4–7–98
Vol. 63 No. 66

Federal Register

Tuesday
April 7, 1998

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(ISSN 0097–6326)

4–7–98
Vol. 63 No. 66
Pages 16877–17048

federal register

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April 7, 1998

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WHEN: April 21, 1998 at 9:00 am.
WHERE: Office of the Federal Register
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800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 410

RIN 3206–AF99

Training

AGENCY: Office of Personnel Management.

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to the final regulations, which were published in the **Federal Register** on Tuesday, December 17, 1996 (61 FR 66189). The regulations implemented policies related to the training of Federal employees.

DATES: Effective on December 17, 1996.

FOR FURTHER INFORMATION CONTACT: Judith Lombard, 202–606–2431, email jmlombar@opm.gov, or fax 202–606–2394.

SUPPLEMENTARY INFORMATION:

Background

The final regulations subject to this correction affect the training of Federal employees. Because a word is missing, the subsection on accepting contributions, awards, and payments from non-Government organizations contains an inaccurate statement. The correction adds the missing word.

Need for Correction

As published, the final regulations contain an error which may prove to be misleading and needs to be corrected.

List of Subjects in 5 CFR Part 410

Education, Government employees.

Accordingly, 5 CFR part 410 is corrected by making the following correcting amendment:

PART 410—TRAINING

1. The authority citation for part 410 continues to read as follows:

Authority: 5 U.S.C. 4101, *et. seq.*; E.O. 11348, 3 CFR, 1967 Comp., p. 275.

§ 410.501 Scope [Corrected]

2. In § 410.501(a), after the phrase "while on duty," add the word "or".

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–9059 Filed 4–6–98; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97–073–5]

Oriental Fruit Fly; Removal of Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Oriental fruit fly regulations by removing the quarantine on a portion of Los Angeles County, CA, and by removing the restrictions on the interstate movement of regulated articles from that area. This action is necessary to relieve restrictions that are no longer needed to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. We have determined that the Oriental fruit fly has been eradicated from this portion of Los Angeles County, CA, and that the quarantine and restrictions are no longer necessary. This portion of Los Angeles County, CA, was the last remaining area quarantined for Oriental fruit fly. Therefore, as a result of this action, there are no longer any areas in the continental United States quarantined for Oriental fruit fly.

DATES: Interim rule effective April 1, 1998. Consideration will be given only to comments received on or before June 8, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–073–5, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–073–5. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–8247; or e-mail: mstefan@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel), is a destructive pest of citrus and other types of fruit, nuts, and vegetables. The short life cycle of the Oriental fruit fly allows rapid development of serious outbreaks that can cause severe economic losses. Heavy infestations can cause complete loss of crops.

The Oriental fruit fly regulations, contained in 7 CFR 301.93 through 301.93–10 (referred to below as the regulations), impose restrictions on the interstate movement of regulated articles from quarantined areas to prevent the spread of the Oriental fruit fly to noninfested areas of the United States. The regulations also designate soil and a large number of fruits, nuts, vegetables, and berries as regulated articles.

In an interim rule effective on August 20, 1997, and published in the **Federal Register** on August 26, 1997 (62 FR 45141–45142, Docket No. 97–073–1), we quarantined a portion of Los Angeles County, CA, and restricted the interstate movement of regulated articles from the quarantined area. In a second interim rule effective September 4, 1997, and published in the **Federal Register** on September 10, 1997 (62 FR 47551–47553, Docket No. 97–073–2), we quarantined an additional area in Los Angeles County, CA. In a third interim rule effective October 7, 1997, and published in the **Federal Register** on October 14, 1997 (62 FR 53223–53225, Docket No. 97–073–3), we expanded the second quarantined in Los Angeles County, CA, area to include the new area found to be infested with Oriental fruit fly. In a fourth interim rule

effective February 18, 1998, and published in the Federal Register on February 23, 1998 (63 FR 8835–8836, Docket No. 97–073–4), we removed a portion of the quarantined area in Los Angeles County, CA, from the list of quarantined areas in § 301.93–3(c), and removed the restrictions on the interstate movement of regulated articles from that area.

Based on trapping surveys conducted by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, we have determined that the Oriental fruit fly has been eradicated from the portion of Los Angeles County, CA, that remained on the list of quarantined areas in § 301.93–3(c). The last finding of the Oriental fruit fly in this area was October 23, 1997.

Since then, no evidence of Oriental fruit fly infestation has been found in this area. Based on Departmental experience, we have determined that sufficient time has passed without finding additional flies or other evidence of infestation to conclude that the Oriental fruit fly no longer exists in Los Angeles County, CA. Further, Oriental fruit fly infestations are not known to exist anywhere else in the continental United States. Therefore, we are removing Los Angeles County, CA, from the list of quarantined areas in § 301.93–3(c), and revising § 301.93–3(c) to state that the Oriental fruit fly is not known to exist anywhere in the continental United States.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to remove an unnecessary regulatory burden on the public. A portion of Los Angeles County, CA, was quarantined due to the possibility that the Oriental fruit fly could be spread from this area to noninfested areas of the United States. Since this situation no longer exists, immediate action is necessary to remove the quarantine on Los Angeles County, CA, and to relieve the restrictions on the interstate movement of regulated articles from that area.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This interim rule relieves restrictions on the interstate movement of regulated articles from a portion of Los Angeles County, CA.

Within the previously quarantined portion of Los Angeles County, CA, there are approximately 477 entities that will be affected by this rule. All would be considered small entities. These include 6 farmers' markets, 2 community gardens, 3 distributors, 302 fruit sellers, 70 growers, 88 nurseries, 1 packer, and 5 swapmeets. These small entities comprise less than 1 percent of the total number of similar small entities operating in the State of California. In addition, these small entities sell regulated articles primarily for local intrastate, not interstate, movement so the effect, if any, of this regulation on these entities appears to be minimal.

The effect on those few entities that do move regulated articles interstate was minimized by the availability of various treatments, that, in most cases, allowed these small entities to move regulated articles interstate with very little additional cost.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This document contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.93–3, paragraph (c) is revised to read as follows:

§ 301.93–3 Quarantined areas.

* * * * *

(c) The Oriental fruit fly is not known to exist anywhere in the continental United States.

Done in Washington, DC, this 1st day of April 1998.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–9053 Filed 4–6–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 98–017–1]

Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine by removing and adding commuted traveltime allowances for travel between various locations in IN, NJ, PA, and TX. Commuted traveltime allowances are the periods of time required for Plant Protection and Quarantine employees to travel from their dispatch points and return there from the places where they

perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by Plant Protection and Quarantine employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime for these locations.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Mona A. Grupp, Director, Resource Management Support, PPQ, APHIS, 4700 River Road Unit 130, Riverdale, MD 20737–1236, (301) 734–8392.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR, chapter III, and 9 CFR, chapter I, subchapter D, require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animals, animal products, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of Plant Protection and Quarantine (PPQ) on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services in accordance with 7 CFR part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 354.2 of the regulations by removing and adding commuted traveltime allowances for travel between various locations in IN, NJ, PA, and TX. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

The number of requests for overtime services of a PPQ employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 354

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

Accordingly, 7 CFR part 354 is amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

1. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 2260; 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.22, 2.80, and 371.2(c).

2. Section 354.2 is amended by removing or adding in the table, in alphabetical order, the following entries to read as follows:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
[Remove]			
• • •	• • •		•
New Jersey:			
Atlantic City	Bridgeton		3
• • •	• • •		•
Bridgeport (Monsato)	Wilmington, DE		1
Burlington	Philadelphia, PA		3

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
Coast Guard Sta., Cape May	Bridgeton		4
Deepwater (Penns Grove)	Wilmington, DE		1
• • •	• • •		•
McGuire AFB	Bridgeton		4
• • •	• • •		•
Morristown International Airport	Elizabeth		3
• • •	• • •		•
Salem	Bridgeton (Monsato)		2
• • •	• • •		•
Trenton	McGuire AFB		3
• • •	• • •		•
Texas:			
Alamo	Hidalgo		1
• • •	• • •		•
Falcon Heights	Roma		1
• • •	• • •		•
Hidalgo		1	
• • •	• • •		•
McAllen	Hidalgo		1
• • •	• • •		•
Mission	Hidalgo		1
• • •	• • •		•
Pharr	Hidalgo		1
• • •	• • •		•
Rio Grande City	Roma	1½	
• • •	• • •		•
Roma		1	
Roma	Hidalgo		3
• • •	• • •		•
San Juan	Hidalgo		1
• • •	• • •		•
[Add]			
• • •	• • •		•
Indiana:			
• • •	• • •		•
Indianapolis		1	
• • •	• • •		•
New Jersey:			
• • •	• • •		•
Atlantic City	Mullica Hill		2½
• • •	• • •		•
Burlington	Trenton		1
Coast Guard Station, Cape May	Mullica Hill		4
Deepwater	Mullica Hill		2
Hammonton	Mullica Hill		2
Hammonton	Trenton		3
• • •	• • •		•
McGuire AFB	Mullica Hill		3

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
• • •	• • •	•	
Paulsboro	Mullica Hill		1½
• • •	• • •	•	
Pennsylvania:			
• • •	• • •	•	
Lehigh Valley International Airport, Allentown	Gap		4
Lehigh Valley International Airport, Allentown	Sweet Valley		4
• • •	• • •	•	
Texas:			
• • •	• • •	•	
Brownsville	Pharr		3
• • •	• • •	•	
Falcon Heights	Roma		1½
• • •	• • •	•	
Pharr (Includes Hidalgo and McAllen International Airport.		1½	
• • •	• • •	•	
Roma (Includes Rio Grande City)		1	
• • •	• • •	•	
Roma	Pharr		3
• • •	• • •	•	

Done in Washington, DC, this 1st day of April 1998.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–9051 Filed 4–6–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 97

[Docket No. 98–022–1]

Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Veterinary Services by adding commuted traveltime allowances for travel between various locations in Mexico and Texas. Commuted traveltime allowances are the periods of time required for Veterinary Services employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by Veterinary Services employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime for these locations.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Louise Rakestraw Lothery, Director, Resource Management Support, VS, APHIS, 4700 River Road Unit 44, Riverdale, MD 20737, (301) 734–7517.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR, chapter I, subchapter D, and 7 CFR, chapter III, require inspection, laboratory testing, certification, or quarantine of certain animals, animal products, plants, plant products, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of Veterinary Services (VS) on a Sunday or holiday, or at any other time outside the VS employee's regular duty hours, the Government charges a fee for the services in accordance with 9 CFR part 97. Under circumstances described in § 97.1(a), this fee may include the cost of commuted traveltime. Section 97.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for VS employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 97.2 of the regulations by adding commuted traveltime allowances for travel between various locations in Mexico and Texas. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of

entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

The number of requests for overtime services of a VS employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock, Poultry and poultry products, Travel and transportation expenses.

Accordingly, 9 CFR part 97 is amended as follows:

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for part 97 continues to read as follows:

Authority: 7 U.S.C. 2260; 49 U.S.C. 1741; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 97.2 is amended by adding in the table, in alphabetical order, the following entries to read as follows:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan Area	
		Within	Outside
• • •	• • •	•	
[Add]			
• • •	• • •	•	
Mexico:			
Ciudad Acuna	Del Rio, TX		1½
Juarez	El Paso, TX		1
Nuevo Laredo	Laredo, TX		1½
Ojinaga	Presidio, TX		1
Piedras Negras	Eagle Pass, TX		1
Reynosa (Pharr International Bridge)	Hidalgo, TX		1
San Jeronimo	El Paso, TX		2
• • •	• • •	•	

Done in Washington, DC, this 2nd day of April 1998.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–9052 Filed 4–6–98; 8:45 am]

BILLING CODE 3410–34–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Engineering Services, Architectural Services, and Surveying and Mapping Services

AGENCY: Small Business Administration.

ACTION: Proposed rulemaking; extension of comment period.

SUMMARY: On February 3, 1998 (63 FR 5480), the Small Business Administration (SBA) proposed a size standard of $7.5 million in average annual receipts for general Engineering Services (part of Standard Industrial Classification (SIC) code 8711), $5.0 million for Architectural Services (SIC code 8712) and $3.5 million for Surveying and Mapping Services (SIC code 8713 and part of SIC code 7389). The proposed rule specified that comments to the proposed rule must be submitted to the SBA by April 6, 1998. This notice extends the comment period for an additional 30 days.

DATES: Comments must be submitted on or before May 6, 1998.

ADDRESSES: Send comments to Gary M. Jackson, Assistant Administrator for Size Standards, 409 3rd Street, S.W., Mail Code 6880, Washington DC 20416.

FOR FURTHER INFORMATION CONTACT: Robert N. Ray, Office of Size Standards, (202) 205–6618.

SUPPLEMENTARY INFORMATION: The SBA proposed an increase to the size standard for general Engineering Services (part of SIC code 8711) from $2.5 million to $7.5 million on February 3, 1998 (63 FR 5480). The other size standards applicable to Engineering Services under SIC code 8711—Military and Aerospace Equipment, Military Weapons, Marine Engineering, and Naval Architecture—were not reviewed as part of that proposed rule. The rule also proposed an increase to the size standard for the Architectural Services industry (SIC code 8712) from $2.5 million to $5 million and an increase to the size standard for the Surveying and Mapping Services industry (SIC code 8713) from $2.5 million to $3.5 million. The rule proposed no change to the $3.5 million size standard for Map Drafting, Mapmaking and Photogrammetric Mapping Services that are industry activities under Business Services, Not Elsewhere Classified (SIC code 7389). A thorough discussion of the reasons why the SBA proposed these size standards is contained in the proposed rule.

This notice extends the comment period an additional 30 days, or until May 6, 1998, to allow the public additional time to fully address the appropriateness of the proposed size standards and their impacts on the engineering, architectural, and surveying and mapping industries. Given the level of interest that has been expressed to date on the proposed size standards and the significance of the proposed size standards, the SBA believes that a longer comment period is appropriate and will generate valuable input from firms in those industries potentially affected by a size standard change.

Dated: April 1, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–8996 Filed 4–6–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–19–AD; Amendment 39–10439; AD 97–08–02 R1]

RIN 2120–AA64

Airworthiness Directives; Schempp-Hirth K.G. Models Nimbus-2B, Mini-Nimbus B, Discus a, and Discus b Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document clarifies information in an existing airworthiness directive (AD) that applies to certain Schempp-Hirth K.G. (Schempp-Hirth) Models Standard-Cirrus, Nimbus-2, Nimbus-2B, Mini-Nimbus HS–7, Mini-Nimbus B, Discus a, and Discus b sailplanes. That AD currently requires accomplishing a load test of the elevator control system, and replacing the elevator vertical actuating tube either immediately or at a certain time period depending on the results of the load test. The actions specified in that AD are intended to prevent corrosion in the elevator caused by water entering the elevator control rod, which could result in elevator failure and consequent loss of control of the sailplane. The Schempp-Hirth Models Nimbus 2, Mini-Nimbus HS–7, and Standard Cirrus sailplanes are not equipped with elevator control systems, and should not be affected by the current AD. This action eliminates all reference to the Shempp-Hirth Models Nimbus 2, Mini-Nimbus HS–7, and Standard Cirrus sailplanes in the current AD.

DATES: Effective April 17, 1998.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of May 30, 1997 (62 FR 16667, April 8, 1997).

FOR FURTHER INFORMATION CONTACT: Mr. J. Mike Kiesov, Project Officer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION: On April 1, 1997, the Federal Aviation Administration (FAA) issued AD 97–08–02, Amendment 39–9990 (62 FR 16667, April 8, 1997), which applies to certain Schempp-Hirth Models Standard-Cirrus, Nimbus-2, Nimbus-2B, Mini-Nimbus HS–7, Mini-Nimbus B, Discus a, and Discus b sailplanes. That AD requires accomplishing a load test of the elevator control system, and replacing the elevator vertical actuating tube either immediately or at a certain time period depending on the results of the load test.

Accomplishment of the test and replacement is required in accordance with Schempp-Hirth Technical Note No. 278–33, 286–28, 295–22, 328–10, 349–16, 360–9, 373–5, dated November 19, 1992, and the Appendix to this technical note.

AD 97–08–02 resulted from reported incidents of corrosion found in the elevator because of water entering the elevator control rod. The actions required by that AD are intended to prevent corrosion in the elevator caused by water entering the elevator control rod, which could result in elevator failure and consequent loss of control of the sailplane.

Need for the Correction

The FAA inadvertently included the Schempp-Hirth Models Nimbus 2, Mini-Nimbus HS–7, and Standard Cirrus sailplanes in the Applicability of AD 97–08–02. These sailplane models are not equipped with elevator control systems, and should not be affected by the current AD.

Correction of Publication

This document eliminates from the Applicability of AD 97–08–02 those sailplanes that are not equipped with elevator control systems.

The AD is being reprinted in its entirely for the convenience of affected operators.

Since this action only clarifies the FAA's original intent, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 97–08–02, Amendment 39–9990 (62 FR 16667, April 8, 1997), and by adding a new airworthiness directive (AD) to read as follows:

97–08–02 R1 Schempp-Hirth K.G.: Amendment 39–10439; Docket No. 96–CE–19–AD. Revises AD 97–08–02, Amendment 39–9990.

Applicability: The following sailplane models and serial numbers, certificated in any category:

Models	Serial numbers
Nimbus-2B	All serial numbers.
Mini-Nimbus B	All serial numbers.
Discus a and Discus b.	Serial numbers 1 to 446.

Note 1: This AD applies to each sailplane 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 sailplanes 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 (f) 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 in the body of this AD, unless already accomplished.

To prevent corrosion in the elevator caused by water entering the elevator control rod, which could result in elevator failure and consequent loss of control of the sailplane, accomplish the following:

(a) Prior to further flight after May 30, 1997 (the effective date of AD 97–08–02), accomplish a load test of the elevator control system in accordance with Schempp-Hirth Technical Note No. 278–33, 286–28, 295–22, 328–10, 349–16, 360–9, 373–5, dated November 19, 1992, and the Appendix to this technical note.

Note 2: Sections 61.107(d)(1) and 61.127(d)(1) of the Federal Aviation Regulations (14 CFR 61.107(d)(1) and 14 CFR 61.127(d)(1)) give the authorization for glider/sailplane operators to disassemble and reassemble the elevator control system (for storage purposes between flights). The "prior to further flight after the effective date of this AD" compliance time in paragraph (a) of this AD was established to coincide with the next reassembly of the elevator control system.

(b) If any discrepancies are found during the load test required by paragraph (a) of this AD, prior to further flight, replace the elevator vertical actuating tube in accordance with Schempp-Hirth Technical Note No. 278–33, 286–28, 295–22, 328–10, 349–16, 360–9, 373–5, dated November 19, 1992, and the Appendix to this technical note.

(c) Within the next 6 calendar months after May 30, 1997 (the effective date of AD 97–08–02) or prior to further flight after May 30, 1997 (the effective date of AD 97–08–02), whichever occurs later, unless already accomplished (performing the actions in paragraph (b) of this AD), replace the elevator vertical actuating tube in accordance with Schempp-Hirth Technical Note No. 278–33, 286–28, 295–22, 328–10, 349–16, 360–9, 373–5, dated November 19, 1992, and the Appendix to this technical note.

