housing Authority of Graham	37,390
NC174—Vance County Housing Authority	25,000
NE002—Lincoln Housing Authority	70,381
NE003—Hall County Housing Authority	86,437
NE125—North Platte Housing Authority	54,985
NE153—Douglas County Housing Authority	25,000
NE174—Bellevue Housing Authority	25,000
NY029—Lackawanna Housing Authority	107,990
NY033—Rensselaer Housing Authority	32,111
NY077—Town of Islip Housing Authority	77,419
OH023—London Metropolitan Housing Authority	25,000
OR014—Marion Housing Authority	24,500
PA003—Scranton Housing Authority	291,420
PA004—Allentown Housing Authority	317,814
PA071—Berks County Housing Authority	45,968
RI011—Warwick Housing Authority	114,149
SD016—Sioux Falls Housing Authority	12,500
SD045—Pennington County Housing Authority	109,970
TN008—Paris Housing Authority	43,108
TN011—Pulaski Housing Authority	52,786
TN041—Covington Housing Authority	58,064
TN076—Elizabethton Housing and Development Agency	71,701
TN095—Shelby County Housing Authority	38,490
TX020—Bryan Housing Authority	65,982
TX085—Victoria Housing Authority	70,601
TX092—Ladonia Housing Authority	10,000
TX173—Port Isabel Housing Authority	33,431
TX257—Slaton Housing Authority	25,000
TX379—Midland Housing Authority	25,000
TX395—Port Lavaca Housing Authority	25,000
TX406—Huntsville Housing Authority	25,000
TX452—Bexar County Housing Authority	15,000
UT002—Ogden Housing Authority	48,387
UT011—Utah County Housing Authority	25,000
UT025—West Valley City Housing Authority	9,000
VA013—Lynchburg Redevelopment & Housing Authority	74,560
VT005—Barre Housing Authority	81,158
WA006—Everett Housing Authority	137,903
WA025—Bellingham Housing Authority	116,129
WA030—Sedro Woolley Housing Authority	25,000
WA041—Whatcom County Housing Authority	25,000
WA042—Yakima Housing Authority	29,472
WA054—Pierce County Housing Authority	34,091
WA055—Spokane Housing Authority	27,493
WI074—Green Bay Housing Authority	44,868
WI183—Racine County Housing Authority	11,000
WV006—Martinsburg Housing Authority	71,920

PHA code and PHA name	Amount
WV009—Fairmont Housing Authority	29,912
WV018—Bluefield Housing Authority	36,290
WV027—Clarksburg Housing Authority	71,041
Total	5,960,669

II. Reporting Requirements Reminder

In accordance with 24 CFR 761.35, recipients of PHDEP funds are required to report the performance of approved activities for each grant on a semi-annual basis and to report final performance at the end of the grant term. The semi-annual performance report must be submitted electronically over the Internet by accessing the following URL address: http://www.hud.gov/pih/systems/ibs/phdep/phdep.html. The semi-annual financial status report (SF 269A—not an electronic submission) must be submitted to the appropriate Field Office or Area Offices of ONAP. Grantees are required to submit semi-annual reports by July 30th for the January-June reporting period and by January 31st for the July-December reporting period. PHDEP grant funds may be suspended if reports are not submitted by the deadline.

III. PHAs Eligible for FY 2000 Funding

The following tables are the listings of PHAs that qualify for PHDEP Funding for FY 2000. There is one table for each of the three categories of eligible PHAs. The first table includes an eligibility designation of "R" in the third column, which means that each listed PHA is eligible for funding as a "preference PHA" under § 761.15(a)(2). In Table 2, the designation of "N1" in the third column means the PHA was designated eligible on the basis of need as determined under the formula in § 761.15(a)(3). In Table 3, the designation of "N2" means the PHA is eligible on the basis of need as a PHA that qualified for funding under FYs 1996, 1997 or 1998, but was not funded because of the unavailability of funds, in accordance with § 761.15(a)(4).

The source of data for these listings is the PIH Information Center (PIC) and was captured in the PHDEP Formula database on March 7, 2000. The data captured reflects the PHA's inventory as of September 30, 1999.

TABLE 1

PHA code and PHA name	Eligibility
AK001—ALASKA HOUSING FINANCE CORPORATION	R
AL001—BIRMINGHAM	R
AL002—MOBILE	R
AL004—ANNISTON	R
AL005—PHENIX CITY	R
AL006—MONTGOMERY	R
AL007—DOTHAN	R
AL008—SELMA	R
AL010—FAIRFIELD	R
AL012—JASPER	R
AL014—GUNTERSVILLE	R
AL047—HUNTSVILLE	R
AL048—DECATUR	R
AL049—GREATER GADSDEN	R
AL050—AUBURN	R
AL054—FLORENCE	R
AL056—HALEYVILLE	R
AL057—SYLACAUGA	R
AL060—RUSSELLVILLE	R
AL061—OPELIKA	R
AL062—LANETT	R
AL064—CARBON HILL	R
AL068—SHEFFIELD	R
AL069—LEEDS	R
AL071—GUIN	R
AL073—OZARK	R
AL077—TUSCALOOSA	R
AL086—JEFFERSON COUNTY	R
AL088—LUVERNE	R
AL094—GEORGIANA	R
AL098—ALICEVILLE	R
AL099—SCOTTSBORO	R
AL105—TALLADEGA	R
AL110—PIEDMONT	R
AL112—OPP	R
AL114—LINEVILLE	R
AL115—ENTERPRISE	R
AL116—YORK	R
AL118—EUFAULA	R
AL122—CHILDERSBURG	R