(d) The elevator control system load test as required by paragraph (a) of this AD may be performed by the sailplane owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

(f) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(g) The load test and replacement required by this AD shall be done in accordance with Schempp-Hirth Technical Note No. 278–33, 286–28, 295–22, 328–10, 349–16, 360–9, 373–5, dated November 19, 1992, and the Appendix to this technical note. This incorporation by reference was approved previously by the Director of the Federal Register as of May 30, 1997 (62 FR 16667, April 8, 1997). Copies may be obtained from Schempp-Hirth Flugzeugbau GmbH, Krebenstrasse 25, Postfach 1443, D–73230 Kircheim/Teck, Germany. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(h) This amendment becomes effective on April 17, 1998.

Issued in Kansas City, Missouri, on March 25, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8582 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–49–AD; Amendment 39–10449]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB 340B series airplanes. This amendment requires adjustment of the cargo baggage net, replacement of baggage net placards, and installation of new baggage net placards. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent failure of the cargo bulkhead floor attachments, which could result in damage to the airplane structure and possible injury to passengers and crewmembers.

DATES: Effective July 6, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 6, 1998.

Comments for inclusion in the Rules Docket must be received on or before May 7, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–49–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD 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; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on certain Saab Model SAAB 340B series airplanes. The LFV advises that it has received reports indicating that, on certain airplanes having a kinked bulkhead configuration, the cargo baggage net is installed incorrectly. As a result of the incorrect installation, the forward webbing of the net is too close to the aft face of the bulkhead, such that baggage may structurally overload the bulkhead's floor attachments. This condition, if not corrected, could result in failure of the cargo bulkhead floor attachments, damage to the airplane structure, and possible injury to passengers and crewmembers.

Explanation of Relevant Service Information

Saab has issued Service Bulletin 340–25–244, dated June 13, 1997, which describes procedures for adjustment of the cargo baggage net to a minimum distance of 12.00 inches (304.80 millimeters) between the cargo baggage net and the aft face of the kinked bulkhead; replacement of the baggage net placard on the aft face of the kinked bulkhead with a new placard; and installation of new placards on the right-hand cargo bay panel. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive (SAD) 1–118, dated October 9, 1997, 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 § 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 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, this AD is being issued to require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

Currently, there are 240 Saab Model SAAB 340B series airplanes on the U.S. Register. However, the FAA has determined that none of these U.S. registered airplanes will be affected by this AD. Therefore, there is no future economic cost impact of this rule on U.S. operators.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 2 work hours to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $120 per airplane.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. The requirements of this direct final rule address an unsafe condition identified by a foreign civil airworthiness authority and do not impose a significant burden on affected operators. In accordance with 14 CFR 11.17, unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received; at that time, the AD number will be specified, and the date on which the final rule will become effective will be confirmed. If the FAA does receive, within the comment period, a written adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–49–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under 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 it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Saab Aircraft AB: Amendment 39–10449. Docket 98–NM–49–AD.

Applicability: Model SAAB 340B series airplanes; manufacturers serial numbers –205, –207, –230, –276, –281, –289, –292, –296, –302, –308, –310, –311, –315, –316, –318, –327, –328, –331, –333, –336, –337, –351, –355, –357, –360 through –365 inclusive, –368, –378, and –399; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the cargo bulkhead floor attachments, which could result in damage to the airplane structure and possible injury to passengers and crewmembers, accomplish the following:

(a) Within 3 months after the effective date of this AD, adjust the cargo baggage net; replace the baggage net placard on the aft face of the kinked bulkhead with a new placard; and install new placards on the right-hand cargo bay panel; in accordance with SAAB Service Bulletin 340–25–244, dated June 13, 1997.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, 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, 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.

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

(d) The actions shall be done in accordance with SAAB Service Bulletin 340–25–244, dated June 13, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive (SAD) 1–118, dated October 9, 1997.

(e) This amendment becomes effective on July 6, 1998.

Issued in Renton, Washington, on March 31, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8903 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–92–AD; Amendment 39–10451; AD 98–08–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A300–600 series airplanes, that requires repetitive replacement of the universal joints and steady bearings of the flap transmission system with new parts at regular intervals, or overhaul. This amendment is prompted by a report of a malfunction of a universal joint in the flap transmission system on one wing due to fatigue failure. The actions specified by this AD are intended to ensure replacement or overhaul of certain universal joints and bearings of the transmission system when they have reached their maximum life limit. Failure of universal joints and bearings could lead to an asymmetric condition of the flaps, which could adversely affect controllability of the airplane.

DATES: Effective May 12, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 12, 1998.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A300–600 series airplanes was published in the **Federal Register** on July 18, 1995 (60 FR 36748). That action proposed to require repetitive replacement of the universal joints and steady bearings of the flap transmission system with new parts at regular intervals.

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

Support for the Proposal

One commenter supports the proposed rule.

Request to Withdraw the Proposal

Three commenters request that the proposed AD be withdrawn because overhauling is already mandatory under the Maintenance Review Board (MRB) requirements. One commenter states that the maintenance program already includes a certification maintenance requirement (CMR) inspection of these gearboxes and bearings. The commenter states that because CMR inspections are mandatory, the proposed rule is redundant.

The FAA does not concur with the commenters' request to withdraw the proposal. The inspections required by this AD are to be accomplished in

accordance with the service bulletin, which provides additional detailed information beyond the inspections described in the MRB or in the CMR. Therefore, the FAA has determined that this AD is necessary to address the unsafe condition.

One commenter requests that the proposed AD not be adopted because the AD is based on one incident. The commenter did not provide any additional justification for its request. The FAA does not concur. An assessment by the manufacturer and Direction Générale de l'Aviation Civile (DGAC) of the incident determined that a similar disconnection of the flap transmission system may occur on other airplanes of the same design. Based on this assessment, the actions required by this AD are necessary to address the identified unsafe condition.

Overhaul Versus Replacement

Three commenters request that the proposed AD allow overhaul rather than replacement of the units. One commenter states that the requirements of the proposed AD are not in line with the DGAC and the manufacturer's positions that overhaul of the universal joints and bearings is acceptable. The FAA concurs. However, this overhaul is only acceptable for an additonal 16,000 landings on the affected parts. These overhauled parts provide only a limited service life, at which time the parts must be replaced. The FAA has determined that, in addition to replacement of the units, overhaul, in accordance with Airbus Service Bulletin A300–27–6028, dated December 19, 1994, is also acceptable. Therefore, paragraph (a) of the final rule has been revised accordingly.

Requests to Revise Cost Impact Information

Two commenters request revision of the cost estimate. Two commenters provided additional cost information for overhauling or replacing the bearings. Additionally, the commenters state that the steady bearings are installed in numerous locations in the airplane with two of those steady bearing positions being the subject of the AD.

The FAA concurs with the commenters' request to revise the cost estimate based on the new cost for overhaul of the bearings. The commenters state that the cost of accomplishing the overhaul is approximately $4,000 to $4,500 per bearing, rather than $5,660 per airplane, as estimated in the proposed rule. After considering the data presented by the commenters, the FAA concurs that the cost for overhauling the parts may be higher than previously estimated in the proposal. In consideration of this new information, the FAA has revised the cost impact information, below, to indicate that required parts will cost approximately $9,000 per airplane, ($4,500 per bearing, two bearings per airplane). Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $483,000, or $9,660 per airplane.

This AD only requires replacement or overhaul of two bearings. The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to "direct" costs. The economic analysis in AD rulemaking actions, however, is limited only to the cost of actions actually required by the AD.

Conclusion

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

Cost Impact

The FAA estimates that 50 Model A300–600 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 11 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $9,000 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $483,000, or $9,660 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–08–02 Airbus Industrie: Amendment 39–10451. Docket 95–NM–92–AD.

Applicability: All Model A300–600 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 (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 ensure replacement or overhaul of certain universal joints and bearings of the flap transmission that have reached their maximum life limit, accomplish the following:

(a) Prior to the accumulation of 16,000 total landings on the universal joints and bearings of the flap transmission system, or within

500 landings after the effective date of this AD, whichever occurs later, accomplish paragraph (a)(1) or (a)(2) of this AD. Thereafter, prior to the accumulation of 16,000 total landings on the universal joints and bearings, repeat the actions required by either paragraph (a)(1) or (a)(2) of this AD.

(1) Replace affected bearings and universal joints of the flap transmission system with new parts, in accordance with Airbus All Operator Telex (AOT) 27–17, Revision 01, dated July 11, 1994, or Airbus Service Bulletin A300–27–6028, dated December 19,1994; or

(2) Overhaul the affected bearings and universal joints of the flap transmission system in accordance with Airbus Service Bulletin A300–27–6028, dated December 19, 994. Prior to the accumulation of 16,000 landings after accomplishing the overhaul, replace affected bearing and universal joints with new parts in accordance with the AOT or the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, 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, 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.

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

(d) The actions shall be done in accordance with Airbus All Operator Telex (AOT) 27–17, Revision 01, dated July 11, 1994, or Airbus Service Bulletin A300–27–6028, dated December 19, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 94–206–167(B) R1, dated March 15, 1995.

(e) This amendment becomes effective on May 12, 1998.

Issued in Renton, Washington, on March 31, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8900 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–21]

Revocation of Class E Airspace; Spofford, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action revokes the Class E airspace at Spofford, TX. The cancellation of the NDB runway I special instrument approach procedure removes the need for Class E airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the airport and within 3.1 miles each side of the 204° bearing from the Spofford RBN extending from the 6.4-mile radius to 7.4 miles southwest of the NDB. This action is intended to revoke the unnecessary Class E airspace.

DATES: Effective 0901 UTC, August 13, 1998. Comments must be received on or before May 22, 1998.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 98–ASW–21, Fort Worth, TX 76193–0520.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meachan Boulevard, Room 663, Fort Worth, TX, between 9:00 AM and 3:00 PM, Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Operations Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 revokes the Class E airspace at Spofford, TX. The cancellation of the NDB runway 1 special instrument approach procedure removes the need for Class E airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the airport and within 3.1 miles each side of the 204° bearing from the Spofford RBN extending from the 6.4-mile radius to 7.4 miles southwest of the NDB. This action is intended to revoke the unnecessary Class E airspace.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be removed subsequently from the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**; and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of

the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date, for comments in the Rules Docket for examination by interested persons. A report that summarizes each FAA public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket No. 98–ASW–21. The postcard will be date stamped and returned to the commenter.

Agency Findings

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

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) 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. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW TX E5 Spofford, TX [Removed]

* * * * *

Issued in Fort Worth, TX, on March 19, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–8738 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–26]

Amendment of Class E Airspace; New Bern, NC; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the airspace classification of a correction to a final rule that was published in the **Federal Register** on March 13, 1998, (63 FR 12410) Airspace Docket No. 97–ASO–26. The final rule modified Class E airspace at New Bern, NC.

EFFECTIVE DATE: 0901 UTC, April 23, 1998.

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

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 98–6397, Airspace Docket No. 97–ASO–26, published on March 13, 1998 (63 FR 12410), corrected the geographic position coordinates for the New Bern, NC, Craven County Airport and the New Bern VOR/DME. However, the airspace classification in the legal description erroneously described the airspace as Class E5 in lieu of Class E2. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the correction to the airspace classification as published in the **Federal Register** on March 13, 1998 (63 FR 12410), (FR 98–6397) in FAA Order 7400.9E, which is incorporated by reference in 14 CFR 71.1, is corrected as follows:

§ 7.1 [Corrected]

On page 12410, in column 2, correct to read "ASO NC E2 New Bern, NC [Corrected]"

Issued in College Park, Georgia, on March 20, 1998.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 98–8839 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

14 CFR Part 71

[Airspace Docket No. 97–AGL–50]

Establishment of Class E Airspace; Cooperstown, ND Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects minor errors in the legal description of a final rule that was published in the **Federal Register** on March 12, 1998 (63 FR 11990), Airspace Docket No. 97–AGL–50. The final rule established Class E airspace at Cooperstown, ND.

EFFECTIVE DATE: 0901 UTC, June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018, telephone: (847) 294–7477.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 98–6408, Airspace Docket No. 97–AGL–50,

published on March 12, 1998 (63 FR 11990) established the Class E airspace area at Cooperstown, ND, and Cooperstown Municipal Airport, ND. Minor errors were discovered in the legal description. This action corrects those errors.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the legal description for the Class E airspace area for Cooperstown Municipal Airport, ND, as published in the **Federal Register** March 12, 1998 (63 FR 11990), (FR Doc. 98–6408), is corrected as follows:

PART 71—[CORRECTED]

§ 71.1 [Corrected]

AGL ND E5 Cooperstown, ND [Corrected]

On page 11991, in column 2, in the Class E airspace designation for Cooperstown Municipal Airport incorporated by reverence in § 71.1, correct the two references to "Devils Lake VORTAC" to read "Devils Lake VOR/DME", correct the phrase "that airspace bounded on the northwest by the 34.0-mile arc of the Grand Forks Air Force Base" to read "that airspace bounded on the northeast by the 34.0-mile arc of the Grand Forks Air Force Base" and correct the phrase "and that airspace bounded on the north by V430, on the west by the 34.0-mile arc of the Grand Forks Air Force Base" to read "and that airspace bounded on the north by V430, on the east by the 34.0-mile arc of the Grand Forks Air Force Base".

Issued in Des Plaines, IL on March 24, 1998.

Maureen Woods,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 98–8838 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. 29179; Amendment No. 73–8]

Special Use Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action amends Title 14 Code of Federal Regulations part 73 by changing the office of primary responsibility for receiving and analyzing special use airspace reports from Program Director for Air Traffic Operations to Program Director for Air Traffic Airspace Management. This change is necessary to ensure consistency between the regulation and the current Air Traffic organizational structure.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Brown, Airspace and Rules Division, ATA–400, Air Traffic Airspace Management Program, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

As a result of a recent review of functional responsibilities within the Air Traffic Service organization, the office having primary responsibility for reviewing and managing the utility of designated special use airspace areas was changed. This responsibility has been reassigned from the Program Director for Air Traffic Operations to the Program Director for Air Traffic Airspace Management. This action updates the rule to reflect this change of responsibility.

Because this action is merely a technical amendment reflecting a change of responsibility between FAA Air Traffic offices, the FAA finds that notice and public procedure under 5 U.S.C. 553(b) are unnecessary. For the same reason, the FAA finds that good cause exists under 5 U.S.C. 5553(d) for making this amendment effective upon publication.

The FAA has determined that this regulation; (1) is not "significant" 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 minimal. Since this is a routine matter that will affect only air traffic procedures, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Air safety, Air traffic control, Air transportation, Airmen, Airports, Aviation safety.

The Amendment

In consideration of the above, the FAA amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 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.

2. In § 73.19, paragraphs (a) and (c) are revised as follows:

§ 73.19 Reports by using agency.

(a) Each using agency shall prepare a report on the use of each restricted area assigned thereto during any part of the preceding 12-month period ended September 30, and transmit it by the following January 31 of each year to the Manager, Air Traffic Division in the regional office of the Federal Aviation Administration having jurisdiction over the area in which the restricted area is located, with a copy to the Program Director for Air Traffic Airspace Management, Federal Aviation Administration, Washington, DC 20591.

* * * * *

(c) If it is determined that the information submitted under paragraph (b) of this section is not sufficient to evaluate the nature and extent of the use of a restricted area, the FAA may request the using agency to submit supplementary reports. Within 60 days after receiving a request for additional information, the using agency shall submit such information as the Program Director for Air Traffic Airspace Management considers appropriate. Supplementary reports must be sent to the FAA officials designated in paragraph (a) of this section.

Issued in Washington, DC, on March 31, 1998.

Nancy B. Kalinowski,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 98–9076 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 971110266–8067–02]

RIN 0691–AA31

Direct Investment Surveys: Raising Exemption Level for Two Surveys of Foreign Direct Investment in the United States

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: These final rules amend 15 CFR Part 806.15 by raising the exemption level for reporting in two surveys of foreign direct investment in the United States. The exemption level

for the quarterly survey of transactions of U.S. affiliates with their foreign parents (Forms BE–605 and BE–605 Bank) is raised to $30 million from $20 million. The exemption level for the survey of U.S. businesses newly acquired or established by foreign inventors (Forms BE–13 and BE–14) is raised to $3 million from $1 million.

These changes bring the surveys into conformity with the BE–12, Benchmark Survey of Foreign Direct Investment in the United States—1997, and reduce reporting burden on small respondents. For the quarterly survey, other changes, which do not require a change in rules, may increase the reporting burden slightly, thereby offsetting a portion of the overall reduction in burden that results from raising the exemption level.

EFFECTIVE DATE: These rules will be effective May 7, 1998.

FOR FURTHER INFORMATION CONTACT: R. David Belli, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone 202–606–9800.

SUPPLEMENTARY INFORMATION: In the December 10, 1997 **FEDERAL REGISTER**, Volume 62, No. 237, pages 65043–65044, the Bureau of Economic Analysis published a notice of proposed rulemaking to amend 15 CFR part 806.15 by raising the exemption level for reporting in two surveys of foreign direct investment in the United States. No comments on the proposed rule were received. Thus, this final rule is the same as the proposed rule.

The two surveys affected by these changes are part of the Bureau of Economic Analysis (BEA) data collection program for foreign direct investment in the United States. The surveys, (1) the BE–605, Transactions of U.S. Affiliate, Except a U.S. Banking Affiliate, with Foreign Parent, together with the BE–605 Bank, Transactions of U.S. Banking Affiliate With Foreign Parent, and (2) the BE–13, Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets, of a U.S. Business Enterprise, Including Real Estate, together with BE–14, Report by a U.S. Person Who Assists or Intervenes in the Acquisition of a U.S. Business Enterprise by, or Who Enters Into a Joint Venture With, a Foreign Person, are mandatory and are conducted pursuant to the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108, as amended).

These changes will bring reporting by U.S. affiliates on the BE–605 quarterly survey, the first of the two surveys, into conformity with their reporting on the BE–12, Benchmark Survey of Foreign Direct Investment in the United States—1997. The BE–12 is BEA's quinquennial census of foreign direct investment in the United States; it collect annual data and is intended to cover the universe of U.S. affiliates. (A U.S. affiliate is a U.S. business enterprise in which a foreign person owns or controls ten percent or more of the voting stock, or an equivalent interest in an unincorporated business enterprise.) The BE–605 is a survey covering all affiliates above a size-exemption level. The data reported in the BE–605 survey will be linked to data from the BE–12 benchmark survey in order to derive universe estimates by quarter for benchmark and nonbenchmark years. Pursuant to these rules, the exemption level for the B–605 survey will be raised from $20 million to $30 million of assets, sales, or net income. The $30 million exemption level is the same as that used in the BE–12 Benchmark Survey of Foreign Direct Investment in the United States—1997, to determine whether reporting companies are required to provide similar balance of payments data on the BE–12(SF) short form. Below the $30 million threshold, companies reporting on the BE–12 do not provide these data.