TABLE 1—Continued

PHA code and PHA name	Eligibility
AL125—BESSEMER	R
AL128—SAMSON	R
AL129—WALKER COUNTY	R
AL131—PRATTVILLE	R
AL132—GOODWATER	R
AL136—ASHLAND	R
AL139—JACKSONVILLE	R
AL147—BRIDGEPORT	R
AL152—NORTHPORT	R
AL155—GREENVILLE	R
AL157—GREENSBORO	R
AL159—LAFAYETTE	R
AL160—TUSKEGEE	R
AL165—FOLEY	R
AL166—CHICKASAW	R
AL167—STEVENSON	R
AL169—PRICHARD	R
AL171—UNIONTOWN	R
AL172—TALLASSEE	R
AL173—MONROEVILLE	R
AL174—ALEXANDER CITY	R
AL177—TROY	R
AL178—DADEVILLE	R
AL179—DALEVILLE	R
AL181—EVERGREEN	R
AL182—TRIANA	R
AL190—GREENE COUNTY	R
AL192—SO CENTRAL ALABAMA REGIONAL	R
AL199—VALLEY	R
AL202—MOBILE COUNTY	R
AR002—NORTH LITTLE ROCK HOUSING AUTHORITY	R
AR003—FORT SMITH	R
AR004—LITTLE ROCK HOUSING AUTHORITY	R
AR006—CONWAY HOUSING AUTHORITY	R
AR015—TEXARKANA	R
AR016—CAMDEN HOUSING AUTHORITY	R
AR017—PINE BLUFF HOUSING AUTHORITY	R
AR018—MAGNOLIA	R
AR031—HOT SPRINGS HOUSING AUTHORITY	R
AR037—PRESCOTT	R
AR051—CLARKSVILLE	R
AR065—STEPHENS	R
AR094—MALVERN HOUSING AUTHORITY	R
AR099—FORREST CITYRA	R
AR131—JONESBORO URBAN RENEWAL HA	R
AZ001—PHOENIX	R
AZ003—GLENDALE	R
AZ004—TUCSON	R
AZ006—FLAGSTAFF	R
AZ008—WINSLOW	R
AZ009—MARICOPA COUNTY	R
AZ010—PINAL COUNTY	R
AZ021—ELOY	R
AZ023—NOGALES	R
AZ025—SOUTH TUCSON	R
AZ028—CHANDLER	R
AZ035—YUMA CITY	R
AZ041—WILLIAMS	R
CA001—SAN FRANCISCO HSG AUTH	R
CA002—LOS ANGELES COUNTY (HACOLA)	R
CA003—OAKLAND HOUSING AUTHORITY	R
CA004—LOS ANGELES CITY (HACLA)	R
CA005—CITY OF SACRAMENTO	R
CA006—CITY OF FRESNO HSG AUTH	R
CA007—COUNTY OF SACRAMENTO	R
CA008—KERN COUNTY	R
CA010—CITY OF RICHMOND HSG AUTH	R
CA011—COUNTY OF CONTRA COSTA HSG AUT	R
CA019—SAN BERNARDINO COUNTY	R
CA021—SANTA BARBARA COUNTY	R
CA023—COUNTY OF MERCED HOUSING AUTHO	R
CA024—COUNTY OF SAN JOAQUIN HOUSING	R

TABLE 1—Continued

PHA code and PHA name	Eligibility
CA025—CITY OF EUREKA HSG AUTH	R
CA026—COUNTY OF STANISLAUS HOUSING A	R
CA027—RIVERSIDE COUNTY	R
CA028—COUNTY OF FRESNO HSG AUTH	R
CA031—OXNARD	R
CA033—COUNTY OF MONTEREY HSG AUTH	R
CA039—CALEXICO CITY	R
CA044—YOLO COUNTY HSG AUTHORITY	R
CA052—COUNTY OF MARIN HOUSING AUTHOR	R
CA062—CITY OF ALAMEDA HOUSING AUTHOR	R
CA063—SAN DIEGO HOUSING COMMISSION	R
CA064—SAN LUIS OBISPO	R
CA069—CITY OF MADERA HOUSING AUTHORI	R
CA076—SANTA BARBARA CITY	R
CA092—VENTURA COUNTY	R
CA143—IMPERIAL VALLEY HOUSING AUTHORITY	R
CO001—DENVER	R
CO002—PUEBLO	R
CO016—BOULDER CITY	R
CT001—BRIDGEPORT HOUSING AUTHORITY	R
CT002—NORWALK HOUSING AUTHORITY	R
CT003—HARTFORD HOUSING AUTHORITY	R
CT004—NEW HAVEN HOUSING AUTHORITY	R
CT005—NEW BRITAIN HOUSING AUTHORITY	R
CT006—WATERBURY HOUSING AUTHORITY	R
CT007—STAMFORD HOUSING AUTHORITY	R
CT009—MIDDLETOWN HOUSING AUTHORITY	R
CT011—MERIDEN HOUSING AUTHORITY	R
CT013—EAST HARTFORD HOUSING AUTHORITY	R
CT015—ANSONIA HOUSING AUTHORITY	R
CT018—NORWICH HOUSING AUTHORITY	R
CT019—GREENWICH HOUSING AUTHORITY	R
CT020—DANBURY HOUSING AUTHORITY	R
CT023—BRISTOL HOUSING AUTHORITY	R
CT026—MANCHESTER HOUSING AUTHORITY	R
CT027—STRATFORD HOUSING AUTHORITY	R
CT029—WEST HAVEN HOUSING AUTHORITY	R
DC001—D.C HOUSING AUTHORITY	R
DE001—WILMINGTON HOUSING AUTHORITY	R
DE002—DOVER HOUSING AUTHORITY	R
DE004—DELAWARE STATE HSNG AUTH	R
FL001—JACKSONVILLE	R
FL002—ST. PETERSBURG	R
FL003—TAMPA	R
FL004—ORLANDO	R
FL005—MIAMI-DADE	R
FL006—PENSACOLA (AHC)	R
FL007—DAYTONA BEACH	R
FL008—SARASOTA	R
FL009—WEST PALM BEACH	R
FL010—FT. LAUDERDALE	R
FL011—LAKELAND	R
FL013—KEY WEST	R
FL015—NW FLORIDA REGIONAL	R
FL016—SANFORD	R
FL018—PANAMA CITY	R
FL019—COCOA	R
FL020—BREVARD COUNTY	R
FL022—NEW SMYRNA BEACH	R
FL023—BRADENTON	R
FL025—TITUSVILLE	R
FL028—POMPANO BEACH	R
FL032—OCALA	R
FL041—FT. PIERCE	R
FL046—CRESTVIEW	R
FL047FT.—MYERS	R
FL055—ARCADIA	R
FL056—MELBOURNE	R
FL057—PALATKA	R
FL060—PUNTA GORDA	R
FL063—GAINESVILLE	R
FL066—HIALEAH	R

TABLE 1—Continued

PHA code and PHA name	Eligibility
FL069—FORT WALTON BEACH	R
FL070—ALACHUA COUNTY	R
FL071—LAKE WALES	R
FL072—DELAND	R
FL073—TALLAHASSEE	R
FL075—CLEARWATER	R
FL076—RIVIERA BEACH	R
FL079—BROWARD COUNTY	R
FL080—PALM BEACH COUNTY	R
FL081—DEERFIELD BEACH	R
FL083—DELRAY BEACH	R
FL104—PASCO COUNTY	R
FL139—WINTER HAVEN	R
FL144—MONROE COUNTY	R
GA001—AUGUSTA	R
GA002—SAVANNAH	R
GA003—ATHENS	R
GA004—COLUMBUS	R
GA005—ROME	R
GA006—ATLANTA	R
GA007—MACON	R
GA009—BRUNSWICK	R
GA010—MARIETTA	R
GA011—DECATUR	R
GA023—ALBANY	R
GA025—CEDARTOWN	R
GA028—WAYCROSS	R
GA059—GAINESVILLE	R
GA060—MOULTRIE	R
GA062—AMERICUS	R
GA063—CORDELE	R
GA065—WEST POINT	R
GA066—JESUP	R
GA069—DUBLIN	R
GA072—EATONTON	R
GA073—MONROE	R
GA074—ELBERTON	R
GA075—TOCCOA	R
GA076—DOUGLAS CITY	R
GA077—COCHRAN	R
GA078—EAST POINT	R
GA080—EASTMAN	R
GA082—CORNELIA	R
GA085—QUITMAN	R
GA090—ROYSTON	R
GA093—LAWRENCEVILLE	R
GA094—LAVONIA	R
GA095—NEWNAN	R
GA096—CAMILLA	R
GA098—PELHAM	R
GA100—VALDOSTA	R
GA102—ROCKMART	R
GA115—CLAYTON	R
GA116—CARROLLTON	R
GA119—CALHOUN	R
GA120—LYONS	R
GA133—ALMA	R
GA134—BLACKSHEAR	R
GA145—VIDALIA	R
GA147—SOCIAL CIRCLE	R
GA148—DALLAS	R
GA153—SUMMERVILLE	R
GA160—WARNER ROBINS	R
GA171—LOGANVILLE	R
GA182—MCDONOUGH	R
GA183—WINDER	R
GA193—MADISON	R
GA200—MILLEDGEVILLE	R
GA204—SENOIA	R
GA213—CANTON	R
GA226—CUTHBERT	R
GA232—COLLEGE PARK	R

TABLE 1—Continued

PHA code and PHA name	Eligibility
GA237—DEKALB COUNTY	R
GA247—THOMASTON	R
GA254—BREMEN	R
GA264—FULTON COUNTY	R
GA268—HOUSTON COUNTY	R
GA280—FLINT AREA CONSOLIDATED	R
GA281—ETOWAH AREA	R
GQ001—GUAM	R
HI001—HAWAII HOUSING AND COMMUNITY DEVELOPMENT CORPORATI	R
IA020—DES MOINES	R
IL001—EAST ST. LOUIS HSG AUTH	R
IL002—CHICAGO HOUSING AUTHORITY	R
IL003—PEORIA HOUSING AUTHORITY	R
IL004—SPRINGFIELD HOUSING AUTHORITY	R
IL006—CHAMPAIGN COUNTY HSG AUTH	R
IL007—ALEXANDER COUNTY HSG AUTH	R
IL009—HENRY COUNTY HSG AUTH	R
IL011—DANVILLE HOUSING AUTHORITY	R
IL012—DECATUR HOUSING AUTHORITY	R
IL014—LASALLE COUNTY HSG AUTH	R
IL015—MADISON COUNTY HSG AUTH	R
IL018—ROCK ISLAND CITY HSG AUTH	R
IL022—ROCKFORD HOUSING AUTH	R
IL024—JOLIET HOUSING AUTHORITY	R
IL025—COOK COUNTY HSG AUTH	R
iL026—WAUKEGAN HSG AUTH	R
IL029—FREEPORT HOUSING AUTHORITY	R
IL030—ST. CLAIR CY HSG AUTH	R
IL039—KANKAKEE CTY HSG AUTH	R
IL051—BLOOMINGTON HSG AUTH	R
IL052—RANDOLPH CTY HSG AUTH	R
IL053—JACKSON CTY HSG AUTH	R
IL055—ALTON HSG AUTH	R
IL056—LAKE CTY HSG AUTH	R
IL059—JEFFERSON CTY HSG AUTH	R
IL061—FRANKLIN CTY HSG AUTH	R
IL078—BOND CTY HSG AUTH	R
IL083—WINNEBAGO CTY HSG AUTH	R
IL085—KNOX CTY HSG AUTH	R
IL090—AURORA HSG AUTH	R
IL091—WARREN CTY HSG AUTH	R
IL092—ELGIN HSG AUTH	R
IN003—FORT WAYNE HOUSING AUTHORITY	R
IN005—MUNCIE HOUSING AUTHORITY	R
IN007—KOKOMO HOUSING AUTHORITY	R
IN010—HAMMOND HOUSING AUTHORITY	R
IN011—GARY HOUSING AUTHORITY	R
IN015—SOUTH BEND HOUSING AUTHORITY	R
IN016—EVANSVILLE HOUSING AUTHORITY	R
IN017—INDIANAPOLIS HOUSING AGENCY	R
IN019—MICHIGAN CITY HOUSING AUTHORITY	R
IN023—JEFFERSONVILLE HOUSING AUTHORITY	R
IN026—ELKHART HOUSING AUTHORITY	R
IN029—EAST CHICAGO HOUSING AUTHORITY	R
KS001—KANSAS CITY, KS	R
KS002—TOPEKA	R
KS017—ATCHISON	R
KS053—LAWRENCE	R
KS062—CHANUTE	R
KS063—MANHATTAN	R
KY001—HA LOUISVILLE	R
KY002—HA COVINGTON	R
KY003—HA FRANKFORT	R
KY004—HA LEXINGTON	R
KY006—HA PADUCAH	R
KY011—HA HOPKINSVILLE	R
KY012—HENDERSON H/A	R
KY014—DANVILLE	R
KY016—RICHMOND	R
KY017—HA MAYSVILLE	R
KY020—MT STERLING	R
KY021—HA CYNTHIANA	R