In addition to raising the exemption level of the BE–605 survey, BEA has made one other change to the form. Specifically, trade in services between U.S. affiliates and their foreign parents by type of service must be reported once each year, similar to reporting requirements introduced on the 1997 BE–12 benchmark survey. However, for the BE–605 survey, an increase in the reporting burden due to adding the requirement to provide information on services transactions by type of service has been kept to a minimum by requesting that the added information be reported only once each year. Many respondents do not have transactions in services and will not have to file the added information; those that do will only be required to provide it once each year, along with other data that are already required to be filed annually following the end of their fiscal year. In order to allow for respondents' review of the additional instructions and the provision of the information that will be required only on an annual basis, the average burden was increased by one-fourth of an hour (1 hour for one of the four quarters for which reports will be filed). The reporting changes will only affect the BE–605 and not the BE–605 Bank form and are the minimum necessary to maintain consistency with the benchmark survey. However, because of raising the reporting threshold to $30 million from $20 million, BEA estimates that 650 companies, or 14 percent of potential respondents, will drop out of the reporting sample, thus reducing the increased burden associated with reporting services transactions by type.

The revised BE–605 and BE–605 Bank forms will be required to be filed beginning with the report for the first calendar quarter of 1998.

The second of the two surveys affected by these rules changes is the BE–13 new investment survey. In the 1997 BE–12 benchmark survey, the reporting threshold was raised to $3 million from $1 million of assets, sales, or net income in the previous benchmark survey. Accordingly, BEA has raised the threshold for reporting on the BE–13 new investment survey (measured by the acquired or established U.S. company's total assets) to $3 million to correspond to the initial reporting level on the BE–12. For both surveys, the BE–13 and BE–12, only an exemption claim must be filed for companies below the $3 million level, thereby reducing respondent burden for small companies. A concomitant requirement on the BE–13 that a report be filed for all acquisitions of 200 or more acres of U.S. land has not changed. The exemption level for the related form BE–14 also has been raised to correspond to new $3 million threshold for the BE–13.

To maintain consistency with the benchmark survey, the BE–13 will use the new North American Industry Classification System (NAICS) in place of the current industry coding system, which is based on the U.S. Standard Industrial Classification System. The change in the basis for industry coding should not affect the average reporting burden for the BE–13 new investment survey. However, BEA estimates that 300 potential respondents to the survey will not be required to file in the survey because of raising the reporting threshold to $3 million from $1 million. This represents a 20 percent decrease in the estimated number of reporters that would otherwise be required to report in the survey. The revised BE–13 and BE–14 report forms will be required to be filed for reports covering 1998 transactions, although the current version of the forms may be used until the revised forms become available.

Executive Order 12612

These rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

Executive Order 12866

These rules have been determined to be not significant for purposes of E.O. 12866.

Paperwork Reduction Act

The collection of information required in these final rules have been approved by OMB (OMB No. 0608–0009 for BE–605 and BE–605 Bank and OMB No. 0608–0035 for BE–13 and BE–14).

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act, unless that collection displays a currently valid Office of Management and Budget Control Number; such Control Numbers have been displayed. Public reporting burden for the BE–605 collection of information is estimated to vary from ½ hour to 4 hours per response with an average 1¼ hours per response. The estimated average burden of 1¼ hours per form includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public reporting burden for the BE–13 collection of information is estimated to vary from 1 to 4 hours per response, with an average 1½ hours per response. The estimated average burden of 1½ hours includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0009 (BE–605/605 Bank) or Paperwork Reduction Project 0608–0035 (BE 13/14), Washington, DC 20503.

Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that these final rules will not have a significant economic impact on a substantial number of small entities. Most small businesses are not foreign owned, and many that are will not be required to report because of these changes. For the BE–605 quarterly survey, the rule changes increase the exemption level at which reporting will be required, thereby eliminating the reporting requirement for a number of small companies. For the BE–13 new investment survey, the reporting threshold is being raised from $1 million to $3 million, thus eliminating an additional number of small companies that would have been required to file. These provisions are intended to reduce the reporting burden on smaller companies.

List of Subjects in 15 CFR Part 806

Balance of payments, Economic statistics, Foreign investment in the United States, Reporting and recordkeeping requirements.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth above, BEA amends 15 CFR part 806 as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101–3108, and E.O. 11961 (3 CFR 1977 Comp., p. 86), as amended by E.O. 12013 (3 CFR 1997 Comp., p. 147), E.O. 12318 (3 CFR 1981 Comp., p. 173), and E.O. 12518 (3 CFR 1985 Comp., p. 348).

§ 806.15 [Amended]

2. Section 806.15(h)(1) is amended by deleting "$20,000,000" and inserting in its place "$30,000,000."

3. Section 806.15(h)(2) is amended by deleting "$20,000,000" and inserting in its place "30,000,000."

4. Section 806.15(j)(3)(ii)(b) is amended by deleting "$1,000,000" and inserting in its place "$3,000,000."

5. Section 806.1(j)(3)(ii)(c) is amended by deleting "$1,000,000" and inserting in its place "$3,000,000."

6. Section 806.1(j)(4)(ii)(b) is amended by deleting "$1,000,000" and inserting in its place "$3,000,000."

[FR Doc. 98–8985 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–06–M

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 2773]

Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended—Border Crossing Identification Cards

AGENCY: Bureau of Consular Affairs, State.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends Department of State regulations pertaining to the nonimmigrant border crossing identification card (BCC) and those pertaining to the requirements for entry of Mexican nationals into the United States. The rule is necessitated, in part, by a change in the law, which now specifies that regulations pertaining to the BCC contain a requirement for the inclusion of a machine-readable biometric identifier in such cards. The rule provides authority for consular officers to issue to Mexican citizens who are residents of Mexico a combined B–1/B–2 visa and border crossing card (B–1/B–2 Visa/BCC) as a stand-alone card containing a machine-readable biometric identifier. In addition, it also specifies the conditions under which the new stand-alone card will be considered invalidated, and it waives the requirement for the presentation of a passport for certain applicants for the card. This rule also includes a waiver of the visa and passport requirement for Mexican nationals entering the United States for the purpose of obtaining official Mexican documents from a Mexican consular office on the United States side of the border. Finally, the rule adopts changes to the regulations pertaining to the issuance and revocation of Canadian border crossing cards made necessary by the same change in law.

DATES: This interim rule is effective April 1, 1998. Written comments are invited and must be received on or before June 8, 1998.

ADDRESS: Written comments may be submitted, in duplicate, to the Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, (202) 663–1204.

SUPPLEMENTARY INFORMATION: Section 104 of Pub. L. 104–208 (September 30, 1996) added to the definition of "border crossing identification card" (BCC) at section 101(a)(6) of the Immigration and Nationality Act (INA) a requirement that the regulations pertaining to the BCC include a requirement for the BCC to contain a machine-readable biometric identifier. This amendment has led to a determination by the Department of State and the INS that the combined B–1/B–2 Visa/BCC, which is currently stamped into passports pursuant to 22 CFR 41.32(b), should become a

biometric-inclusive card issued solely by consular officers stationed in Mexico. Thus, as of April 1, 1998, a combined B–1/B–2 Visa/BCC will no longer be issued by consular officers in Canada to permanent residents of Canada. The Department of State and the INS have further agreed that the INS will cease issuance of all BCCs as of April 1, 1998. Thus, in Canada, after April 1, 1998, only B–1/B–2 visas issued by consular officers will be available to qualified applicants. This rule is intended, in part, to replace the current sections 41.32 and 41.33 as of April 1, 1998.

Pursuant to INA 212(d)(4) the Department of State and the INS have also agreed to waive the passport requirement contained in INA 212(a)(7)(B)(i) for certain applicants for the new B–1/B–2 Visa/BCC. This agreement is reflected in the new language of section 41.32. Similarly, the Department of State and the INS have also agreed to waive the visa and passport requirement for Mexican nationals entering the United States solely for the purpose of obtaining a Mexican passport or other official Mexican document from a Mexican consular office on the United States side of the border. While this agreement is currently reflected in the regulations of the INS, it is being included in the regulations of the Department of State for the first time as an amendment to § 41.2.

Former subsection 41.32(a), which related to stand-alone BCCs issued by the Service has been removed in its entirety. Former subsection 41.32(b) has been largely revised to include both the requirement for a machine-readable biometric identifier and to distinguish between whether the application is for a first time B–1/B–2 Visa/BCC or is for a replacement. Renumbered and revised subsection 41.32(a)(2)(iii) eliminates the requirement for presentation of a Mexican passport for those seeking a B–1/B–2 Visa/BCC replacement for previously issued documentation, provided that the previously issued visa and/or BCC has not been voided by operation of law or revoked by a consular or immigration officer.

This rule provides that current BCCs (either stand-alone BCC's or the BCC portion of a B–1/B–2 Visa/BCC) shall expire on the date of expiration noted therein (if any) and, in any event, shall not be valid for admission to the United States on or after October 1, 1999, or whatever other date may be enacted for required use of a card containing a machine readable biometric identifier for entry. Other than the exemption from presentation of a passport for those applying for replacement cards, the requirements relating to procedures for application are the same as those in the current regulation. The format formerly described in 41.32(b)(3) has changed from a stamp in a passport to that of a stand-alone card, but one containing essentially the same kind of identifying information. The cards will have a specific validity. Provisions for revocation or voidance of the document generally are those currently in effect, except that the BCC or B–1/B–2 Visa/BCC of an alien who otherwise would be subject to INA 222(g) pertaining to overstay on a nonimmigrant visa will be void. Further, specific authority has been added for the revocation of a BCC or B–1/B–2 Visa/BCC when the holder ceases to maintain a residence in or the citizenship of Mexico or ceases to be a permanent resident of Canada.

Regulatory Analysis and Notices

Interim Rule

This rule is being published as an interim rule with a comment period pursuant to the "good cause" exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). This is due to the fact that § 104 of Pub. L. 104–208 (September 30, 1996), pursuant to which certain changes in the procedures for issuance of entry documentation to aliens are required, becomes effective on April 1, 1998. Therefore, delay in the publication of this rule would interfere with the fulfillment of the statutory requirements imposed upon the Department of State by that section.

The Regulatory Flexibility Act

Pursuant to § 605(b) of the Regulatory Flexibility Act, the Department has assessed the potential impact of this rule and it has been determined, and the Assistant Secretary for Consular Affairs hereby certifies, that it will not have a significant economic impact on a substantial number of small entities. The rule has no economic effect beyond that of the statutory requirements already in effect, which it implements.

5 U.S.C. Chapter 8

As required by 5 U.S.C. chapter 8, the Department has screened this rule and determined that it is not a major rule, as defined in 5 U.S.C. 80412.

Paperwork Reduction Act

The Department of State, Bureau of Consular Affairs, Visa Services has received OMB emergency clearance for the information collection instrument, Nonimmigrant Visa Application (OF–156), that underlies the nonimmigrant border crossing identification card (BCC) contained in this rule. It is estimated that 300,000 OF–156s will be completed annually to support the issuance of BCCs, and that (at one hour per OF–156) this will require 300,000 hours of the time of aliens. Comments regarding OF–156 information collections in support of this rule should be identified as such and should be directed to Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, D.C. 20520, (202) 647–0596. Such comments should be received within 60 days of publication of this rule.

E.O. 12988 and E.O. 12866

This rule has been reviewed as required by E.O. 12988 and determined to meet the applicable regulatory standards it describes. Although exempted from E.O. 12866, this rule has been reviewed to ensure consistency with it.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas, Temporary visitors.

For the reasons stated in the preamble, the Department of State amends 22 CFR part 41 as set forth below:

PART 41—[AMENDED]

1. The authority citation for part 41 continues to read as follows:

Authority: 8 U.S.C. 1104.

2. Section 41.2 is amended by redesignating paragraphs (g)(3) and (4) as paragraphs (g)(5) and (6), respectively, and adding new paragraphs (3) and (4) to read as follows:

§ 41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.

* * * * *

(g) *Mexican nationals.* * * *

(3) A visa and a passport are not required of a Mexican national who is entering solely for the purpose of applying for a Mexican passport or other official Mexican document at a Mexican consular office on the United States side of the border.

(4) A passport is not required of a Mexican national who is applying for a B–1/B–2 Visa/BCC and who meets the conditions for waiver of the passport requirement in section 41.32(a)(2)(iii).

* * * * *

3. Section 41.32 is revised to read as follows:

§ 41.32 Nonresident alien Mexican border crossing identification cards; combined border crossing identification cards and B–1/B–2 visitor visas.

(a) *Combined B–1/B–2 visitor visa and border crossing identification card (B–1/*

B–2 Visa/BCC).—(1) *Authorization for issuance.* Consular officers assigned to a consular office in Mexico designated by the Deputy Assistant Secretary for Visa Services for such purpose may issue a border crossing identification card, as that term is defined in INA 101(a)(6), in combination with a B–1/B–2 nonimmigrant visitor visa (B–1/B–2 Visa/BCC), to a nonimmigrant alien who:

(i) Is a citizen and resident of Mexico;

(ii) Seeks to enter the United States as a temporary visitor for business or pleasure as defined in INA 101(a)(15)(B) for periods of stay not exceeding six months;

(iii) Is otherwise eligible for a B–1 or B–2 temporary visitor visa or is the beneficiary of a waiver under INA 212(d)(3)(A) of a ground of ineligibility, which waiver is valid for multiple applications for admission into the United States and for a period of at least ten years and which contains no restrictions as to extensions of temporary stay or itinerary.

(2) *Procedure for application.* Application for a B–1/B–2 Visa/BCC shall be made by a Mexican applicant at any U.S. consular office in Mexico designated by the Deputy Assistant Secretary of State for Visa Services pursuant to paragraph (a) of this section to accept such applications. The application shall be submitted on Form OF–156. The application shall be supported by:

(i) Evidence of Mexican citizenship and residence;

(ii) One photograph of the size specified in the application, if 16 years of age or older; and

(iii) A valid Mexican Federal passport, unless the applicant is the bearer of a currently valid or expired United States visa or BCC or B–1/B–2 Visa/BCC which has neither been voided by operation of law nor revoked by a consular or immigration officer. BCCs which after October 1, 1999, or such other date as may be enacted, are no longer useable for entry due only to the absence of a machine readable biometric identifier shall not be considered to have been voided or revoked for the purpose of making an application under this section.

(iv) A digitized impression of the prints of the alien's index fingers.

(3) *Personal appearance.* Each applicant shall appear in person before a consular officer to be interviewed regarding eligibility for a visitor visa, unless the consular officer waives personal appearance.

(4) *Issuance and format.* A B–1/B–2 Visa/BCC issued on or after April 1, 1998, shall consist of a card, Form DSP–150, containing a machine-readable biometric identifier. It shall contain the following data:

(i) Post symbol;

(ii) Number of the card;

(iii) Date of issuance;

(iv) Indicia "B–1/B–2 Visa and Border Crossing Card";

(v) Name, date of birth, and sex of the person to whom issued; and

(vi) Date of expiration.

(b) *Validity.* A BCC previously issued by a consular officer in Mexico on Form I–186, Nonresident Alien Mexican Border Crossing Card, or Form I–586, Nonresident Alien Border Crossing Card, is valid until the expiration date on the card (if any) unless previously revoked, but not later than the date, currently October 1, 1999, on which a machine readable biometric identifier in the card is required in order for the card to be usable for entry. The BCC portion of a B–1/B–2 Visa/BCC issued to a Mexican national pursuant to provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998 is valid until the date of expiration, unless previously revoked, but not later than the date, currently October 1, 1999, on which a machine readable biometric identifier in the card is required in order for the card to be usable for entry.

(c) *Revocation.* A BCC issued in Mexico on Form I–186 or Form I–586 or a B–1/B–2 Visa/BCC issued at any time by a consular officer in Mexico, under provisions contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998 of this section, may be revoked at any time under the provisions of § 41.122 or upon a determination by a consular or immigration officer that the alien to whom any such document was issued has ceased to be a resident and /or a citizen of Mexico. Upon revocation, the consular or immigration officer shall notify the issuing consular or immigration office and if the revoked document is a card, the consular or immigration officer shall take possession of the card and physically cancel it under standard security conditions. If the revoked document is a stamp in a passport the consular or immigration officer shall write or stamp "canceled" on the face of the document.

(d) *Voidance.*

(1) The voiding pursuant to INA 222(g) of the visa portion of a B–1/B–2 Visa/BCC issued at any time by a consular officer in Mexico under provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, also voids the BCC portion of that document.

(2) A BCC issued at any time by a consular officer in Mexico under any provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, is void if a consular or immigration officer determines that the alien has violated the conditions of the alien's admission into the United States, including the period of stay authorized by the Attorney General.

(3) A consular or immigration officer shall immediately take possession of a card determined to be void under paragraphs (d) (1) or (2) of this section and physically cancel it under standard security conditions. If the document voided in paragraphs (d) (1) or (2) is in the form of a stamp in a passport the officer shall write or stamp "canceled" across the face of the document.

(e) *Replacement.* When a B–1/B–2 Visa/BCC issued under the provisions of this section, or a BCC or B–1/B–2 Visa/BCC issued under any provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, has been lost, mutilated, destroyed, or expired, the person to whom such card was issued may apply for a new B–1/B–2 Visa/BCC as provided in this section.

4. Section 41.33 is revised to read as follows:

§ 41.33 Nonresident alien Canadian border crossing identification card (BCC).

(a) *Validity of Canadian BCC.* A Canadian BCC or the BCC portion of a Canadian B–1/B–2 Visa/BCC issued to a permanent resident of Canada pursuant to provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, is valid until the date of expiration, if any, unless previously revoked, but not later than the date, currently October 1, 1999, on which a machine readable biometric identifier is required in order for a BCC to be usable for entry.

(b) *Revocation of Canadian BCC.* A BCC or a B–1/B–2 Visa/BCC issued by a consular officer in Canada at any time under provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, may be revoked at any time by a consular or immigration officer under the provisions of § 41.122 or upon a determination that the alien to whom any such document has been issued has ceased to be a permanent resident of Canada. Upon revocation, the consular or immigration officer shall notify the issuing consular office and if the revoked document is a card, the consular or immigration officer shall take possession of the card and physically cancel it under standard

security conditions. If the revoked document is a stamp in a passport the consular or immigration officer shall write or stamp "canceled" on the face of the document.

(c) *Voidance.* (1) The voiding pursuant to INA 222(g) of the visa portion of a B–1/B–2 Visa/BCC issued at any time by a consular officer in Canada under provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, also voids the BCC portion of that document.

(2) A BCC issued at any time by a consular officer in Canada under any provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, is void if it is found by a consular or immigration officer that the alien has violated the conditions of the alien's admission into the United States, including the period of stay authorized by the Attorney General.

(3) A consular or immigration officer shall immediately take possession of a card determined to be void under paragraphs (c) (1) or (2) of this section and physically cancel it under standard security conditions. If the document voided under paragraphs (c) (1) or (2) is in the form of a stamp in a passport the officer shall write or stamp "canceled" across the face of the document.

5. Section 41.122 is amended by adding a new paragraph (a) (4) and new paragraph (h) (9) to read as follows:

§ 41.122 Revocation of visas.

(a) *Grounds for revocation by consular officers.* * * *

* * * * *

(4) The visa has been issued in a combined Mexican or Canadian B–1/B–2 visa and border crossing identification card and the officer makes the determination specified in § 41.32(c) with respect to the alien's Mexican citizenship and/or residence or the determination specified in § 41.33(b) with respect to the alien's status as a permanent resident of Canada.