TABLE 1—Continued

PHA code and PHA name	Eligibility
KY022—HA LEBANON	R
KY025—LYON COUNTY	R
KY027—HA PAINTSVILLE	R
KY029—CUMBERLAND	R
KY030—MURRAY	R
KY031—WILLIAMSBURG	R
KY033—CATLETTSBURG	R
KY037—HICKMAN	R
KY038—MARTIN	R
KY041—MORGANTOWN	R
KY043—FULTON	R
KY047—CAMPBELLSVILLE	R
KY059—FALMOUTH	R
KY061—HA GEORGETOWN	R
KY063—BOWLING GREEN	R
KY064—COLUMBIA	R
KY070—CENTRAL CITY	R
KY072—PRINCETON	R
KY099—FRANKLIN	R
KY105—HOUSING AUTH OF JEFFERSON COUN	R
KY107—HA PIKEVILLE	R
LA001—NEW ORLEANS HOUSING AUTHORITY	R
LA003—EAST BATON ROUGE HSG AUTHORITY	R
LA004—LAKE CHARLES HOUSING AUTHORITY	R
LA005—LAFAYETTE (CITY) HOUSING AUTHORITY	R
LA006—MONROE HOUSING AUTHORITY	R
LA012—KENNER HOUSING AUTHORITY	R
LA027—NEW IBERIA HOUSING AUTHORITY	R
LA030—VILLE PLATTE HOUSING AUTHORITY	R
LA036—MORGAN CITY HOUSING AUTHORITY	R
LA045—ARCADIA HOUSING AUHTORITY	R
LA054—RUSTON HOUSING AUTHORITY	R
LA070—PATTERSON HOUSING AUTHORITY	R
LA080—LAFOURCHE PARISH HOUSING AUTHORITY	R
LA086—DERIDDER HOUSING AUTHORITY	R
LA089—HOMER HOUSING AUTHORITY	R
LA092—ST JAMES PARISH HOUSING AUTHORITY	R
LA095—ST. JOHN THE BAPTIST PARISH HOUSING AUTHORITY	R
LA106—DEQUINCY HOUSING AUTHORITY	R
LA115—NATCHITOCHES CITY HOUSING AUTHORITY	R
LA118—JENNINGS HOUSING AUTHORITY	R
LA166—NATCHITOCHES PARISH HOUSING AUTHORITY	R
MA001—LOWELL HOUSING AUTHORITY	R
MA002—BOSTON HOUSING AUTHORITY	R
MA003—CAMBRIDGE HOUSING AUTHORITY	R
MA005—HOLYOKE HOUSING AUTHORITY	R
MA006—FALL RIVER HOUSING AUTHORITY	R
MA007—NEW BEDFORD HOUSING AUTHORITY	R
MA008—CHICOPEE HOUSING AUTHORITY	R
MA010—LAWRENCE HOUSING AUTHORITY	R
MA012—WORCESTER HOUSING AUTHORITY	R
MA014—REVERE HOUSING AUTHORITY	R
MA015—MEDFORD HOUSING AUTHORITY	R
MA016—CHELSEA HOUSING AUTHORITY	R
MA017—TAUNTON HOUSING AUTHORITY	R
MA019—WOBURN HOUSING AUTHORITY	R
MA022—MALDEN HOUSING AUTHORITY	R
MA023—LYNN HOUSING AUTHORITY	R
MA024—BROCKTON HOUSING AUTHORITY	R
MA025—GLOUCESTER HOUSING AUTHORITY	R
MA028—FRAMINGHAM HOUSING AUTHORITY	R
MA031—SOMERVILLE HOUSING AUTHORITY	R
MA033—BROOKLINE HOUSING AUTHORITY	R
MA035—SPRINGFIELD HOUSING AUTHORITY	R
MD001—ANNAPOLIS HOUSING AUTHORITY	R
MD002—BALTIMORE CITY HOUSING AUTHORITY	R
MD003—FREDERICK HOUSING AUTHORITY	R
MD004—MONTGOMERY CO HOUSING AUTHORITY	R
MD005—CUMBERLAND HOUSING AUTHORITY	R
MD006—HAGERSTOWN HOUSING AUTHORITY	R
MD007—ROCKVILLE HOUSING AUTHORITY	R
MD012—HAVRE DE GRACE HOUSING AUTHORITY	R

TABLE 1—Continued

PHA code and PHA name	Eligibility
MD013—ST. MICHAELS HOUSING AUTHORITY	R
MD015—PRINCE GEORGES COUNTY HOUSING AUTHORITY	R
MD018—ANNE ARUNDEL COUNTY HOUSING AU	R
ME003—PORTLAND HOUSING AUTHORITY	R
ME005—LEWISTON HOUSING AUTHORITY	R
ME006—BRUNSWICK HOUSING AUTHORITY	R
MI001—DETROIT HC	R
MI004—HAMTRAMCK HC	R
MI005—PONTIAC HC	R
MI006—SAGINAW HC	R
MI007—ECORSE HC	R
MI008—RIVER ROUGE HC	R
MI009—FLINT HC	R
MI010—BENTON HARBOR HSG COMM	R
MI014—ALBION HGS COMM	R
MI026—YPSILANTI HC	R
MI027—INKSTER HC	R
MI028—MOUNT CLEMENS HC	R
MI031—MUSKEGON HEIGHTS	R
MI039—PORT HURON HC	R
MI058—LANSING HOUSING COMMISSION	R
MI064—ANN ARBOR HC	R
MI072—ROMULUS HC	R
MI073—GRAND RAPIDS HOUSING COMM	R
MN001—ST PAUL PHA	R
MN002—MINNEAPOLIS PHA	R
MN003—DULUTH HRA	R
MO001—ST. LOUIS HOUSING AUTHORITY	R
MO002—KANSAS CITY, MO	R
MO004—ST. LOUIS COUNTY HOUSING AUTHO	R
MO005—KINLOCH HA	R
MO007—COLUMBIA HOUSING AUTHORITY	R
MO009—JEFFERSON CITY HOUSING AUTHORITY	R
MO010—MEXICO HOUSING AUTHORITY	R
MO011—MOBERLY HA	R
MO012—CHARLESTON HA	R
MO014—FULTON HOUSING AUTHORITY	R
MO017—INDEPENDENCE	R
MO031—CLINTON	R
MO058—SPRINGFIELD	R
MO068—RICHLAND	R
MO070—RICHMOND	R
MO111—MACON HOUSING AUTHORITY	R
MO129—HANNIBAL HOUSING AUTHORITY	R
MO132—OLIVETTE HA	R
MO138—WELLSTON HA	R
MO218—PAGEDALE HA	R
MO220—HILLSDALE HA	R
MS001—HATTIESBURG	R
MS002—LAUREL	R
MS003—MCCOMB	R
MS004—MERIDIAN	R
MS005—HA BILOXI	R
MS007—CLARKSDALE	R
MS019—MISS REG HSG AUTH IV	R
MS030—HA MISSISSIPPI REGIONAL NO V	R
MS040—MISS REGIONAL H/A VIII	R
MS047—STARKVILLE	R
MS058—MISS REGIONAL H/A VI	R
MS059—WEST POINT	R
MS060—BROOKHAVEN	R
MS062—HOLLY SPRINGS	R
MS063—YAZOO CITY	R
MS064—BAY ST. LOUIS	R
MS066—PICAYUNE	R
MS07—1ABERDEEN	R
MS072—CORINTH	R
MS076—COLUMBUS	R
MS077—TUPELO	R
MS079—LOUISVILLE	R
MS082—WINONA	R
MS084—SUMMIT	R

TABLE 1—Continued

PHA code and PHA name	Eligibility
MS086—VICKSBURG	R
MS090—SENATOBIA	R
MS093—OXFORD	R
MS099—LUMBERTON	R
MS101—WAVELAND	R
MS103—JACKSON	R
MS105—NATCHEZ	R
MS107—HSG AUTH CITY OF GREENWOOD MS	R
MS117—ATTALA COUNTY	R
MS121—ITTA BENA	R
MT001—BILLINGS	R
MT002—GREAT FALLS	R
MT004—HELENA	R
NC001—HA WILMINGTON	R
NC002—RALEIGH HA	R
NC003—HA CHARLOTTE	R
NC004—KINSTON H/A	R
NC005—NEW BERN	R
NC006—HA HIGH POINT	R
NC007—HA ASHEVILLE	R
NC008—CITY OF CONCORD	R
NC009—FAYETTEVILLE METROPOLITAN H/A	R
NC010—EASTERN CAROLINA REGIONAL	R
NC011—HA GREENSBORO	R
NC012—HA WINSTON-SALEM	R
NC013—HA DURHAM	R
NC014—HA LUMBERTON	R
NC015—HA GOLDSBORO	R
NC016—SALISBURY	R
NC018—HA LAURINBURG	R
NC019—HA ROCKY MOUNT	R
NC020—HA WILSON	R
NC022—H/A CITY OF GREENVILLE	R
NC025—HA ROCKINGHAM	R
NC026—ELIZABETH CITY	R
NC027—HENDERSONVILLE	R
NC028—BENSON	R
NC031—HERTFORD	R
NC032—HA WASHINGTON	R
NC035—HA SANFORD	R
NC036—SELMA	R
NC039—HA LEXINGTON	R
NC040—SMITHFIELD	R
NC043—TROY	R
NC046—CHAPEL HILL	R
NC047—FAIRMONT	R
NC048—MAXTON	R
NC049—MORGANTON	R
NC052—SOUTHERN PINES	R
NC053—HAMLET	R
NC056—HA HICKORY	R
NC057—GASTONIA H/A	R
NC059—H A GRAHAM	R
NC060—ROXBORO	R
NC061—BEAUFORT	R
NC065—HA MONROE	R
NC066—BURLINGTON	R
NC069—NORTH WILKESBORO	R
NC070—HA LINCOLNTON	R
NC071—HA THOMASVILLE	R
NC072—HA STATESVILLE	R
NC073—OXFORD	R
NC074—LENOIR	R
NC075—HA ALBEMARLE	R
NC076—FARMVILLE	R
NC077—HA WILLIAMSTON	R
NC079—DUNN	R
NC081—HA ASHEBORO	R
NC082—AYDEN	R
NC084—ROBESON COUNTY	R
NC085—AHOSKIE	R
NC088—BELMONT	R