* * * * *

(h) *Revocation of visa by immigration officer.* * * *

(9) The visa has been issued in a combined Mexican or Canadian B–1/B–2 visa and border crossing identification card and the officer makes the determination specified in § 41.32(c) with respect to the alien's Mexican citizenship and/or residence or the determination specified in § 41.33(b) with respect to the alien's status as a permanent resident of Canada.

Dated: April 1, 1998.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 98–9084 Filed 4–6–98; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8768]

RIN 1545–AT27

Valuation of Plan Distributions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations that provide guidance to employers in determining the present value of an employee's benefit under a qualified defined benefit pension plan, for purposes of the applicable consent rules and for purposes of determining the amount of a distribution made in any form other than certain nondecreasing annuity forms. These regulations are issued to reflect changes to the applicable law made by the Retirement Protection Act of 1994 (RPA '94), which is part of the Uruguay Round Agreements Act of 1994. RPA '94 amended the law to change the interest rate, and to specify the mortality table, for the purposes described above. These regulations affect employers that maintain qualified defined benefit pension plans, and participants and beneficiaries in those plans.

DATES: *Effective date:* These regulations are effective April 3, 1998.

Applicability date: These regulations apply to plan years beginning after December 31, 1994, except as provided in § 1.417(e)–1(d) (8) and (9).

FOR FURTHER INFORMATION CONTACT: Linda S. F. Marshall, (202) 622–6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 417(e). Section 417(e) was amended by the Retirement Protection Act of 1994 (RPA '94). On April 5, 1995, temporary regulations (TD 8591) under section 417(e) were published in the **Federal Register** (60 FR 17216). A notice of proposed rulemaking (EE–12–95), cross-referencing the temporary regulations, was published in the **Federal Register** (60 FR 17286) on the same day. The temporary regulations provide guidance related to the determination of the present value of an employee's benefit under a qualified defined benefit pension plan in accordance with the rules of section 417(e)(3). After consideration of the public comments received regarding the temporary and proposed regulations, the temporary regulations are replaced and the proposed regulations are adopted as revised by this Treasury decision.

Section 417(e)(3) sets forth rules to be used in determining the present value of an employee's benefit under a qualified defined benefit pension plan, for purposes of the applicable consent rules and for purposes of determining the amount of a distribution. The rules of section 417(e)(3) are also relevant to the application of section 411(a)(11) and section 415(b). Section 411(a)(11) provides that a participant's benefit with a present value that exceeds a statutory threshold can be immediately distributed to a participant only with the participant's consent. The level of this statutory threshold was changed from $3,500 to $5,000 by the Taxpayer Relief Act of 1997, effective for plan years beginning after August 5, 1997. Under section 411(a)(11)(B), as amended by RPA '94, the present value of a participant's benefit is calculated using the rules of section 417(e)(3).

Section 415(b) limits the maximum benefit that can be provided under a qualified defined benefit plan. Under section 415(b)(2)(E)(ii), as amended by RPA '94, the minimum interest rate permitted to be used for certain purposes to determine compliance with the limit under section 415(b) is the applicable interest rate as defined in section 417(e)(3). Because the rules of section 417(e)(3) affect the application of sections 411(a)(11)(B) and 415(b)(2)(E)(ii), the guidance provided by these regulations is relevant to the application of those provisions.

Explanation of provisions

Section 417(e) restricts the ability of certain qualified retirement plans to distribute a participant's benefit under the plan without the consent of the participant and, in many cases, the participant's spouse. The application of these restrictions is determined based on the present value of the participant's benefit. Prior to amendments made by RPA '94, section 417(e)(3) restricted the interest rate to be used under a plan to calculate the present value of a participant's benefit, but did not impose any restrictions on the mortality table to be used for that purpose. Section 767 of

RPA '94 modified section 417(e)(3) to provide that the present value of a participant's benefit is not less than the present value calculated by using the applicable mortality table and the applicable interest rate.

In general, comments received on the proposed and temporary regulations were favorable. Thus, the final regulations retain the general structure and substance of the proposed and temporary regulations.

Applicable mortality table

The applicable mortality table under section 417(e)(3) is defined as the table prescribed by the Secretary based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on the date as of which present value is being determined (without regard to any other subparagraph of section 807(d)(5)). Currently, the prevailing commissioners' standard table is the 1983 Group Annuity Mortality Table. See Rev. Rul. 92–19 (1992–1 C.B. 227). These regulations retain the provision in the temporary regulation that the applicable mortality table as described above is to be prescribed by the Commissioner in revenue rulings, notices or other guidance published in the Internal Revenue Bulletin. The mortality table currently prescribed by the Commissioner is set forth in Rev. Rul. 95–6 (1995–1 C.B. 80), and is based on a fixed blend of 50 percent of the male mortality rates and 50 percent of the female mortality rates from the 1983 Group Annuity Mortality Table.

Applicable interest rate

Under section 417(e)(3), the applicable interest rate is defined as the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary may by regulations prescribe. These regulations retain the rule in the temporary regulations that the applicable interest rate for a month is the annual interest rate on 30-year Treasury securities as specified by the Commissioner for that month. The Commissioner publishes this interest rate for each month by notice, after the end of the month. Currently, this interest rate is the interest rate published in Federal Reserve releases G.13 and H.15 as the average yield on 30-year Treasury Constant Maturities for the month.

The interest rate on 30-year Treasury Constant Maturities published monthly in Federal Reserve releases G.13 and H.15 can also be obtained by telephone from the Public Information Department of the Federal Reserve Bank of New York at (212) 720-6130 (not a toll-free number), or from the Federal Reserve Board of Governors' Internet site at http://www.bog.frb.fed.us/releases. Information regarding subscriptions to Federal Reserve releases G.13 and H.15 can be obtained from the Publications Department of the Federal Reserve Board of Governors at (202) 452–3244 (not a toll-free number).

Time for determining applicable interest rate

Section 417(e)(3)(A)(ii)(II) provides that the applicable interest rate for distributions made during a month is the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary may by regulations prescribe. As an alternative to this monthly change in the applicable interest rate, the temporary regulations permitted selection of a plan quarter or a plan year as a stability period during which the applicable interest rate remains constant, thereby permitting plans to offer greater benefit stability than is provided by the statutory rule. One commentator suggested adding a calendar year and a calendar quarter as additional alternative stability periods for the applicable interest rate, and another suggested adding a plan half-year. The IRS and Treasury have weighed the usefulness of the additional proposed stability periods for taxpayers against the additional complexity that would be added to the regulation, and have added a calendar year and a calendar quarter as additional alternative stability periods.

These regulations retain the rule in the temporary regulations that the applicable interest rate for the stability period may be determined as the 30-year Treasury rate for any one of the five calendar months preceding the first day of the stability period. Permitting this "lookback" of up to five months provides added flexibility and gives plan administrators and participants more time to comply with applicable notice and election requirements using the actual interest rate (instead of an estimate).

Several commentators suggested that regulations permit an average of lookback month interest rates to be used, in lieu of the interest rate for a single lookback month, to minimize interest rate fluctuations. These regulations adopt this suggestion, and permit an average interest rate based on consecutive permitted lookback months to be used for this purpose.

Several commentators suggested that a plan be allowed to provide for different applicable interest rates for each portion of the plan that independently meets the requirements of sections 410(b) and 401(a)(26). The IRS and Treasury have determined, however, that there is insufficient basis for adopting a definition of a "plan" that is different from the general definition set forth in § 1.414(l)–1(b)(1).

Exceptions from the requirements of section 417(e)(3)

The temporary regulations provided an exception from the requirements of section 417(e)(3) and § 1.417(e)–1T(d) for the amount of a distribution under a nondecreasing annuity payable for a period not less than the life of the participant or, in the case of a QPSA, the life of the surviving spouse. For purposes of this exception, a nondecreasing annuity included a QJSA, a QPSA, and an annuity that decreased merely because of the cessation or reduction of Social Security supplements or qualified disability payments (as defined in section 411(a)(9)). This exception was identical to the exception provided under former final regulations. Several commentators pointed out that this exception did not cover several other types of annuity forms of distribution that were nondecreasing during the life of the participant, and suggested that the regulations be changed to provide additional exceptions for these additional annuity forms of distribution.

The IRS and Treasury have determined that it is appropriate to provide additional exceptions for these benefit forms. Accordingly, under the final regulations, section 417(e)(3) and § 1.417(e)–1(d) do not apply to the amount of a distribution paid in the form of an annual benefit that does not decrease during the life of the participant, or, in the case of a QPSA, the life of the participant's spouse; or that decreases during the life of the participant merely because of the death of the survivor annuitant (but only if the reduction is to a level not below 50% of the annual benefit payable before the death of the survivor annuitant) or merely because of the cessation or reduction of Social Security supplements or qualified disability benefits. Also, under Q&A–2 of Rev. Rul. 98–1 (1998–2 I.R.B. 1), the interest rate prescribed by section 415(b)(2)(E)(ii) does not apply to these forms of benefit.

Effective dates

These regulations generally apply to plan years beginning after December 31, 1994.

Under section 417(e)(3)(B) and these regulations, the general effective date for the RPA '94 rules is delayed for certain plans until the first plan year that begins after December 31, 1999, unless an employer takes earlier action. The delayed effective date applies to a plan adopted and in effect before December 8, 1994, if the provisions of the plan in effect on December 7, 1994, met the requirements of section 417(e)(3) as in effect on December 7, 1994. For such a plan, the determination of whether a distribution made before the first day of the first plan year that begins after December 31, 1999, satisfies section 417(e) is made under the provisions of the plan in effect on December 7, 1994, if the annuity starting date for the distribution occurs before the date a plan amendment applying both the applicable mortality table and the applicable interest rate rules added by RPA '94 is adopted or, if later, is made effective. Thus, under section 417(e)(3)(B) and these regulations, a plan that was adopted and in effect before December 8, 1994, and the provisions of which, as in effect on December 7, 1994, met the requirements of section 417(e)(3) as in effect on that date, cannot be amended to provide a different method of calculating the present value of a distribution under section 417(e)(3) effective before the date a plan amendment applying both the applicable mortality table and the applicable interest rate rules added by RPA '94 is adopted or, if later, is made effective.

One commentator inquired whether, where a plan is spun off from another plan during the optional delayed effective date period, both plans are required to be amended to apply the applicable mortality table and the applicable interest rate rules added by RPA '94 effective on the same date. Because these rules apply on a plan by plan basis, the plans are not required to be amended effective on the same date. One other commentator suggested that the regulations be changed to permit a plan to provide for different optional delayed effective dates for each separate benefit structure that independently meets the requirements of section 401(a)(4). Section 417(e)(3)(B) requires a single effective date for a plan amendment applying the applicable mortality table and the applicable interest rate rules added by RPA '94. Therefore, this suggestion is inconsistent with the statute. Of course, a plan amendment that applies the applicable mortality table and the applicable interest rate rules added by RPA '94 may provide for temporary or permanent use of interest and mortality assumptions for specified participant groups that result in larger distributions than the minimum required under these RPA '94 rules, provided that other qualification requirements (such as section 401(a)(4)) are satisfied.

These regulations restate the rules applicable to plan years beginning before January 1, 1995, without substantive change. Those pre-1995 rules also apply to later plan years, to the extent that the application of the RPA '94 rules is delayed as described above.

In addition, section 767(d)(1) of RPA '94 permits an employer to elect to accelerate the effective date of the RPA '94 rules, and hence these regulations, in order to apply the RPA '94 rules to distributions with annuity starting dates occurring after December 7, 1994, in plan years beginning before January 1, 995. An employer that makes a plan amendment applying the applicable mortality table and the applicable interest rate rules of these regulations is treated as making this election as of the date the plan amendment is adopted or, if later, is made effective.

Relationship with section 411(d)(6)

Section 411(d)(6) provides that a plan does not satisfy the requirements of section 411 if the accrued benefit of a participant is decreased by a plan amendment. In general, a plan amendment that changes the interest rate or the mortality assumptions used for purposes of determining the amount of any accrued benefit in any preexisting optional form is subject to section 411(d)(6). Consistent with both the temporary regulations and the prior final regulations, these regulations provide limited section 411(d)(6) relief for certain plan amendments that change the time for determining the applicable interest rate. A plan amendment that changes the time for determining the applicable interest rate will not be treated as violating section 411(d)(6) if each distribution made until one year after the later of the effective date or the adoption date of the amendment is calculated using the time for determining the applicable interest rate as provided before or after the amendment, whichever produces the larger benefit. For this purpose, all other plan provisions must be applied as in effect after the amendment.

Section 767(d)(2) of RPA '94 provides that a participant's accrued benefit is not considered to be reduced in violation of section 411(d)(6) merely because the benefit is determined in accordance with the applicable interest rate rules and the applicable mortality table rules of section 417(e)(3)(A), as amended by RPA '94. These regulations provide that an amendment replacing an interest rate used for purposes of section 417(e)(3) qualifies for this section 411(d)(6) relief if the interest rate replaced is the Pension Benefit Guaranty Corporation (PBGC) interest rate or a rate based on the PBGC interest rate. Pursuant to suggestions made by several commentators, these regulations clarify that the interest rates that may be replaced pursuant to this section 411(d)(6) relief include an interest rate based on the average of the PBGC interest rates over a specified period. In addition, pursuant to suggestions made by two commentators, the final regulations clarify the relationship between the various types of section 411(d)(6) relief under the regulations, and provide some additional flexibility to employers in determining how to transition between the PBGC interest rate and the applicable interest rate and applicable mortality table, where the transition is combined with a change in the time for determining the interest rate.

One commentator asked whether the section 411(d)(6) relief for plan amendments adopting the applicable mortality table and the applicable interest rate rules applies with respect to terminated vested participants. Because the section 411(d)(6) relief provided under section 767(d)(2) of RPA '94 applies in the same manner with respect to active and terminated participants, the regulations likewise do not distinguish terminated vested participants from other participants in this regard.

Several commentators requested that the regulations be amended to provide unconditional section 411(d)(6) relief for plan amendments adopting the applicable interest rate and applicable mortality table rules of RPA '94 regardless of changes in the time for determining the applicable interest rate. The IRS and Treasury have determined that providing some additional flexibility to employers in determining how to transition between the PBGC interest rate and the applicable interest rate and applicable mortality table, as discussed above, where the transition is combined with a change in the time for determining the interest rate, strikes an appropriate balance between the practical concerns of employers and the rights of participants.

These regulations further provide that, where a plan provided for the use of an interest rate not based on the PBGC interest rate prescribed by section 417(e)(3) as in effect before amendments made by RPA '94, a plan amendment

that eliminates the use of that interest rate and the associated mortality table may result in a reduction of a participant's accrued benefit, which would violate the requirements of section 411(d)(6). Two commentators suggested that final regulations provide section 411(d)(6) relief for plan amendments that eliminate the use of an interest rate not based on the PBGC interest rate, for plan amendments that adopt the applicable interest rate and applicable mortality table rules of RPA '94. Another commentator requested that final regulations provide for similar section 411(d)(6) relief, but only for mandatory distributions that are permitted pursuant to the rules of section 411(a)(11). The IRS and Treasury have determined that section 767(d)(2) of RPA '94 does not support a grant of section 411(d)(6) relief with respect to plan amendments eliminating interest rates that are not based on the PBGC interest rate.

These regulations provide examples of the application of section 411(d)(6) and the special rule of section 767(d)(2) of RPA '94, including an example illustrating the use of a phase-in that provides for a smoother transition from the plan's former terms to the new rules. In addition, these regulations provide section 411(d)(6) relief for certain plan amendments that eliminate use of the applicable interest rate and the applicable mortality table with respect to distribution forms that are newly excepted from the application of section 417(e)(3) by these regulations.

The PBGC has advised the IRS and Treasury that it has not made any decision at this time on whether it will continue to calculate and publish the relevant interest rates after the year 2000. Therefore, in amending plans to comply with these regulations, employers should not rely on the continued determination and publication of these rates by the PBGC beyond the year 2000.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the notice of proposed rulemaking preceding the regulations was issued prior to March 29, 1996, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information: The principal author of these regulations is Linda S. F. Marshall, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.417(e)–1 also issued under 26 U.S.C. 417(e)(3)(A)(ii)(II). * * *

Par. 2. In § 1.417(e)–1, paragraph (d) is revised to read as follows:

§ 1.417(e)–1 Restrictions and valuations of distributions from plans subject to sections 401(a)(11) and 417.

* * * * *

(d) *Present value requirement*—(1) *General rule.* A defined benefit plan must provide that the present value of any accrued benefit and the amount (subject to sections 411(c)(3) and 415) of any distribution, including a single sum, must not be less than the amount calculated using the applicable interest rate described in paragraph (d)(3) of this section (determined for the month described in paragraph (d)(4) of this section) and the applicable mortality table described in paragraph (d)(2) of this section. The present value of any optional form of benefit cannot be less than the present value of the normal retirement benefit determined in accordance with the preceding sentence.

The same rules used for the plan under this paragraph (d) must also be used to compute the present value of the benefit for purposes of determining whether consent for a distribution is required under paragraph (b) of this section.

(2) *Applicable mortality table.* The applicable mortality table is the mortality table based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on the date as of which present value is being determined (without regard to any other subparagraph of section 807(d)(5)), that is prescribed by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(*b*) of this chapter). The Commissioner may prescribe rules that apply in the case of a change to the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts, in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(*b*) of this chapter).

(3) *Applicable interest rate*—(i) *General rule.* The applicable interest rate for a month is the annual interest rate on 30-year Treasury securities as specified by the Commissioner for that month in revenue rulings, notices or other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(*b*) of this chapter).

(ii) *Example.* This example illustrates the rules of this paragraph (d)(3):

Example. Plan A is a calendar year plan. For its 1995 plan year, Plan A provides that the applicable mortality table is the table described in Rev. Rul. 95–6 (1995–1 C.B. 80), and that the applicable interest rate is the annual interest rate on 30-year Treasury securities as specified by the Commissioner for the first full calendar month preceding the calendar month that contains the annuity starting date. Participant P is age 65 in January 1995, which is the month that contains P's annuity starting date. P has an accrued benefit payable monthly of $1,000 and has elected to receive a distribution in the form of a single sum in January 1995. The annual interest rate on 30-year Treasury securities as published by the Commissioner for December 1994 is 7.87 percent. To satisfy the requirements of section 417(e)(3) and this paragraph (d), the single sum received by P may not be less than $111,351.

(4) *Time for determining interest rate*—(i) *General rule.* Except as provided in paragraph (d)(4)(iv) or (v) of this section, the applicable interest rate to be used for a distribution is the rate determined under paragraph (d)(3) of this section for the applicable lookback month. The applicable lookback month for a distribution is the lookback month (as described in paragraph (d)(4)(iii) of this section) for the month (or other longer stability period described in paragraph (d)(4)(ii) of this section) that contains the annuity starting date for the distribution. The time and method for determining the applicable interest rate for each participant's distribution must be determined in a consistent manner that is applied uniformly to all participants in the plan.

(ii) *Stability period.* A plan must specify the period for which the applicable interest rate remains constant. This stability period may be one calendar month, one plan quarter, one calendar quarter, one plan year, or one calendar year.

(iii) *Lookback month.* A plan must specify the lookback month that is used to determine the applicable interest rate. The lookback month may be the first, second, third, fourth, or fifth full calendar month preceding the first day of the stability period.

(iv) *Permitted average interest rate.* A plan may apply the rules of paragraph (d)(4)(i) of this section by substituting a permitted average interest rate with respect to the plan's stability period for the rate determined under paragraph (d)(3) of this section for the applicable lookback month for the stability period. For this purpose, a permitted average interest rate with respect to a stability period is an interest rate that is computed by averaging the applicable interest rates determined under paragraph (d)(3) of this section for two or more consecutive months from among the first, second, third, fourth, and fifth calendar months preceding the first day of the stability period. For this paragraph (d)(4)(iv) to apply, a plan must specify the manner in which the permitted average interest rate is computed.

(v) *Additional determination dates.* The Commissioner may prescribe, in revenue rulings, notices or other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(b)), other times that a plan may provide for determining the applicable interest rate.

(vi) *Example.* This example illustrates the rules of this paragraph (d)(4):

Example. Employer X maintains Plan A, a calendar year plan. Employer X wishes to amend Plan A so that the applicable interest rate will remain fixed for each plan quarter, and so that the applicable interest rate for distributions made during each plan quarter can be determined approximately 80 days before the beginning of the plan quarter. To comply with the provisions of this paragraph (d)(4), Plan A is amended to provide that the applicable interest rate is the annual interest rate on 30-year Treasury securities as specified by the Commissioner for the fourth calendar month preceding the first day of the plan quarter during which the annuity starting date occurs.

(5) *Use of alternative interest rate and mortality table.* If a plan provides for use of an interest rate or mortality table other than the applicable interest rate or the applicable mortality table, the plan must provide that a participant's benefit must be at least as great as the benefit produced by using the applicable interest rate and the applicable mortality table. For example, if a plan provides for use of an interest rate of 7% and the UP–1984 Mortality Table (see § 1.401(a)(4)–12, *Standard mortality table*) in calculating single-sum distributions, the plan must provide that any single-sum distribution is calculated as the greater of the single-sum benefit calculated using 7% and the UP–1984 Mortality Table and the single-sum benefit calculated using the applicable interest rate and the applicable mortality table.

(6) *Exceptions.* This paragraph (d) (other than the provisions relating to section 411(d)(6) requirements in paragraph (d)(10) of this section) does not apply to the amount of a distribution paid in the form of an annual benefit that—

(i) Does not decrease during the life of the participant, or, in the case of a QPSA, the life of the participant's spouse; or

(ii) Decreases during the life of the participant merely because of—

(A) The death of the survivor annuitant (but only if the reduction is to a level not below 50% of the annual benefit payable before the death of the survivor annuitant); or

(B) The cessation or reduction of Social Security supplements or qualified disability benefits (as defined in section 411(a)(9)).

(7) *Defined contribution plans.* Because the accrued benefit under a defined contribution plan equals the account balance, a defined contribution plan is not subject to the requirements of this paragraph (d), even though it is subject to section 401(a)(11).

(8) *Effective date*—(i) *In general.* This paragraph (d) is effective for distributions with annuity starting dates in plan years beginning after December 31, 1994.

(ii) *Optional delayed effective date of Retirement Protection Act of 1994 (RPA '94)(108 Stat. 5012) rules for plans adopted and in effect before December 8, 1994.* For a plan adopted and in effect before December 8, 1994, the application of the rules relating to the applicable mortality table and applicable interest rate under paragraphs (d)(2) through (4) of this section is delayed to the extent provided in this paragraph (d)(8)(ii), if the plan provisions in effect on December 7, 1994, met the requirements of section 417(e)(3) and § 1.417(e)–1(d) as in effect on December 7, 1994 (as contained in 26 CFR part 1 revised April 1, 1995). In the case of a distribution from such a plan with an annuity starting date that precedes the optional delayed effective date described in paragraph (d)(8)(iv) of this section, and that precedes the first day of the first plan year beginning after December 31, 1999, the rules of paragraph (d)(9) of this section (which generally apply to distributions with annuity starting dates in plan years beginning before January 1, 1995) apply in lieu of the rules of paragraphs (d)(2) through (4) of this section. The interest rate under the rules of paragraph (d)(9) of this section is determined under the provisions of the plan as in effect on December 7, 1994, reflecting the interest rate or rates published by the Pension Benefit Guaranty Corporation (PBGC) and the provisions of the plan for determining the date on which the interest rate is fixed. The above described interest rate or rates published by the PBGC are those determined by the PBGC (for the date determined under those plan provisions) pursuant to the methodology under the regulations of the PBGC for determining the present value of a lump sum distribution on plan termination under 29 CFR part 2619 that were in effect on September 1, 1993 (as contained in 29 CFR part 2619 revised July 1, 1994).

(iii) *Optional accelerated effective date of RPA '94 rules.* This paragraph (d) is also effective for a distribution with an annuity starting date after December 7, 1994, during a plan year beginning before January 1, 1995, if the employer elects, on or before the annuity starting date, to make the rules of this paragraph (d) effective with respect to the plan as of the optional accelerated effective date described in paragraph (d)(8)(iv) of this section. An employer is treated as making this election by making the plan amendments described in paragraph (d)(8)(iv) of this section.

(iv) *Determination of delayed or accelerated effective date by plan amendment adopting RPA '94 rules.* The optional delayed effective date of paragraph (d)(8)(ii) of this section, or the optional accelerated effective date of paragraph (d)(8)(iii) of this section, whichever is applicable, is the date plan amendments applying both the applicable mortality table of paragraph (d)(2) of this section and the applicable interest rate of paragraph (d)(3) of this section are adopted or, if later, are made effective.

(9) *Plan years beginning before January 1, 1995*—(i) *Interest rate.* (A) For distributions made in plan years beginning after December 31, 1986, and before January 1, 1995, the following interest rate described in paragraph (d)(9)(i)(A)(*1*) or (*2*) of this section, whichever applies, is substituted for the

applicable interest rate for purposes of this section—

(*1*) The rate or rates that would be used by the PBGC for a trusteed single-employer plan to value the participant's (or beneficiary's) vested benefit (PBGC interest rate) if the present value of such benefit does not exceed $25,000; or

(*2*) 120 percent of the PBGC interest rate, as determined in accordance with paragraph (d)(9)(i)(A)(*1*) of this section, if such present value exceeds $25,000. In no event shall the present value determined by use of 120 percent of the PBGC interest rate result in a present value less than $25,000.

(B) The PBGC interest rate may be a series of interest rates for any given date. For example, the PBGC interest rate for immediate annuities for November 1994 is 6%, and the PBGC interest rates for the deferral period for that month are as follows: 5.25% for the first 7 years of the deferral period, 4% for the following 8 years of the deferral period, and 4% for the remainder of the deferral period. For November 1994, 120 percent of the PBGC interest rate is 7.2% (1.2 times 6%) for an immediate annuity, 6.3% (1.2 times 5.25%) for the first 7 years of the deferral period, 4.8% (1.2 times 4%) for the following 8 years of the deferral period, and 4.8% (1.2 times 4%) for the remainder of the deferral period. The PBGC interest rates are the interest rates that would be used (as of the date of the distribution) by the PBGC for purposes of determining the present value of that benefit upon termination of an insufficient trusteed single employer plan. Except as otherwise provided by the Commissioner, the PBGC interest rates are determined by PBGC regulations. See subpart B of 29 CFR part 4044 for the applicable PBGC rates.

(ii) *Time for determining interest rate.* (A) Except as provided in paragraph (d)(9)(ii)(B) of this section, the PBGC interest rate or rates are determined on either the annuity starting date or the first day of the plan year that contains the annuity starting date. The plan must provide which date is applicable.

(B) The plan may provide for the use of any other time for determining the PBGC interest rate or rates provided that such time is not more than 120 days before the annuity starting date if such time is determined in a consistent manner and is applied uniformly to all participants.

(C) The Commissioner may, in revenue rulings, notices or other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(*b*), prescribe other times for determining the PBGC interest rate or rates.

(iii) *No applicable mortality table.* In the case of a distribution to which this paragraph (d)(9) applies, the rules of this paragraph (d) are applied without regard to the applicable mortality table described in paragraph (d)(2) of this section.

(10) *Relationship with section 411(d)(6)*—(i) *In general.* A plan amendment that changes the interest rate, the time for determining the interest rate, or the mortality assumptions used for the purposes described in paragraph (d)(1) of this section is subject to section 411(d)(6). But see § 1.411(d)–4, Q&A–2(b)(2)(v) (regarding plan amendments relating to involuntary distributions). In addition, a plan amendment that changes the interest rate or the mortality assumptions used for the purposes described in paragraph (d)(1) of this section merely to eliminate use of the interest rate described in paragraph (d)(3) or paragraph (d)(9) of this section, or the applicable mortality table, with respect to a distribution form described in paragraph (d)(6) of this section, for distributions with annuity starting dates occurring after a specified date that is after the amendment is adopted, does not violate the requirements of section 411(d)(6) if the amendment is adopted on or before the last day of the last plan year ending before January 1, 2000.

(ii) *Section 411(d)(6) relief for change in time for determining interest rate.* Notwithstanding the general rule of paragraph (d)(10)(i) of this section, if a plan amendment changes the time for determining the applicable interest rate (including an indirect change as a result of a change in plan year), the amendment will not be treated as reducing accrued benefits in violation of section 411(d)(6) merely on account of this change if the conditions of this paragraph (d)(10)(ii) are satisfied. If the plan amendment is effective on or after the adoption date, any distribution for which the annuity starting date occurs in the one-year period commencing at the time the amendment is effective must be determined using the interest rate provided under the plan determined at either the date for determining the interest rate before the amendment or the date for determining the interest rate after the amendment, whichever results in the larger distribution. If the plan amendment is adopted retroactively (that is, the amendment is effective prior to the adoption date), the plan must use the interest rate determination date resulting in the larger distribution for the period beginning with the effective date and ending one year after the adoption date.

(iii) *Section 411(d)(6) relief for plan amendments pursuant to changes to section 417 made by RPA '94 providing for statutory interest rate determination date.* Notwithstanding the general rule of paragraph (d)(10)(i) of this section, except as provided in paragraph (d)(10)(vi)(B) of this section, a participant's accrued benefit is not considered to be reduced in violation of section 411(d)(6) merely because of a plan amendment that changes any interest rate or mortality assumption used to calculate the present value of a participant's benefit under the plan, if the following conditions are satisfied—

(A) The amendment replaces the PBGC interest rate (or an interest rate or rates based on the PBGC interest rate) as the interest rate used under the plan in determining the present value of a participant's benefit under this paragraph (d); and

(B) After the amendment is effective, the present value of a participant's benefit under the plan cannot be less than the amount calculated using the applicable mortality table and the applicable interest rate for the first full calendar month preceding the calendar month that contains the annuity starting date.

(iv) *Section 411(d)(6) relief for plan amendments pursuant to changes to section 417 made by RPA '94 providing for prior determination date or up to two months earlier.* Notwithstanding the general rule of paragraph (d)(10)(i) of this section, except as provided in paragraph (d)(10)(vi)(B) of this section, a participant's accrued benefit is not considered to be reduced in violation of section 411(d)(6) merely because of a plan amendment that changes any interest rate or mortality assumption used to calculate the present value of a participant's benefit under the plan, if the following conditions are satisfied—

(A) The amendment replaces the PBGC interest rate (or an interest rate or rates based on the PBGC interest rate) as the interest rate used under the plan in determining the present value of a participant's benefit under this paragraph (d); and

(B) After the amendment is effective, the present value of a participant's benefit under the plan cannot be less than the amount calculated using the applicable mortality table and the applicable interest rate, but only if the applicable interest rate is the annual interest rate on 30-year Treasury securities for the calendar month that contains the date as of which the PBGC interest rate (or an interest rate or rates based on the PBGC interest rate) was determined immediately before the amendment, or for one of the two

calendar months immediately preceding such month.

(v) *Section 411(d)(6) relief for plan amendments pursuant to changes to section 417 made by RPA '94 providing for other interest rate determination date.* Notwithstanding the general rule of paragraph (d)(10)(i) of this section, except as provided in paragraph (d)(10)(vi)(B) of this section, a participant's accrued benefit is not considered to be reduced in violation of section 411(d)(6) merely because of a plan amendment that changes any interest rate or mortality assumption used to calculate the present value of a participant's benefit under the plan, if the following conditions are satisfied—

(A) The amendment replaces the PBGC interest rate (or an interest rate or rates based on the PBGC interest rate) as the interest rate used under the plan in determining the present value of a participant's benefit under this paragraph (d);

(B) After the amendment is effective, the present value of a participant's benefit under the plan cannot be less than the amount calculated using the applicable mortality table and the applicable interest rate; and

(C) The plan amendment satisfies either the condition of paragraph (d)(10)(ii) of this section (determined using the interest rate provided under the terms of the plan after the effective date of the amendment) or the special early transition interest rate rule of paragraph (d)(10)(vi)(C) of this section.

(vi) *Special rules*—(A) *Provision of temporary additional benefits.* A plan amendment described in paragraph (d)(10)(iii), (iv), or (v) of this section is not considered to reduce a participant's accrued benefit in violation of section 411(d)(6) even if the plan amendment provides for temporary additional benefits to accommodate a more gradual transition from the plan's old interest rate to the new rules.

(B) *Replacement of non-PBGC interest rate.* The section 411(d)(6) relief provided in paragraphs (d)(10)(iii) through (v) of this section does not apply to a plan amendment that replaces an interest rate other than the PBGC interest rate (or an interest rate or rates based on the PBGC interest rate) as an interest rate used under the plan in determining the present value of a participant's benefit under this paragraph (d). Thus, the accrued benefit determined using that interest rate and the associated mortality table is protected under section 411(d)(6). For purposes of this paragraph (d), an interest rate is based on the PBGC interest rate if the interest rate is defined as a specified percentage of the PBGC interest rate, the PBGC interest rate minus a specified number of basis points, or an average of such interest rates over a specified period.

(C) *Special early transition interest rate rule for paragraph (d)(10)(v).* A plan amendment satisfies the special rule of this paragraph (d)(10)(vi)(C) if any distribution for which the annuity starting date occurs in the one-year period commencing at the time the plan amendment is effective is determined using whichever of the following two interest rates results in the larger distribution—

(*1*) The interest rate as provided under the terms of the plan after the effective date of the amendment, but determined at a date that is either one month or two months (as specified in the plan) before the date for determining the interest rate used under the terms of the plan before the amendment; or

(*2*) The interest rate as provided under the terms of the plan after the effective date of the amendment, determined at the date for determining the interest rate after the amendment.

(vii) *Examples.* The provisions of this paragraph (d)(10) are illustrated by the following examples:

Example 1. On December 31, 1994, Plan A provided that all single-sum distributions were to be calculated using the UP–1984 Mortality Table and 100% of the PBGC interest rate for the date of distribution. On January 4, 1995, and effective on February 1, 1995, Plan A was amended to provide that all single-sum distributions are calculated using the applicable mortality table and the annual interest rate on 30-year Treasury securities for the first full calendar month preceding the calendar month that contains the annuity starting date. Pursuant to paragraph (d)(10)(iii) of this section, this amendment of Plan A is not considered to reduce the accrued benefit of any participant in violation of section 411(d)(6).

Example 2. On December 31, 1994, Plan B provided that all single-sum distributions were to be calculated using the UP–1984 Mortality Table and an interest rate equal to the lesser of 100% of the PBGC interest rate for the date of distribution, or 6%. On January 4, 1995, and effective on February 1, 1995, Plan B was amended to provide that all single-sum distributions are calculated using the applicable mortality table and the annual interest rate on 30-year Treasury securities for the second full calendar month preceding the calendar month that contains the annuity starting date. Pursuant to paragraph (d)(10)(iv) of this section, this amendment of Plan B is not considered to reduce the accrued benefit of any participant in violation of section 411(d)(6) merely because of the replacement of the PBGC interest rate. However, under paragraph (d)(10)(vi)(B) of this section, the section 411(d)(6) relief provided in paragraphs (d)(10)(iii) through (v) of this section does not apply to a plan amendment that replaces an interest rate other than the PBGC interest rate (or a rate based on the PBGC interest rate). Therefore, pursuant to paragraph (d)(10)(vi)(B) of this section, to satisfy the requirements of section 411(d)(6), the plan must provide that the single-sum distribution payable to any participant must be no less than the single-sum distribution calculated using the UP–1984 Mortality Table and an interest rate of 6%, based on the participant's benefits under the plan accrued through January 31, 1995, and based on the participant's age at the annuity starting date.

Example 3. On December 31, 1994, Plan C, a calendar year plan, provided that all single sum distributions were to be calculated using the UP–1984 Mortality Table and an interest rate equal to the PBGC interest rate for January 1 of the plan year. On March 1, 1995, and effective on July 1, 1995, Plan C was amended to provide that all single-sum distributions are calculated using the applicable mortality table and the annual interest rate on 30-year Treasury securities for August of the year before the plan year that contains the annuity starting date. The plan amendment provides that each distribution with an annuity starting date after June 30, 1995, and before July 1, 1996, is calculated using the 30-year Treasury rate for August of the year before the plan year that contains the annuity starting date, or the 30-year Treasury rate for January of the plan year that contains the annuity starting date, whichever produces the larger benefit. Pursuant to paragraph (d)(10)(v) of this section, the amendment of Plan C is not considered to have reduced the accrued benefit of any participant in violation of section 411(d)(6).

Example 4. (a) Employer X maintains Plan D, a calendar year plan. As of December 7, 1994, Plan D provided for single-sum distributions to be calculated using the PBGC interest rate as of the annuity starting date for distributions not greater than $25,000, and 120% of that interest rate (but not an interest rate producing a present value less than $25,000) for distributions over $25,000. Employer X wishes to delay the effective date of the RPA '94 rules for a year, and to provide for an extended transition from the use of the PBGC interest rate to the new applicable interest rate under section 417(e)(3). On December 1, 1995, and effective on January 1, 1996, Employer X amends Plan D to provide that single-sum distributions are determined as the sum of—

(i) The single-sum distribution calculated based on the applicable mortality table and the annual interest rate on 30-year Treasury securities for the first full calendar month preceding the calendar month that contains the annuity starting date; and

(ii) A transition amount.

(b) The amendment provides that the transition amount for distributions in the years 1996–99 is a transition percentage of the excess, if any, of the amount that the single-sum distribution would have been under the plan provisions in effect prior to this amendment over the amount of the single sum described in paragraph (a)(i) of this *Example 4.* The transition percentages are 80% for 1996, decreasing to 60% for 1997, 40% for 1998 and 20% for 1999. The

amendment also provides that the transition amount is zero for plan years beginning on or after the year 2000. Pursuant to paragraphs (d)(10)(iii) and (vi)(A) of this section, the amendment of Plan D is not considered to have reduced the accrued benefit of any participant in violation of section 411(d)(6).

Example 5. On December 31, 1994, Plan E, a calendar year plan, provided that all single sum distributions were to be calculated using the UP–1984 Mortality Table and an interest rate equal to the PBGC interest rate for January 1 of the plan year. On March 1, 1995, and effective on July 1, 1995, Plan E was amended to provide that all single-sum distributions are calculated using the applicable mortality table and the annual interest rate on 30-year Treasury securities for August of the year before the plan year that contains the annuity starting date. The plan amendment provides that each distribution with an annuity starting date after June 30, 1995, and before July 1, 1996, is calculated using the 30-year Treasury rate for August of the year before the plan year that contains the annuity starting date, or the 30-year Treasury rate for November of the plan year preceding the plan year that contains the annuity starting date, whichever produces the larger benefit. Pursuant to paragraphs (d)(10)(v) and (vi)(C) of this section, the amendment of Plan E is not considered to have reduced the accrued benefit of any participant in violation of section 411(d)(6).