TABLE 1—Continued

PHA code and PHA name	Eligibility
NC095—FOREST CITY	R
NC102—HA ROWAN COUNTY	R
NC114—PEMBROKE	R
NC117—ROANOKE RAPIDS	R
NC174—VANCE COUNTY	R
NE001—OMAHA HOUSING AUTHORITY	R
NE003—HALL COUNTY HOUSING AUTHORITY	R
NE078—SCOTTS BLUFF HOUSING AUTHORITY	R
NH001—MANCHESTER HOUSING AUTHORITY	R
NH002—NASHUA HOUSING AUTHORITY	R
NH003—DOVER HOUSING AUTHORITY	R
NH005—CONCORD HOUSING AUTHORITY	R
NH007—LACONIA HOUSING & REDEVELOPMENT AUTHORITY	R
NH009—LEBANON HOUSING AUTHORITY	R
NJ002—NEWARK HA	R
NJ003—ELIZABETH HA	R
NJ004—NORTH BERGEN HA	R
NJ005—TRENTON HA	R
NJ006—PERTH AMBOY HA	R
NJ007—ASBURY PARK HA	R
NJ008—LONG BRANCH HA	R
NJ009—JERSEY CITY HA	R
NJ010—CAMDEN H A	R
NJ012—BAYONNE HA	R
NJ013—PASSAIC HA	R
NJ014—ATLANTIC CITY HA	R
NJ015—HOBOKEN HA	R
NJ016—HARRISON H A	R
NJ021—PATERSON HA	R
NJ022—NEW BRUNSWICK HA	R
NJ023—MORRISTOWN HA	R
NJ025—ORANGE CITY HA	R
NJ026—UNION CITY HA	R
NJ030—WEST NEW YORK HA	R
NJ032—RAHWAY HA	R
NJ033—WOODBRIDGE HA	R
NJ034—GARFIELD H A	R
NJ037—IRVINGTON HA	R
NJ039—PLANFIELD HA	R
NJ041—HIGHLANDS H A	R
NJ042—FRANKLIN H A	R
NJ043—EDISON HA	R
NJ045—HIGHTSTOWN H A	R
NJ047—CARTERET HA	R
NJ048—NEPTUNE HA	R
NJ049—BRIDGETON HA	R
NJ050—EAST ORANGE HA	R
NJ051—GLASSBORO HA	R
NJ054—LAKEWOOD HA	R
NJ058—SALEM HA	R
NJ059—PLEASANTVILLE H A	R
NJ061—MILLVILLE HA	R
NJ063—VINELAND HA	R
NJ080—WILDWOOD H A	R
NM001—ALBUQUERQUE HOUSING AUTHORITY	R
NM003—LAS CRUCES HOUSING AUTHORITY	R
NM004—ALAMOGORDO HOUSING AUTHORITY	R
NM007—LAS VEGAS HOUSING AUTHORITY	R
NM009—SANTA FE CIVIC HOUSING AUTHORITY	R
NM020—TRUTH OR CONSEQUENCES HOUSING AUTHORITY	R
NM035—BERNALILLO (TOWN OF) HOUSING AUTHORITY	R
NM038—TAOS COUNTY HOUSING AUTHORITY	R
NM050—SANTA FE COUNTY HSG AUTHORITY	R
NV001—CITY OF RENO HSG AUTHORITY	R
NV002—CITY OF LAS VEGAS HSG AUTH	R
NV007—NORTH LAS VEGAS HOUSING AUTHOR	R
NV013—COUNTY OF CLARK HOUSING AUTHOR	R
NY001—SYRACUSE HA	R
NY002—BUFFALO MUNICIPAL HA	R
NY003—YONKERS HA, CITY OF	R
NY005—NEW YORK CITY HA	R
NY006—UTICA HA	R

TABLE 1—Continued

PHA code and PHA name	Eligibility
NY008—TUCKAHOE HA	R
NY009—ALBANY HA	R
NY011—NIAGARA FALLS HA	R
NY012—TROY HA	R
NY014—PORT CHESTER HA	R
NY016—BINGHAMTON HA	R
NY018—PLATTSBURGH HA	R
NY019—HERKIMER HA	R
NY020—SARATOGA SPRINGS HA	R
NY022—COHOES HA	R
NY023—FREEPORT HA	R
NY025—WATERVLIET HA	R
NY028—SCHENECTADY HA	R
NY029—LACKAWANNA HA	R
NY031—MASSENA HA	R
NY032—CATSKILL HA	R
NY033—RENSSELAER HA	R
NY041—ROCHESTER HA	R
NY044—GENEVA HA	R
NY045—KINGSTON HA	R
NY046—HEMPSTEAD HA, TOWN OF	R
NY050—LONG BEACH HA	R
NY054—ITHACA HA	R
NY056—SPRING VALLEY HA	R
NY057—GREENBURGH HA	R
NY059—ILION HA	R
NY060—AMSTERDAM HA	R
NY061—HUDSON HA	R
NY062—POUGHKEEPSIE HA	R
NY069—GLEN COVE HA	R
NY071—MONTICELLO HA	R
NY082—PEEKSKILL HA	R
NY088—NEW ROCHELLE HA	R
NY089—NEWARK HA	R
OH001—COLUMBUS MHA	R
OH002—YOUNGSTOWN MHA	R
OH003—CUYAHOGA MHA	R
OH004—CINCINNATI MHA	R
OH005—DAYTON MHA	R
OH006—LUCAS MHA	R
OH007—AKRON MHA	R
OH008—TRUMBULL MHA	R
OH009—ZANESVILLE MHA	R
OH010—PORTSMOUTH MHA	R
OH012—LORAIN MHA	R
OH014—JEFFERSON MHA	R
OH015—BUTLER MHA	R
OH018—STARK MHA	R
OH021—SPRINGFIELD MHA	R
OH023—LONDON MHA	R
OH024—CHILLICOTHE MHA	R
OH026—COLUMBIANA MHA	R
OH029—ASHTABULA MHA	R
OH037—COSHOCTON MHA	R
OH044—ALLEN MHA	R
OK002—OKLAHOMA CITY	R
OK004—IDABEL	R
OK005—LAWTON	R
OK044—HUGO	R
OK062—MC ALESTER	R
OK073—TULSA	R
OK095—SHAWNEE	R
OK099—MUSKOGEE	R
OK139—NORMAN	R
OK146—STILLWATER	R
OR001—CLACKAMAS	R
OR002—HAP	R
OR005—LINCOLN	R
OR006—LANE	R
OR009—NORTH BEND	R
OR011—SALEM	R
PA001—HOUSING AUTH CITY OF PITTSBURG	R

TABLE 1—Continued

PHA code and PHA name	Eligibility
PA002—PHILADELPHIA HOUSING AUTHORITY	R
PA003—SCRANTON HOUSING AUTHORITY	R
PA004—ALLENTOWN HOUSING AUTHORITY	R
PA005—MCKEESPORT HOUSING AUTHORITY	R
PA006—ALLEGHENY COUNTY HOUSING AUTHO	R
PA007—CHESTER HOUSING AUTHORITY	R
PA008—HARRISBURG HOUSING AUTHORITY	R
PA009—READING HOUSING AUTHORITY	R
PA011—BETHLEHEM HOUSING AUTHORITY	R
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PA013—ERIE CITY HOUSING AUTHORITY	R
PA014—BEAVER COUNTY HOUSING AUTHORIT	R
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PA019—JOHNSTOWN HOUSING AUTHORITY	R
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TN024—TULLAHOMA	R
TN027—HUMBOLDT	R
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TN033—COOKEVILLE	R
TN035—FRANKLIN	R