Par. 3. In § 1.417(e)-1T, paragraph (d) is revised to read as follows:

§ 1.417(e)–1T Restrictions and valuations of distributions from plans subject to sections 401(a)(11) and 417. (Temporary)

* * * * *

(d) For rules regarding the present value of a participant's accrued benefit and related matters, see § 1.417(e)–1(d).

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Approved: March 30, 1998

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 98–8981 Filed 4–3–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–397; RE: Notice No. 854]

RIN 1512–AA07

Establishment of the Yorkville Highlands Viticultural Area and Realignment of the Southern Boundary of the Mendocino Viticultural Area (95F–020P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area located in Mendocino County, California, to be known as "Yorkville Highlands," and extends the southern boundary of the Mendocino Viticultural Area to coincide with the boundary of Yorkville Highlands. These actions are the result of a petition filed by Mr. William J.A. Weir for the Yorkville Highlands Appellation Committee and a related petition filed by Ms. Bernadette A. Byrne, Executive Director of the Mendocino Winegrowers Alliance.

The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising allow wineries to designate the specific areas where the grapes used to make the wine were grown and enable consumers to better identify the wines they purchase.

EFFECTIVE DATE: June 8, 1998.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definite American viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas. Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Petitions

ATF received a petition from Mr. William J.A. Weir of Weir Vineyards for the Yorkville Highlands Appellation Committee ("Yorkville Highlands petition"). The petition was signed by Mr. Larry W. Martz of Martz Vineyards, Inc., Mr. Frank Souzao of Souzao Cellars, Mr. Michael J. Page, of Mountain House Vineyard, Mr. Robert A. Vidmar of Vidmar Vineyard, and Mr. Edward D. Wallo, of Yorkville Vineyards. The petitioners represent both wineries and growers within the area. The area includes historic vineyards dating from 1914 as well as newly established vineyards. ATF also received a related petition from Ms. Bernadette A. Byrne, Executive Director of the Mendocino Winegrowers Alliance ("Mendocino petition"), requesting that the southern boundary of the previously approved Mendocino Viticultural Area be extended to coincide with the requested southern boundary in the Yorkville Highlands petition. The Mendocino Viticultural Area was established pursuant to T.D. ATF–178 on June 15, 1984 (49 FR 24711). The Mendocino petition incorporated the Yorkville Highlands petition by reference and stated that the proposed Yorkville Highlands southern boundary was appropriate for the Mendocino viticultural area as well.

These two proposals result in the Yorkville Highlands area being entirely within the Mendocino area. Both areas are entirely within Mendocino County, California. The Yorkville Highlands area consists of approximately 40,000 acres, of which approximately 70 are devoted to viticulture. There are seven growers and two wine producers within the area now, with two new growers planning vineyards and some existing growers planning to plant more vineyards. The expansion of the Mendocino viticultural area adds approximately 10,000 acres to that area.

Notice of Proposed Rulemaking

In response to Mr. Weir's and Ms. Byrne's petition, ATF published a notice of proposed rulemaking, Notice No. 854, in the **Federal Register** on July 25, 1997 (62 FR 39984), proposing the establishment of the Yorkville Highlands viticultural area and the extension of the southern boundary of the Mendocino viticultural area. The notice requested comments from all interested persons by September 23, 1997. ATF received no comments concerning these proposals.

Evidence of Name

The Yorkville Highlands petitioners supplied the following evidence that the name of the proposed new area is locally and/or nationally known as referring to the area specified in the petition:

(a) A brochure published by the Mendocino Winegrowers Alliance entitled "Mendocino. Real Farmers, Real Wine. On California's Redwood Coast" which lists "Yorkville Highlands" among the County's wine growing areas. In the brochure, the area is described as extending northwest from the Mendocino—Sonoma County border along Route 128, a description which fits the area proposed for designation.

(b) A map of "Mendocino Wine Country" published in "Steppin" Out, California's Wine Country Magazine," volume XIII, issue 27, which includes the "Yorkville Highlands" area. Again, the area outlined on the map coincides with the boundaries requested by the petitioner.

Evidence of Boundaries

The Yorkville Highlands area is defined primarily by reference to the Sonoma—Mendocino county line and by straight lines drawn between benchmarks, mountain peaks, and other features found on the U.S.G.S. maps.

The area is within the North Coast viticultural area. It is also entirely within the Mendocino viticultural area which is expanded by this final rule. The Yorkville Highlands area is bounded on the northwest by the Anderson Valley viticultural area, and surrounded by other viticultural areas less than five miles away. McDowell Valley lies to the northeast, Alexander Valley and Northern Sonoma lie to the southeast and south, and the newly established Mendocino Ridge viticultural area lies to the southwest.

Geographical Features

The Yorkville Highlands area, including the area added herein to the previously approved Mendocino viticultural area, shares characteristics of topography, soil composition and climate which distinguish the viticultural area from the surrounding areas. For an overview of the geographical features which set the area apart, Mr. Mark Welch, President of the Mendocino County Farm Bureau, Mr. Glenn McGourty, Viticultural Farm Advisor & County Director, University of California Cooperative Extension, and Mr. Steve Williams, of A.V.V.S. wrote letters describing the area.

Mr. Welch stated that he believes the viticultural area reflects a unique and outstanding grape growing locale. He went on to say:

> The soils of the area are different from adjacent, recognized districts like the Anderson Valley, and the distinct micro climate offers warmer days, cool afternoon breezes and a substantial growing season for a low to mid region II.

Similarly, Mr. McGourty stated that the soils and climate of the viticultural area are "significantly different from surrounding grape growing areas, being high elevation and in an area where the coastal Douglas Fir forests meet the oak woodland forests more typical of interior Mendocino County."

Mr. Williams stated he has been building and managing vineyards in the area for more than ten years. He notes that the Yorkville Highlands viticultural area is different viticulturally from both the Anderson Valley viticultural area and the Hopland area of the Mendocino viticultural area. He gave the following details:

> The climate of the * * * area has days warmer than Anderson Valley but cooler than Hopland. The nights are cooler than both Anderson Valley and Hopland. This means many grape varieties can be grown in this area but will have a long ripening period which will greatly enhance fruit flavors and quality.
>
> In regards to soil the area also differs from [Anderson Valley] or Hopland. The * * * soils are thinner then [sic] Hopland but more fertile and varied than [Anderson Valley].

The following evidence was considered in establishing this area:

Topography

The Yorkville Highlands viticultural area lies generally along the headwaters of Dry Creek and Rancheria Creek. The vineyards in the Yorkville Highlands viticultural area are almost entirely above 800 feet in elevation. The area is "a continuous string of high benches and land troughs bordered by even higher ridges with Highway 128 running down the middle." The U.S.G.S. topographic maps show the area is a valley, with Highway 128 and the Rancheria and Dry Creeks running along the northwest-southeast axis. This center line of the area is the lowest part, at approximately 800 feet, and the highest, in the area near the northern boundary, is over 3,000 feet.

Soil

The soils in the Yorkville Highlands viticultural area are rocky hill soils characterized by gravel and old brittle rock. These generally thin soils found on the high benches and land troughs of the proposed area stand in stark contrast to the generally very loamy clay soils found in the valleys and bottom lands dominating the neighboring approved viticultural areas. Soil types mapped by the U.S. Soil Conservation Service include: Bearwallow, Hellman, Cole Loam, Henneke, Montara, Hopland Loam, Squawrock, Witherell, Yorkville and Boontling. Only one or two of these soil types are found in common with a neighboring viticultural area.

Climate

The climate in the Yorkville Highlands viticultural area is influenced by marine air well over 50 percent of the time. The petitioner described the climate as follows: "Almost every morning during the growing season, the moist marine fog is found on the high bench lands and land troughs which comprise the proposed viticulture area and connect the cooler Anderson Valley with the much warmer Alexander Valley. The trees on these bench lands are draped with the moss from this ocean air invasion and cooler climatic condition."

Unofficial heat summation data collected at the Weir Vineyards within the area reflects a four year average of 3,060, compared to approximately 2,500 in Boonville and Philo to the northwest of the viticultural area and 3,650 reported by the University of California Agricultural Extension Service in Cloverdale, to the southeast.

Average annual rainfall within the Yorkville Highlands area from 1961 through 1990, as measured by the Department of Water Resources, Eureka Flood Center at the Yorkville Station, was 50.55 inches. The Anderson Valley, to the northwest, receives an average of only 40.7 inches of rain per year.

Revised Mendocino Boundary

ATF is also revising the southern boundary of the Mendocino viticultural area, as proposed by both the Mendocino Winegrowers Alliance and the Yorkville Highlands petitioners. Prior to this revision, the southern boundary of Mendocino ran through the middle of the Yorkville Highlands area, leaving a large triangular portion of the

new area outside of Mendocino while the remainder of the new area was within Mendocino.

Mr. Bruce E. Bearden, Farm Advisor, Emeritus, University of California Cooperative Exchange, stated that the original Mendocino viticultural area boundary arbitrarily excludes some of the regions naturally associated with existing vineyards. Mr. Bearden further states that the revised boundary would reunite the related soils and climates of the area.

Boundaries

The revised boundary of the Mendocino viticultural area is described in amended § 9.93. In addition, there is a typographical error in 27 CFR 9.93(c)(11), which we corrected as part of this rulemaking.

The boundary of the Yorkville Highlands viticultural area may be found on six United States Geological Survey (U.S.G.S.) maps with a scale of 1:24000. The boundary is described in § 9.159.

Miscellaneous

ATF does not wish to give the impression by approving the Yorkville Highlands viticultural area or by approving the amended boundary of the Mendocino viticultural area that it is approving or endorsing the quality of wine from these area. ATF is approving the areas as being distinct from surrounding areas, not better than other areas. By approving these areas, ATF will allow wine producers to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of wines from Yorkville Highlands or Mendocino.

Executive Order 12866

It has been determined that this proposed regulation is not a significant regulatory action as defined in Executive Order 12866. Accordingly, this final rule is not subject to the analysis required by this Executive Order.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from a particular area. No new recordkeeping or reporting requirements are imposed. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information. The principal author of this document is Marjorie D. Ruhf, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 9.93 is amended by revising paragraph (c)(11), by removing paragraphs (c)(17) and (c)(18), and by adding new paragraph (c)(17), (c)(18) and (c)(19) to read as follows:

§ 9.93 Mendocino.

* * * * *

(c) *Boundaries.* * * *

(11) Thence in a straight line in a northwest direction to the junction of Baily Gulch and the South Branch, North Fork of the Navarro River, located in Section 8, T.15N., R.15W.;

* * * *

(17) Thence continuing in a straight line in a southerly direction to the southwest corner of Section 5, T. 12 N., R. 13 W., and the Mendocino County/Sonoma County line;

(18) Thence continuing in a straight line in a southeasterly direction to the intersection of the southwest corner of Section 32, T. 12 N., R. 11 W., and the Mendocino County/Sonoma County line;

(19) Thence following the Mendocino County/Sonoma County line in an easterly, northerly, and then an easterly direction to the beginning point.

Par. 3. A new § 9.159 is added to subpart C to read as follows:

§ 9.159 Yorkville Highlands.

(a) *Name.* The name of the viticultural area described in this section is "Yorkville Highlands."

(b) *Approved maps.* The appropriate maps for determining the boundary of the Yorkville Highlands viticultural area are the following six U.S.G.S. topographical maps (7.5 minute series, 1:24000 scale):

(1) "Gube Mountain, Calif.," provisional edition 1991.

(2) "Big Foot Mountain, Calif.," provisional edition 1991.

(3) "Cloverdale, Calif.," 1960, photoinspected 1975.

(4) "Ornbaun Valley Quadrangle, Calif.," provisional edition, 1991.

(5) "Yorkville, Calif.," provisional edition, 1991.

(6) "Hopland, Calif.," 1960, photoinspected 1975.

(c) *Boundary.* The Yorkville Highlands viticultural area is located in Mendocino County, California. The boundary is as follows:

(1) The beginning point is Benchmark 680, located in Section 30, T. 12 N., R. 13 W., on the Ornbaum Valley quadrangle map;

(2) From the beginning point, the boundary proceeds in a straight line in a northeasterly direction to a point intersecting the North Fork of Robinson Creek and the Section 20, T. 13 N., R. 13 W.;

(3) The boundary then proceeds in a straight line in a southeasterly direction to the summit of Sanel Mountain, located at the southeast corner of Section 30, T. 13 N., R. 12 W., on the Yorkville quadrangle map;

(4) The boundary then proceeds in a straight line in a southeasterly direction until it reaches the southeast corner of Section 15, T. 12 N., R 11 W., on the Hopland quadrangle map;

(5) The boundary then proceeds south, following the eastern boundaries of Sections 22 and 27, T. 12 N., R 11 W., until it reaches the Mendocino-Sonoma County line on the Cloverdale quadrangle map;

(6) The boundary then follows the Mendocino-Sonoma county line west, south and west until it reaches the southwest corner of Section 32, T. 12 N., R. 11 W.;

(7) The boundary then diverges from the county line and proceeds in a northwesterly direction, traversing the Big Foot Mountain quadrangle map, until it reaches the southwest corner of Section 5, T. 12 N., R. 13 W. on the Ornbaun Valley quadrangle map;

(8) The boundary proceeds in a straight line in a northerly direction until it reaches the beginning point at Benchmark 680.

Dated: January 28, 1998.

John W. Magaw,

Director.

Approved: March 13, 1998.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 98–8990 Filed 4–6–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 08–98–014]

Drawbridge Operating Regulation; Back Bay of Biloxi, MS

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is temporarily changing the regulation governing the operation of the bascule spans of the Popps Ferry Road Bridge across the Back Bay of Biloxi, mile 8.0, in Biloxi, Harrison County, Mississippi. From April 13, 1998 through August 10, 1998 operation of the draw will be limited to one span at a time during daylight hours, and the horizontal clearance will be restricted at night. This action is necessary to allow for cleaning and painting of the bascule spans, an extensive but necessary maintenance operation.

DATES: This rule is effective from 6 a.m. on April 13, 1998 through 8 p.m. on August 10, 1998.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary rule.

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

SUPPLEMENTARY INFORMATION: The Coast Guard was not notified of the dates of the work in time to issue a notice of proposed rulemaking. The deteriorated condition of the bridge warrants the closures so that remedial work can be accomplished. For the same reason, good cause exists to make this temporary rule effective in less than 30 days after publication.

Background and Purpose

The bascule spans of the Popps Ferry Road Bridge across the Back Bay of Biloxi near Biloxi, Mississippi provide a vertical clearance of 25 feet above mean high water in the closed-to-navigation position and unlimited clearance in the open-to-navigation position. Horizontal clearance between bascule span tips is 178 feet with both bascule spans open and 89 feet with only one bascule span open. Since the U.S, Army Corps of Engineers navigation project channel is 150 feet wide, horizontal clearance with only one span open will be approximately 75 feet within the navigation channel. Navigation on the waterway consists of tugs with tows, fishing vessels, sailing vessels, and other recreational craft.

The Harrison County Board of Supervisors sent a letter to the Coast Guard requesting this temporary rule so that the bascule spans can be cleaned and painted. The equipment used for this procedure has to be removed each time the draw span is opened, a process which is time consuming and costly. To allow the contractor to maximize work time, one span needs to remain continuously closed during the daylight hours of 6 a.m. to 8 p.m. daily. While both spans of the bridge will operate normally from 8 p.m. to 6 a.m. daily, a work barge will remain under the bascule span being serviced, reducing the available horizontal clearance through the bridge to approximately 108 feet. The actual available width within the navigation channel will be reduced to approximately 94 feet. Between the hours of 8 p.m. to 6 a.m. the barge will be cleared from the channel only for vessels which require greater than 108 feet of horizontal clearance, or greater than 94 feet within the channel limits, for safe passage if at least 10 hours notice is given. The short term inconvenience, attributable to a restriction of vessel traffic to a horizontal clearance of 89 feet during daylight hours or 75 feet within the navigation channel and 108 feet at night or 94 feet within the navigation channel for a maximum of 120 days, is outweighed by the long term benefits to be gained by keeping the bridge spans free of corrosion and in proper working condition. This work is essential for the continued operation of the draw spans.

Regulatory Evaluation

This temporary 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 temporary rule to be so minimal that a full Regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This is because the number of vessels affected by the reduced horizontal clearance is minimal. All commercial fishing vessels and all single-wide tows which normally transit the bridge will still be able to transit the bridge with one leaf open during daylight hours and during nighttime hours when both spans will open to navigation and the horizontal clearance reduced to only 108 feet and only 94 feet within the navigation channel limits. At all times during this period, tugs with double wide or triple wide tows will be required to break down their tows in order to transit the bridge during the times when only one span opens. These vessels may transit without reconfiguring tows at night, provided at least 10 hours notice is given, so that the construction barge can be removed.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this temporary rule will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

Local commercial fishing vessels will be able to pass the bridge with one bascule span open during the day and both spans open at night with 108 feet of horizontal clearance, 94 feet horizontal clearance within the navigation channel limits. Thus, the Coast Guard expects there to be no economic impact on these vessels. The Coast Guard is not aware of any other waterway users who would suffer economic hardship from being unable to transit the waterway during this period. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule, will not have a significant economic impact on a substantial number of small entities.

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Mr. Phil Johnson, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

Collection of Information

This temporary rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The authority to regulate the permits of bridges over the navigable waterways of the United States belongs to the Coast Guard by Federal Statutes.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1C, this temporary rule is categorically excluded from further environmentally documentation. A "Categorically Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending Part 117 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; and 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Effective April 13, 1998 through August 10, 1998, § 117.675 is amended by adding a new paragraph (c) to read as follows:

§ 117.675 Back Bay of Biloxi.

* * * * *

(c) The draw of the Popps Ferry Road bridge, mile 8.0, shall open on signal except as follows:

(1) The south span need not open for the passage of vessels from 6 a.m. until 8 p.m. daily from April 13, 1998, through June 12, 1998.

(2) The north span need not open for the passage of vessels from 6 a.m. until 8 p.m. daily from June 13, 1998, through August 10, 1998.

(3)(i) From April 13, 1998, through August 10, 1998, from 8 p.m. to 6 a.m. daily, both spans will be open on signal, but navigation through the bridge will be restricted to a horizontal clearance of 108 feet and 94 to feet within the navigation channel limits by the presence of construction equipment associated with bridge maintenance.

(ii) Vessels requiring greater than 108 feet of horizontal clearance of greater than 94 feet horizontal clearance within the navigation channel limits must provide 10 hours notice for an unrestricted passage between the hours of 8 p.m. to 6 a.m.

(4) In the event of an approaching tropical storm or hurricane, the bridge will be returned to normal operation within 24 hours of notification by the Coast Guard.

Dated: April 1, 1998.

T.W. Josiah,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 98–9090 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF EDUCATION

34 CFR Part 280

RIN 1810–AA88

Magnet Schools Assistance Program

AGENCY: Department of Education.

ACTION: Final rule; correction.

SUMMARY: The Department of Education published a final rule amending 34 CFR Part 280 on February 17,1998. A clause was inadvertently removed from the amendment. This document adds that clause.

EFFECTIVE DATE: These regulations take effect February 17, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Steven L. Brockhouse, U.S. Department of Education, 600 Independence Ave., SW., Room 4500, Portals Building, Washington, DC 20202–6140. Telephone: (202) 260–2476. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

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.

SUPPLEMENTARY INFORMATION: The Department of Education published a final rule in the **Federal Register** of February 28, 1998 (63 FR 8020) amending 34 CFR 280.32. A clause was inadvertently removed from the text of the amendatory language. This document adds the clause.

Correction

In rule document 98–3830 on page 8020, in the issue of Tuesday, February 17, 1998, make the following correction:

§ 280.32 [Corrected]

On page 8020, at the bottom of the third column, amendatory instruction 2., line 2, add "removing the designation for paragraph (b)(1);" after "(b)(2);".

Dated: March 16, 1998.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 98–8995 Filed 4–6–98; 8:45 am]

BILLING CODE 4000–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[FCC 98–39]

1998 Biennial Regulatory Review—Filing Dates for the Commission's Equal Employment Opportunity Annual Employment Reports

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On March 16, 1998, the Commission released a *Memorandum Opinion and Order* (*MO&O*) amending the rules concerning the filing dates for the Commission's Equal Employment Opportunity Annual Employment Reports. The *MO&O* is intended to change the dates that annual employment reports are due to be filed with the Commission, to enable licensees and permittees that also file similar data with the Equal Employment Opportunity Commission to use the same pay period record information.

EFFECTIVE DATES: This rule is effective March 16, 1998.

FOR FURTHER INFORMATION CONTACT: Kathy Harvey, Attorney-Advisor, Enforcement Division, Equal Employment Opportunity Branch, Mass Media Bureau, (202) 418–1450.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's *Memorandum Opinion and Order,* FCC 98–39, adopted March 13, 1998, and released March 16, 1998. The complete text of this *Memorandum Opinion and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., at (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Synopsis of Memorandum Opinion and Order

1. In the *Memorandum Opinion and Order,* the Commission amends its rules to allow licensees and regulatees to file annual employment reports (FCC Forms 395–A, 395–B, and 395–M) by September 30 of each year. Under the current rules, licensees and regulatees are required to file these reports by May of each year, using data gathered during any payroll period in the months of January, February or March of each year. In addition, the Equal Employment Opportunity Commission requires companies with at least 100 employees to collect and report similar information in September of each year on its EEO–1 form, using similar data gathered during any payroll period in July, August, or September of each year. At the Commission's Biennial Review Public Forum on January 13, 1998, representatives of the National Association of Broadcasters, as well as representatives of the cable industry, expressed concern that the current rules require some licensees to file almost identical information, which must be gathered during different time periods, with two separate federal agencies at different times of the year. The Commission finds that this process should be changed, and amends sections 73.3612 and 76.77 of the Commission's rules, 47 CFR 73.3612 and 76.77, to provide that FCC Forms 395–A, 395–B, and 395–M are due on or before September 30 of each year. The change also allows licensees and cable entities to use any payroll period in July, August, or September of the year during which the report is filed. Further, the Commission applies the new filing dates to the Form 395–M, which is filed by multichannel video programming distributors. The 1998 annual employment reports are now due to be filed on or before September 30, based on a pay period in July, August, or September 1998. Thereafter, reports are due September 30 of each year. No reports will be due in May 1998. The revised filing dates apply to all filers, not just those filers with one hundred or more employees.

2. It is ordered that, pursuant to sections 4(i), 4(j), 5(c), 11, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 155(c), 161, and 303(r), the *Memorandum Opinion and Order* is adopted.

List of Subjects

47 CFR Part 73

Radio broadcasting, Television broadcasting.

47 CFR Part 76

Cable television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed, in the preamble, the Federal Communications Commission amends 47 CFR parts 73 and 76 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

2. Section 73.3612 is revised to read as follows:

§ 73.3612 Annual employment report.

Each licensee or permittee of a commercially or noncommercially operated AM, FM, TV or International broadcast station with five or more full-time employees shall file an annual employment report with the FCC on or before September 30 of each year on FCC Form 395.

PART 76—CABLE TELEVISION SERVICE

3. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 552, 554, 556, 558, 560, 561, 571, 572, and 573.

4. Section 76.77 is amended by revising paragraph (a) to read as follows:

§ 76.77 Reporting Requirements.

(a) *Annual employment report.* Each employment unit with six or more full-time employees shall file an annual employment report (FCC Form 395–A) with the Commission on or before September 30 of each year. Employment data on the annual employment report shall reflect the figures from any one payroll period in July, August, or September of the year during which the report is filed. Unless instructed otherwise by the FCC, the same payroll period shall be used for each successive annual employment report.

* * * * *

[FR Doc. 98–9021 Filed 4–6–98; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 63, No. 66
Tuesday, April 7, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97–053–1]

Black Stem Rust; Addition of Rust-Resistant Varieties

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the black stem rust quarantine and regulations by adding 15 varieties to the list of rust-resistant *Berberis*, *Mahoberberis*, and *Mahonia* species. This change would allow for the interstate movement of these newly developed varieties without unnecessary restrictions.

DATES: Consideration will be given only to comments received on or before May 22, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–053–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–053–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Operations Officer, Program Support Staff, PPQ, APHIS, suite 4C03, 4700 River Road, Unit 134, Riverdale, MD 20737–1236; (301) 734–8247; or e-mail: spoe@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Black stem rust is one of the most destructive plant diseases of small grains that is known to exist in the United States. The disease is caused by a fungus that reduces the quality and yield of infected wheat, oat, barley, and rye crops by robbing host plants of food and water. In addition to infecting small grains, the fungus lives on a variety of alternate host plants that are species of the genera *Berberis*, *Mahoberberis*, and *Mahonia*. The fungus is spread from host to host by wind-borne spores.

The black stem rust quarantine and regulations, contained in 7 CFR 301.38 through 301.38–8 (referred to below as the regulations), quarantine the conterminous 48 States and the District of Columbia, and govern the interstate movement of certain plants of the genera *Berberis*, *Mahoberberis*, and *Mahonia*, known as barberry plants. The species of these plants are categorized as either rust-resistant or rest-susceptible. Rust-resistant plants do not pose a risk of spreading black stem rust or of contributing to the development of new races of the rust; rust-susceptible plants do pose such risks.

Section 301.38–2 of the regulations includes a listing of regulated articles and indicates species of the genera *Berberis*, *Mahoberberis*, and *Mahonia* known to be rust-resistant. Although rust-resistant species are included as regulated articles, they may be moved into or through protected areas if accompanied by a certificate. We are proposing to add *Berberis aggregata* X *Berberis wilsoniae* "Pirate King", *Berberis candidula* X *Berberis verruculosa* "Amstelveen", *Berberis gangepainii* "Chenault", *Berberis integerrima* "Wallichs Purple", *Berberis soulieana* "Claret Cascade", *Berberis thunbergii* "Aurea Nana", *Berberis thunbergii* "Bail Green", *Berberis thunbergii* "Concorde", *Berberis thunbergii* "Criruzam" Crimson Ruby, *Berberis thunbergii* "Green Carpet", *Berberis thunbergii* "Midruzam" Midnight Ruby, *Berberis thunbergii* "Royal Burgundy", and *Berberis thunbergii* "Royal Cloak" to the list of rust-resistant *Berberis* species in § 301.38–2(b); add *Mahoberberis aquifolium* "Smaragd", to the list of rust-resistant *Mahoberberis* species in § 301.38–2(c)(1); and add *Mahonia japonica* X *Mahonia lomariifolia* "Charity", to the list of rust-resistant *Mahonia* species in § 301.38–2(c)(2).

The nurseries that developed these rust-resistant species of *Berberis*, *Mahoberberis*, and *Mahonia* have provided identification guides to the Animal and Plant Health Inspection Service (APHIS) and to the receiving States. The proposed addition of these species to the list of rust-resistant species is based on recent testing to determine rust-resistance conducted by the Agricultural Research Service (ARS) of the United States Department of Agriculture (USDA) at its Cereal Rust Laboratory in St. Paul, MN. The testing is performed in the following manner: In a greenhouse, the suspect plant or test subject is placed under a screen with a control plant—a known rust-susceptible species of *Berberis*, *Mahoberberis*, or *Mahonia*. Infected wheat stems, a primary host of black stem rust, are placed on top of the screen. The plants are moistened and maintained in 100 percent humidity. This causes the spores to swell and fall on the plants lying under the screen. The plants are then observed for 7 days at 20–80 percent relative humidity. If the rust-susceptible plant shows signs of infection after 7 days and the test plants do not, the test results indicate that the test plants are rust-resistant. This test must be performed 12 times, and all 12 tests must yield the same result before USDA can make a determination as to whether the test plants are rust-resistant. The test may be conducted on 12 individual plants, or it may be performed multiple times on fewer plants (e.g., six plants tested twice or three plants tested four times). The tests must be performed on new growth, just as the leaves are unfolding. Therefore, the tests are usually conducted in the spring or fall, during the growing season. All 12 tests generally cannot be conducted on the same day because of the plants' different growth stages. Based on over 30 years of experience with this test, we believe that 12 is the reliable test sample size on which USDA can make its determination. We do not know of any plant that was subsequently discovered to be rust-susceptible after undergoing this procedure 12 times and being determined by USDA to be rust-resistant.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This proposed rule would allow the interstate movement of 15 new varieties of *Berberis, Mahoberberis,* and *Mahonia,* which are resistant to black stem rust, into and through States or parts of States designated as protected areas in accordance with the requirements in the regulations. Based on the information provided to us, we have determined that this proposed rule, if adopted, would affect four nurseries that might propagate the new species and numerous retail sales nurseries that might purchase or resell the varieties. This proposed rule would enable those nurseries to move the species into and through protected areas and to propagate and sell the species in States or parts of States designated as protected areas.

Currently, 123 varieties of barberry plants are listed as rust-resistant. Of the 123 varieties currently listed as rust-resistant, many of those varieties are not used any more. Many consumers are choosing newer varieties that are horticulturally more attractive. This rule would add 15 new varieties to the current list of 123 varieties. The addition of these 15 new varieties would only create a greater selection of barberry plant varieties from which consumers can choose. This rule could encourage innovation by allowing nurseries that develop new rust-resistant *Berberis, Mahoberberis,* and *Mahonia* varieties the opportunity to market those varieties in protected areas; however, there is no indication that the periodic introduction of new varieties to the market has any effect on overall sales volumes. Therefore, we do not anticipate that there will be any significant economic impact on those nurseries that handle the new varieties.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant disease and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 would be amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.22, 2.80, and 371.2(c).

2. Section 301.38–2 would be amended as follows:

a. Paragraph (b) would be amended by adding, in alphabetical order, 13 rust-resistant *Berberis* species to read as set forth below.

c. Paragraph (c)(1) would be amended by adding, in alphabetical order, one rust-resistant Genera *Mahoberberis* species to read as set forth below.

d. Paragraph (c)(2) would be amended by adding, in alphabetical order, one rust-resistant Genera *Mahonia* species to read as set forth below.

§ 301.38–2 Regulated articles.

* * * * *

(b) * * *

* * * * *

B. aggregata X *B. wilsoniae* 'Pirate King'

* * * * *

B. candidula X *B. verruculosa* 'Amstelveen'

* * * * *

B. gagnepainii 'Chenault'

* * * * *

B. integerrima 'Wallichs Purple'

* * * * *

B. soulieana 'Claret Cascade'

* * * * *

B. thunbergii 'Aurea Nana'

* * * * *

B. thunbergii 'Bail Green'

* * * * *

B. thunbergii 'Concorde'

* * * * *

B. thunbergii 'Criruzam' Crimson Ruby

* * * * *

B. thunbergii 'Green Carpet'

* * * * *

B. thunbergii 'Midruzam' Midnight Ruby

* * * * *

B. thunbergii "Royal Burgundy"

B. thunbergii "Royal Cloak"

* * * * *

(c) * * *

(1) * * *

* * * * *

M. aquifolium 'Smaragd'

* * * * *

(2) * * *

* * * * *

M. japonica X *M. lomariifolia* "Charity"

* * * * *

Done in Washington, DC, this 1st day of April 1998.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–9050 Filed 4–6–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 274a

[INS No. 1819–96]

RIN 1115–AE70

Limiting Liability for Certain Technical and Procedural Violations of Paperwork Requirements

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the regulations of the Immigration and Naturalization Service (Service) by limiting liability for certain technical and procedural violations of paperwork requirements for those employers that have made a good faith attempt to comply with a particular employment verification requirement. This rule is necessary to implement section 411 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) Public Law 104–208.

DATES: Written comments must be submitted on or before June 8, 1998.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling please reference INS No. 1819–96 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT:

Angelo Sorrento, Senior Special Agent, Immigration and Naturalization Service, HQINV, 425 I Street, NW., Washington, DC 20536; telephone (202) 514–2998.

SUPPLEMENTARY INFORMATION:

What is the Purpose of This Rule?

This rule proposes to amend Service regulations to implement section 411 of IIRIRA, which was enacted on September 30, 1996. This legislation significantly amended the Immigration and Nationality Act (Act) by allowing employers who have made a good faith attempt to comply with a particular employment verification requirement to correct technical or procedural failures to meet the verification requirement before such failures are deemed to be violations of the Act. This proposed rule ensures that the good faith compliance provision relieves employers from strict liability with respect to minor, unintentional violations of the employment verification requirements, but does not provide a shield for employers to avoid the requirements of the Act.

Isn't the Service Preparing to Change the Form I–9? How Will That Affect This Rule?

This proposed rule applies to technical or procedural verification failures with respect to the current Form I–9 (11/21/91 version). On February 2, the Service published a proposed rule, INS# 1890–97, Reduction in the Number of Acceptable Documents and Other Changes to Employment Verification Requirements (63 FR 5287). A draft revision to the Form I–9 was published for comment with that proposed rule. That revision was intended to simplify and clarify the verification requirements, and the Service hopes that improvements to the form will help employers avoid inadvertent violations. Any changes to the good faith compliance regulations which are required by a future revision of the Form I–9 will be published with appropriate notice and comment periods.

What is the Good Faith Compliance Provision? Does it Apply in all Circumstances?

The good faith compliance provision amends section 274A(b) of the Act by adding a new provision, found in sections 274A(b)(6)(A), (B), and (C) of the Act. Section 274A(b)(6)(A) of the Act provides that a person or entity that has made a good faith attempt to comply with an employment verification requirement of section 274A(b) of the Act will be considered to have complied with the requirement, notwithstanding a technical or procedural failure to meet such requirement. This holds true unless one of two exceptions applies. First, section 274A(b)(6)(B) of the Act provides that a person or entity will be considered not to have complied with the requirement if: (1) the Service or other enforcement agency has explained to the person or entity the basis for the failure; (2) the person or entity has been provided a period of not less than 10 business days, beginning after the date of the explanation, within which to correct the failure; and (3) the person or entity has not corrected the failure within such period. Second, section 274A(b)(6)(C) of the Act provides that a person or entity will be considered not to have complied with the requirement if the person or entity is engaging in a pattern or practice of knowing hire or continuing to employ violations of sections 274A(a)(1)(A) or 274A(a)(2) of the Act.

When does the Good Faith Compliance Provision Take effect?

Section 411 of IIRIRA applies to failures occurring on or after September 30, 1996. Except for timeliness failures, failures to meet a verification requirement continue from the first day the requirement must be met until: (1) the day that the failures are corrected; (2) the day that the failures can no longer be corrected, such as when the Service or other enforcement agency inspects the employer's Employment Verification Forms (Form I–9); or (3) the day that the duty to meet the requirement ceases. Continuing failures that persist on or after September 30, 1996, therefore, fall within the purview of section 411 of IIRIRA, even if the failures first occurred on Form I–9 prepared before the date of enactment. The Service has determined that section 411 of IIRIRA will apply to cases arising out of inspections conducted on or after September 30, 1996. For failures associated with timely completion of the Form I–9, section 411 of IIRIRA will not apply if the requirement to complete the Form I–9 should have been met before September 30, 1996.

What Does This Proposed Rule do?

This proposed rule defines the term *technical or procedural failure to meet such requirement,* clairifes when an employer has not made a good faith attempt to comply with the requirement, and describe show an employer who is notified of technical or procedural failures is required to correct such failures to bring himself or herself into compliance with the employment verification requirements of the Act.

What are Technical or Procedural Verification Failures?

Because the good faith compliance provision applies to technical or procedural failures to comply with a particular verification requirement rather than the verification requirements as a whole, the Service must identify the substantive and technical or procedural components of each statutory verification requirement in section 274(b) of the Act in order to form the basis for the proposed rule.

This rule proposes to define the term *technical or procedural failure to meet such requirement* as the failure of a person or entity to: (1) ensure that an individual provides his or her maiden name, address, or birth date in section 1 of the Form I–9; (2) ensure that an individual provides his or her Alien number on the line next to the phrase in section 1 of the Form I–9, "A Lawful permanent Resident," but only if the Alien number is provided in sections 2 or 3 of the Form I–9 (or on a legible copy of a document retained with the Form I–9 (or on a legible copy of a document retained with the Form I–9 and presented at the I–9 inspection); (3) ensure that an individual provides his or her Alien number or Admission number on the line provided under the phrase in section 1 of the Form I–9, "An alien authorized to work until" but only if the Alien number or Admission number is provided in sections 2 or 3 of the Form I–9 (or on a legible copy of a document retained with the Form I–9 and presented at the I–9 inspection); (4) ensure that an individual dates section 1 of the Form I–9; (5) ensure that an individual completes section 1 of the Form I–9 timely by dating section 1 of the Form I–9 at the time of hire, if the time of hire occurred on or after September 30, 1996; (6) ensure that a preparer and/or translator provides his or her name, address, signature, or date; (7) provide the document title, identification number(s) and/or expiration date(s) of a proper List A document or proper List B and List C

documents in section 2 of the Form I–9, but only if a legible copy of the document(s) is retained with the Form I–9 and presented at the I–9 inspection; (8) provide the title, business name and business address in section 2 of the Form I–9; (9) provide the date of hire in the attestation portion of section 2 of the Form I–9; (10) date section 2 of the Form I–9; (11) complete section 2 of the Form I–9 timely by dating section 2 of the Form I–9 within 3 business days of the date the individual is hired or, if the individual is hired for 3 business days or less, at the time of hire if the date on which section 2 had to be completed occurred on or after September 30, 1996; (12) provide the document title, identification number(s), and/or expiration date(s) of a proper List A or List C document in section 3 of the Form I–9, but only if a legible copy of the document is retained with the Form I–9 and presented at the I–9 inspection; or (13) provide the date of rehire in section 3 of the Form I–9.

What are the Principal Verification Requirements That are not covered by This Definition?

Section 274A(b) of the Act delineates three principal employment verification requirements: (1) individual attestation of employment authorization on a verification form; (2) employer attestation on a verification form after examination of identity and employment eligibility documents; and (3) retention of the verification form. The list of technical or procedural failures defined in this proposed rule reflects those components of the statutory provision and current regulations that fall outside the principal components.