TABLE 1—Continued

PHA code and PHA name	Eligibility
TN036—SPRINGFIELD	R
TN039—SHELBYVILLE	R
TN042—CROSSVILLE HOUSING AUTHORITY	R
TN048—LAWRENCEBURG	R
TN053—MCMINNVILLE	R
TN054—CLEVELAND HOUSING AUTHORITY	R
TN057—RIPLEY	R
TN065—MARYVILLE HOUSING AUTHORITY	R
TN075—NEWBERN	R
TN088—OAK RIDGE HOUSING AUTHORITY	R
TX001—AUSTIN HOUSING AUTHORITY	R
TX003—EL PASO	R
TX004—FORT WORTH	R
TX005—HOUSTON HOUSING AUTHORITY	R
TX006—SAN ANTONIO HOUSING AUTHORITY	R
TX007—BROWNSVILLE HOUSING AUTHORITY	R
TX008—CORPUS CHRISTI HOUSING AUTHORITY	R
TX009—DALLAS	R
TX010—WACO	R
TX011—LAREDO HOUSING AUTHORITY	R
TX012—BAYTOWN HOUSING AUTHORITY	R
TX014—TEXARKANA	R
TX016—DEL RIO HOUSING AUTHORITY	R
TX017—GALVESTON HOUSING AUTHORITY	R
TX018—LUBBOCK	R
TX022—WICHITA FALLS	R
TX023—BEAUMONT	R
TX024—COMMERCE	R
TX025—SAN BENITO HOUSING AUTHORITY	R
TX026—DENISON	R
TX027—MCKINNEY	R
TX028—MC ALLEN HOUSING AUTHORITY	R
TX029—MERCEDES HOUSING AUTHORITY	R
TX030—TEMPLE	R
TX032—TEXAS CITY HOUSING AUTHORITY	R
TX034—PORT ARTHUR	R
TX037—ORANGE	R
TX046—MISSION HOUSING AUTHORITY	R
TX048—PARIS	R
TX051—WESLACO HOUSING AUTHORITY	R
TX054—NEW BOSTON	R
TX062—EDINBURG HOUSING AUTHORITY	R
TX064—ALAMO HOUSING AUTHORITY	R
TX065—HARLINGEN HOUSING AUTHORITY	R
TX073—PHARR HOUSING AUTHORITY	R
TX078—SHERMAN	R
TX085—VICTORIA HOUSING AUTHORITY	R
TX087—SAN MARCOS HOUSING AUTHORITY	R
TX114—KINGSVILLE HOUSING AUTHORITY	R
TX128—PLANO	R
TX163—ROBSTOWN HOUSING AUTHORITY	R
TX177—DONNA HOUSING AUTHORITY	R
TX257—SLATON	R
TX327—ABILENE	R
TX355—EL CAMPO HOUSING AUTHORITY	R
TX395—PORT LAVACA HOUSING AUTHORITY	R
TX406—HUNTSVILLE HOUSING AUTHORITY	R
TX408—MONAHANS	R
TX439—ANTHONY	R
TX448—LA JOYA HOUSING AUTHORITY	R
TX449—ROMA HOUSING AUTHORITY	R
TX455—ODESSA	R
TX470—SAN ANGELO	R
TX486—NACOGDOCHES	R
TX509—CAMERON COUNTY HOUSING AUTHORITY	R
TX538—EL PASO COUNTY	R
UT003—SALT LAKE COUNTY	R
UT004—SALT LAKE CITY	R
UT007—PROVO CITY	R
VA001—PORTSMOUTH REDEVELOPMENT & H/A	R
VA002—BRISTOL REDEVELOPMENT HOUSING	R
VA003—NEWPORT NEWS REDEVELOPMENT & H	R

TABLE 1—Continued

PHA code and PHA name	Eligibility
VA004—ALEXANDRIA REDEVELOPMENT & H/A	R
VA005—HOPEWELL REDEVELOPMENT & H/A	R
VA006—NORFOLK REDEVELOPMENT & H/A	R
VA007—RICHMOND REDEVELOPMENT & H/A	R
VA010—DANVILLE REDEVELOPMENT AND H/A	R
VA011—ROANOKE REDEVELOPMENT & H/A	R
VA012—CHESAPEAKE REDEVELOPMENT & H/A	R
VA015—NORTON REDEVELOPMENT & H/A	R
VA017—HAMPTON REDEVELOPEMENT & HSG A	R
VA019—FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY	R
VA020—PETERSBURG REDEVELOPMENT & H/A	R
VA022—WAYNESBORO REDEVELOPMENT & H/A	R
VA025—SUFFOLK REDEVELOPMENT & H/A	R
VA029—CUMBERLAND PLATEAU REGIONAL H/	R
VQ001—VIHA	R
VT005—BARRE HOUSING AUTHORITY	R
WA001—SEATTLE HA	R
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WV008—WILLIAMSON HOUSING AUTHORITY	R
WV011—MOUNDSVILLE HOUSING AUTHORITY	R
WV014—BENWOOD HOUSING AUTHORITY	R
WV018—BLUEFIELD HOUSING AUTHORITY	R
WV019—MCMECHEN HOUSING AUTHORITY	R
WV022—SOUTH CHARLESTON HOUSING AUTHORITY	R
WV027—CLARKSBURG HOUSING AUTHORITY	R
WV036—KANAWHA COUNTY HOUSING AUTHORITY	R

TABLE 2

PHA Code and PHA Name	Eligibility
AZ038—PEORIA	N1
CA009—UPLAND HOUSING	N1
CA030—TULARE COUNTY HOUSING AUTH	N1
CA035—SAN BUENAVENTURA CITY	N1
CA058—CITY OF BERKELEY HOUSING AUTHO	N1
CA059—COUNTY OF SANTA CLARA HOUSING	N1
CA108—SAN DIEGO COUNTY	N1
CA142—DUBLIN	N1
CO014—WELLINGTON	N1
CO028—COLORADO SPRINGS	N1
CO035—GREELEY	N1
CO041—FORT COLLINS	N1
CO049—LAKEWOOD	N1
CO052—AURORA	N1
CO059—LOUISVILLE	N1
CO061—BOULDER COUNTY	N1
CO070—LONGMONT	N1
FL017—MIAMI BEACH	N1
FL061—DUNEDIN	N1
FL062—PINELLAS COUNTY	N1
FL119—BOCA RATON	N1
FL136—HOLLYWOOD	N1
GA129—LEE COUNTY	N1

TABLE 2—Continued

PHA Code and PHA Name	Eligibility
GA161—HARRIS COUNTY	N1
GA179—BUENA VISTA	N1
GA214—ELLAVILLE	N1
IA018—SIOUX CITY	N1
IA023—COUNCIL BLUFFS	N1
IA045—DAVENPORT	N1
IA050—WATERLOO	N1
IA131—CENTRAL IOWA	N1
ID013—BOISE CITY	N1
ID020—IHFA	N1
ID021—ADA	N1
IL005—GRANITE CITY HOUSING AUTHORITY	N1
IN004—DELAWARE COUNTY HOUSING AUTHORITY	N1
IN006—ANDERSON HOUSING AUTHORITY	N1
IN020—MISHAWAKA HOUSING AUTHORITY	N1
IN021—TERRE HAUTE HOUSING AUTHORITY	N1
IN022—BLOOMINGTON HOUSING AUTHORITY	N1
KS004—WICHITA	N1
KS038—SALINA	N1
KS043—OLATHE	N1
KS068—LEAVENWORTH	N1
KS071—GARDEN CITY	N1
LA002—SHREVEPORT HSG AUTHORITY	N1
LA023—ALEXANDRIA HOUSING AUTHORITY	N1
LA042—BOSSIER CITY HOUSING AUTHORITY	N1
MA020—QUINCY HOUSING AUTHORITY	N1
MI003—DEARBORN HC	N1
MI035—BATTLE CREEK HSG COMMISSION	N1
MI040—CLINTON TOWNSHIP HC	N1
MI055—LIVONIA HC	N1
MI089—TAYLOR HC	N1
MI115—WYOMING HC	N1
MI157—STERLING HEIGHTS HC	N1
MI180—NEW HAVEN HC	N1
MN152—BLOOMINGTON HRA	N1
MO003—ST JOSEPH	N1
MO006—ST CHARLES HOUSING AUTHORITY	N1
MO030—LEE'S SUMMIT	N1
NC044—MOUNT GILEAD	N1
ND014—FARGO	N1
NE002—LINCOLN HOUSING AUTHORITY	N1
NE004—KEARNEY HOUSING AUTHORITY	N1
NE153—DOUGLAS COUNTY HOUSING AUTHORI	N1
NM002—CLOVIS HOUSING AUTHORITY	N1
NM057—BERNALILLO COUNTY HOUSING AUTHORITY	N1
NM062—DONA ANA COUNTY HOUSING AUTHORITY	N1
NM063—REGION VI HOUSING AUTHORITY	N1
OR014—MARION	N1
OR015—JACKSON	N1
PA071—BERKS COUNTY HOUSING AUTHORITY	N1
RI011—WARWICK HOUSING AUTHORITY	N1
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SD045—PENNINGTON COUNTY	N1
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TX020—BRYAN HOUSING AUTHORITY	N1
TX079—KILLEEN	N1
TX379—MIDLAND	N1
TX452—BEXAR COUNTY HOUSING AUTHORITY	N1
TX480—TRAVIS COUNTY HOUSING AUTHORITY	N1
UT002—OGDEN	N1
UT011—UTAH COUNTY	N1
UT025—WEST VALLEY CITY	N1
VA013—LYNCHBURG REDEVELOPMENT & H/A	N1
WA006—EVERETT HA	N1
WA011—RENTON HA	N1
WA012—KENNEWICK HA	N1
WA030—SEDRO WOOLLEY HA	N1
WA041—WHATCOM CO HA	N1
WA054—PIERCE CO HA	N1
WA055—SPOKANE HA	N1

TABLE 2—Continued

PHA Code and PHA Name	Eligibility
WI006—LA CROSSE HA	N1
WI074—GREEN BAY HA	N1

TABLE 3

PHA Code and PHA Name	Eligibility
AL175—LIVINGSTON	N2
AR148—ENGLAND	N2
AZ013—YUMA COUNTY	N2
CA067—ALAMEDA COUNTY HSG AUTH	N2
GA081—HARTWELL	N2
GA201—JASPER	N2
IA107—FORT DODGE	N2
KY015—HA NEWPORT	N2
LA029—CROWLEY	N2
LA055—OPELOUSAS HOUSING AUTHORITY	N2
LA103—SLIDELL HOUSING AUTHORITY	N2
LA123—WINNFIELD HOUSING AUTHORITY	N2
MN151—OLMSTED COUNTY HRA	N2
MT003—BUTTE	N2
NC017—REDEVELOPMENT COMM TARBORO	N2
NY077—ISLIP HA, TOWN OF	N2
NY085—HEMPSTEAD HA, VILLAGE OF	N2
OH031—PORTAGE MHA	N2
PA031—ALTOONA HOUSING AUTHORITY	N2
PA052—LEBANON COUNTY HOUSING AUTHORI	N2
TN008—PARIS	N2
TN041—COVINGTON	N2
TN076—ELIZABETHTON HOUSING AND DEVELOPMENT	N2
TX015—WAXAHACHIE	N2
TX019—EAGLE PASS HOUSING AUTHORITY	N2
TX038—BONHAM	N2
TX092—LADONIA	N2
TX113—ORANGE COUNTY	N2
TX173—PORT ISABEL HOUSING AUTHORITY	N2
TX300—CARRIZO SPRINGS HOUSING AUTHORITY	N2
WV009—FAIRMONT HOUSING AUTHORITY	N2

Dated: May 3, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

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Uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations; comments due by 5-15-00; published 3-16-00

ENERGY DEPARTMENT
Assistance regulations:
Uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations; comments due by 5-15-00; published 3-16-00

ENVIRONMENTAL PROTECTION AGENCY
Air programs; approval and promulgation; State plans

LIST OF PUBLIC LAWS

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S.J. Res. 40/P.L. 106–198

Providing for the appointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution. (May 5, 2000; 114 Stat. 249)

S.J. Res. 42/P.L. 106–199

Providing for the reappointment of Manuel L. Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution. (May 5, 2000; 114 Stat. 250)

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