The principal components of the *individual attestation* are identified as the subject matter of the attestation, namely, the individual's identification of whether he or she is a citizen or national of the United States, Lawful Permanent Resident or alien authorized to work until a specified date, and the individual's signature. The principal components of the *employer attestation* are identified as the subject matter of the attestation, namely, the examination of proper identity and employment authorization documents, and the employer's signature. The principal components of the *retention requirements* are identified as completion of the Form I–9 itself and maintenance of the Form I–9 for the periods specified in the Act since, without either the Form I–9 or its retention, the employment verification requirements would be ineffectual.

How does the Proposed Rule Address Good Faith Attempts to Comply?

The term *good faith attempt to comply with the requirement* is not directly defined in this proposed rule. Rather, this proposed rule clarifies when an employer has not made a good faith attempt to comply with a particular requirement and, thus, does not gain the benefit of the notification and correction period requirements of section 274A(b)(6) of the Act.

When has an Employer not Made a Good Faith Attempt to Comply?

An employer has not made a good faith attempt to comply with a particular requirement when: (a) the employer committed the technical or procedural failure to intentionally avoid the verification requirement or knowingly relied on the good faith compliance provision; (b) the employer corrected or attempted to correct the failure with knowledge, or in reckless disregard of the fact that the correction or the attempted correction contains false information or a material misrepresentation; (c) the employer prepared the Form I–9 with knowledge or in reckless disregard of the fact that the Form I–9 contains false information or a material misrepresentation; or (d) the type of failure was previously the subject of a Warning Notice, Notice of Intent to Fine, or notification of technical or procedural failures. Intentional avoidance of the requirements can be demonstrated circumstantially through such evidence as a large number of unauthorized aliens in the employer's work force combined with a pattern of failures with respect to those unauthorized aliens, or failure of the employer to prepare Forms I–9 for his or her employees until after the Service notifies the employer through the Notice of Inspection that the Service intends to conduct an I–9 inspection. This proposed rule is not intended to provide a shield for employers to avoid the requirements of the Act.

How can Employers Correct Technical or Procedural Verification Failures?

This rule proposes a mechanism for employers to correct technical or procedural failures for which they have been notified. To be deemed to have properly corrected a technical or procedural failure identified in section 1 of the Form I–9, the employer must ensure that the individual, preparer, and/or translator corrects the failure on the Form I–9, initials the correction, and dates the correction. To be deemed to have properly corrected a technical or procedural failure identified in sections 2 or 3 of the Form I–9, the employer must correct the failure on the Form I–9, and then initial and date the correction.

The Service recognizes that the correction of technical or procedural failures is sometimes impossible, whether due to the nature of the failure, such as a timeliness failure, or to the inability of the employer to access the necessary information, such as when the information has been independently destroyed or is inaccessible due to termination of the individual's employment. This rule proposes that, where the employer's explanation of an inability to correct a technical or procedural failure is reasonable, the employer will be deemed to have complied with the requirement, notwithstanding the inability to correct the failure.

This proposed rule in no way affects the Service's authority to enforce verification failures that are not characterized as technical or procedural.

What About the Other Employment-Related IIRIRA Provisions?

This is one of four rules the Service is proposing to implement IIRIRA amendments to section 274A of the Act. In addition to this rule, we are developing and publishing proposed rules to:

(a) Implement sections 412(a), 412(d), and 416 of the IIRIRA by: (1) eliminating certain documents currently used in the employment eligibility verification (Form I–9) process; (2) including any branch of the Federal Government in the definition of *entity* for employer sanctions purposes; and (3) clarifying the Service's authority to compel by subpoena the appearance of witnesses and production of evidence when investigating possible violations of section 274A of the Act. This proposed rule and a proposed revision to the Form I–9 were published for comment on February 2. This proposed rule includes numerous changes intended to simplify the verification procedures;

(b) Implement changes to the application process for obtaining employment authorization from the Service. This proposed rule will include a revision to the Form I–765, Application for Employment Authorization, and revisions to Subpart B of Part 274a; and

(c) Implement section 412(b) of IIRIRA, which permits an employer which is a member of an association of two or more employers that hires an individual who is a member of a collective bargaining unit and is employed under a collective bargaining agreement entered into between one or

more employee organizations and the association to use the Form I–9 completed for that individual within 3 years (or, if less, the period of time that the individual is authorized to be employed in the United States) by a prior employer which is a member of the same association.

Regulatory Flexibility Act

The Commissioner, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule eases the burden on small businesses by ensuring that employers who make a good faith effort to comply with the employment verification provisions are not penalized for technical and procedural failures.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

Executive Order 12612

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

Executive Order 12988 Civil Justice Reform

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

Paperwork Reduction Act

This proposed rule does not impose any new reporting or recordkeeping requirements. The information collection requirements contained in this rule were previously approved for use by the Office of Management and Budget (OMB). The OMB control number for these collections is contained in 8 CFR 299.5, Display of control numbers.

List of Subjects in 8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

Accordingly, part 274a of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

1. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

2. Section 274a.1 is amended by:

a. Removing the "." at the end of paragraph (1)(2) and replacing it with a ";" and by

b. Adding a new paragraph (n) to read as follows:

§ 274a.1 Definitions

* * * * *

(n) The term *technical or procedural failure to meet such requirement* means failure of a person or entity to:

(1) In section 1 of the Form I–9:

(i) Ensure that an individual hired or recruited or referred for a fee provides his or her maiden name, address, or birth date;

(ii) Ensure that an individual provides his or her Alien number on the line next to the phrase "A Lawful Permanent Resident", but only if the Alien number is provided in sections 2 or 3 of the Form I–9 (or on a legible copy of a document retained with the Form I–9 and presented at the I–9 inspection);

(iii) Ensure that an individual provides his or her Alien number or Admission number on the line provided under the phrase "An alien authorized to work until", but only if the Alien number or Admission number is provided in sections 2 or 3 of the Form I (or on a legible copy of a document retained with the Form I–9 and presented at the I–9 inspection);

(iv) Ensure that an individual dates section 1 of the Form I–9;

(v) Ensure that an individual completes section 1 of the Form I–9 timely by dating section 1 of the Form I–9 at the time of hire, if the time of hire occurred on or after September 30, 1996; and

(vi) Ensure that a preparer/translator provides his or her name, address, signature, and date.

(2) In section 2 of the Form I–9:

(i) Provide the document title, identification number(s) and/or expiration date(s) of a proper List A document or proper List B and List C documents, but only if a legible copy of the document(s) is retained with the Form I–9 and presented at the I–9 inspection;

(ii) Provide the title, business name, and business address;

(iii) Provide the date of hire in the attestation portion;

(iv) Date section 2 of the Form I–9; and

(v) Complete section 2 of the Form I–9 timely by dating section 2 of the Form I–9 within 3 business days of the date the individual is hired or, if the individual is hired for 3 business days or less, at the time of hire, if the date on which section 2 had to be completed occurred on or after September 30, 1996.

(3) In section 3 of the Form I–9:

(i) Provide the document title, identification number(s), and/or expiration date(s) of a proper List A or List C document, but only if a legible copy of the document is retained with the Form I–9 and presented at the I–9 inspection; and

(ii) Provide the date of rehire.

3. Section 274a.2 is amended by adding a new paragraph (e) to read as follows:

§ 274a.2 Verification of employment eligibility.

* * * * *

(e) *Good faith compliance with the employment verification requirements notwithstanding technical or procedural failures.* (1) In the case of I–9 inspections conducted on or after September 30, 1996, an employer or recruiter or referrer for a fee will not be subject to civil monetary penalties under § 274a.10(b) for technical or

procedural failures to meet a requirement of section 274A(b) of the Act if the employer or recruiter or referrer for a fee made a good faith attempt to meet such requirement. An employer or recruiter or referrer for a fee will not be considered to have made a good faith attempt to meet such requirement when:

(i) The technical or procedural failure was committed with the intent to avoid a requirement of the Act, as demonstrated by the totality of circumstances including but not limited to the substantial presence of unauthorized aliens hired by the employer combined with a pattern of repeated failures in the completion of the Form I–9 with respect to such unauthorized aliens, or failure of the employer to prepare the Form I–9 until after the employer is served with a Notice of Inspection;

(ii) The technical or procedural failure was committed in knowing reliance on section 274A(b)(6) of the Act;

(iii) The employer or recruiter or referrer for a fee corrected or attempted to correct the technical or procedural failure with knowledge or in reckless disregard of the fact that the correction or attempted correction contained a false, fictitious, or fraudulent statement or material misrepresentation, or has no basis in law or fact;

(iv) The employer or recruiter or referrer for a fee prepared the Form I–9 with knowledge or in reckless disregard of the fact that the Form I–9 contained a false, fictitious, or fraudulent statement or material misrepresentation, or has no basis in law or fact; or

(v) The type of failure was previously the subject of a Warning Notice described in § 274a.9(c) or Notice of Intent to Fine described in § 274a.9(d), or a notice of technical or procedural failures.

(2) An employer or recruiter or referrer for a fee will be subject to civil money penalties under § 274a.10(b) notwithstanding paragraph (e)(1) of this section if, after receiving notice of the technical or procedural failure(s), the employer or recruiter or referrer for a fee does not voluntarily correct the failure(s) on the Form I–9 by the date specified in the notice. The date specified in the notice must be at least 10 days after the date the notice is received in the case of personal service and 15 days after the date on the notice in the case of service by certified or regular mail. No penalty will apply if the failure could not reasonably be corrected, and the employer or recruiter or referrer for a fee provides a Service officer with an explanation of why the failure(s) cannot reasonably be corrected by the date specified in the notice. This explanation may be written or oral at the discretion of the Service officer. The employer or recruiter or referrer for a fee will be deemed to have properly corrected a technical or procedural failure where the employer or recruiter or referrer for a fee:

(i) In the case of a failure in section 1 of the Form I–9, ensures that the individual, preparer and/or translator corrects the failure on the Form I–9, initials the correction, and dates the correction; or

(ii) In the case of a failure in sections 2 or 3 of the Form I–9, corrects the failure on the Form I–9, initials the correction, and dates the correction.

Dated: March 29, 1998.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 98–8969 Filed 4–6–98; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

9 CFR Part 200

Petition for Rulemaking: Packer Livestock Procurement Practices

AGENCY: GIPSA, Agriculture.

ACTION: Notice of release of analysis regarding petition for rulemaking.

SUMMARY: The Secretary of Agriculture received a petition for rulemaking submitted by the Western Organization of Resource Councils (WORC) on October 12, 1996. The petition requested that the Department of Agriculture (USDA) initiate rulemaking to restrict certain livestock procurement practices regarding forward contracting and packer feeding. In order to facilitate full discussion of the issues raised in the petition, USDA published the petition in the **Federal Register** on January 14, 1997 (62 FR 1845) and requested public comment. The comment period closed on April 14, 1997. A team of USDA personnel reviewed the petition, comments, the congressionally-mandated concentration study that USDA completed in 1996, and other available economic studies.

The Secretary of Agriculture has not yet reached a conclusion regarding WORC's petition for rulemaking. USDA is continuing an open dialogue with industry participants to address livestock pricing and concentration issues. In the spirit of that dialogue, the analysis of the petition and comments is available on GIPSA's internet homepage (http://www.usda.gov/gipsa/lateadd/lateadd.htm).

ADDRESSES: You may request a copy of the analysis by contacting the Deputy Administrator, Packers and Stockyards Programs, GIPSA, USDA, Stop 3641, 1400 Independence Avenue, SW, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Jay A. Johnson, Acting Director, Packer and Poultry Division, (202) 720–7363.

Dated: March 30, 1998.

David R. Shipman,

Acting Administrator.

[FR Doc. 98–8987 Filed 4–6–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Docket No. 28814; Summary Notice No. PR–98–1]

Petition for Rulemaking; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of petition for rulemaking received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice publishes a petition requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before June 8, 1998.

ADDRESSES: Send comments in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket No. 28814, 800 Independence Avenue, SW, Washington, DC 20591. Comments may also be sent electronically to the following internet address: 9-NPRM-CMTS@faa.dot.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 Ave., SW, Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Elizabeth Allen, (202) 267–8199, Office of Rulemaking (ARM–105), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on April 1, 1998.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

PETITION FOR RULEMAKING

Docket No.: 28814

Petitioner: Mr. William P. Horn, Counsel for Alaska Professional Hunters Association Birch, Horton, Bittner and Cherot

Regulations Affected: 14 CFR 91.1 and 14 CFR 135

Description of Rule Change Sought: Inasmuch as the petitioner did not submit a summary of the petition for rulemaking, the FAA is publishing the petition verbatim to ensure that each of the petitioner's points are presented fairly and accurately. It is the Petitioner's position that 14 CFR Part 91 alone governs the air operations of Alaskan hunt and fish guides. The petitioner wants the FAA to partially augment the requirements of 14 CFR Part 91. By contrast, it is the FAA's position that 14 CFR Parts 119, 121, and 135 apply to the air operations of Alaskan hunt and fish guides for compensation or hire, and commenters should be aware that the FAA published a notice in the **Federal Register** (January 2, 1998, 63 FR 4), entitled, "Compliance With Parts 119, 121, and 135 by Alaskan Hunt and Fish Guides Who Transport by Air for Compensation or Hire." On January 30, 1998, the petitioner filed a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit challenging the FAA's notice. *Alaska Prof'l Hunters Ass'n* v. *Federal Aviation Admin.*, No. 98–1051 (D.C. Cir.).

The Petition:

January 31, 1997.

Ms. Linda Daschle,

Acting Administrator, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591–0002

Re: Petition for Rulemaking on Regulation of Alaskan Aero-lodge Pilots

Dear Ms. Daschle: This letter is written on behalf of the Alaska Professional Hunters Association ("APHA") to petition the Federal Aviation Administration ("FAA") to initiate a rulemaking pursuant to 5 U.S.C. § 553(e) to amend 14 C.F.R. Part 91 for the purpose of enhancing the safety of Alaskan aero-lodge flight operations. (Alaskan aero-lodge flight operations are conducted by pilots and guides who fly guests to their lodges or remote areas for a hunting or fishing experience. The aero-lodge pilots primary purpose is to serve as a guide during a hunting or fishing trip.) We understand that the FAA has considered unilaterally changing the regulation of the Alaskan aero-lodge flight operations and pilots without using a rulemaking process. (The APHA wrote a letter to you on December 10, 1996, discussing many of the issues discussed in this petition. That letter is incorporated by reference in this petition. A copy is attached as Exhibit 1.) The APHA requests that a rulemaking process precede any dramatic changes in regulations as required by the Administrative Procedure Act. By using the rulemaking process, all parties can be brought to the table and afforded an opportunity to provide meaningful comment. The APHA looks forward to working with the FAA in an effort to provide the public with safe and enjoyable outdoor experiences in Alaska.

For the past thirty-three (33) years, the FAA has regulated the Alaskan aero-lodge pilots who fly passengers from remote lodges to even more remote hunting or fishing areas under 14 CFR Part 91. The FAA had determined that this transportation was incidental to the purpose of the business and thus the Alaskan aero-lodge pilots qualified for regulation under Part 91. For this three decade period, the aero-lodge pilots have relied upon this determination and have conducted their hunting and fishing operations in reliance on this long-standing ruling. To change their classification to Part 135 operators would impose distinct and significantly greater obligations and duties on the aero-lodge pilots. APHA maintains that many of the requirements under Part 135 are impracticable, unjustified and unnecessary for aero-lodge pilots. An immediate change to Part 135 would not merely clarify or explain existing law or regulation, or remind the public of existing duties; it would impose substantial new duties on Alaskan aero-lodge pilots and subject them to the FAA's enforcement power if they fail to comply. These facts mandate that the FAA make such a change only as part of a rulemaking. (*See, e.g., Jerri's Ceramic Arts* v. *Consumer Prod. Safety Comm'n*, 874 F.2d 205, (4th. Cir. 1989).

The APHA agrees with the FAA that some increased regulatory measures are advisable to ensure the continued safety of the Alaskan aero-lodge pilots and their guests. (The APHA has long been committed to and enjoys a reputation for the safety of its members, the public and the men and woman who fly in Alaska. See Exhibit 2.) The APHA is convinced the proposals in this petition will promote safe flight without imposing arbitrary, unnecessary and costly regulations on bush pilots and aero-lodge operators in Alaska. This proposed rulemaking also is consistent with 49 U.S.C. § 44701: "Administrator of the FAA has the duty to promote regulations and minimum standards to promote the safe flight of civil aircraft in air commerce."

The APHA is an association of over 650 individual guides, outfitters, and others interested in hunting and recreational opportunities in Alaska. Many members of APHA rely on or are pilots who fly guests to their camps, lodges or remote areas where a hunt or other recreational activity is to be conducted. As you know, Alaska covers over 586,000 square miles, which is ⅕th of the area of the continental United States. There are very few existing roads and the sheer size of the State-designated Game Management Units demands the use of airplanes to reach the many hunting and fishing sites. As an industry, the APHA uses aircraft as one of the means to transport hunters and anglers to and from remote locations. The Alaskan aero-lodge pilots do not sell transportation from Point A to Point B. If weather prohibits a flight or a hunt occurs in a nearby vicinity that can be accessed without an airplane, the guides still charge and receive the same compensation. In other words, the cost does not increase if a plane is used to transport the guests. Thus, the Alaskan aero-lodge pilots are correctly regulated under Part 91.

A. Proposed Regulatory Additions to Part 91

Although the APHA recognizes the benefit of increased safety, it is not persuaded that the Alaskan aero-lodge pilots should be subject to all requirements of Part 135. As explained below, this is simply unnecessary. The APHA proposes that Part 91 continue to apply but with added requirements, some taken from Part 135, that match the realities of the Alaskan aero-lodge pilot situation. The APHA also proposes that there be a phase-in period of at least one year.

1. Adding additional minimum pilot certification, experience and qualifications to Part 91 for aero-lodge pilots will increase safety by requiring more experienced pilots.

Currently, under Part 91, pilots need to have a pilots license without any more advanced certification. In addition, Part 91 has a relatively low minimum hour requirement and requires a third class medical certificate.

After careful consideration and in recognition of the sometimes challenging flight conditions in Alaska, the APHA recommends that Part 91 be amended, for application in Alaska, to impose the following four new requirements on aero-lodge pilots:

a. Aero-lodge pilots must have a Commercial Rating.

By requiring the aero-lodges to hire commercial pilots, the FAA is increasing the base level of skill required of aero-lodge pilots. The increased aeronautical knowledge and flight proficiency requirements beyond that required for a standard pilot's license makes good sense when applied to the aero-lodge pilots. Commercial pilots are required to have a higher level of knowledge about airplane operations, including retractable landing gear, loading and balance computations and an advanced knowledge of the significance and use of the airplane performance speeds. In addition, commercial

pilots must also competently perform precision approaches to normal and crosswind takeoffs and landings as well as utilizing specified approach speeds. Commercial pilot ratings also require demonstrated competence in more emergency situations than a standard pilot license.

The requirement for increased knowledge regarding loading and balance computations makes good sense for aero-lodge pilots who often bring people and significant amounts of gear into the wilderness. Increased emergency procedure training is also a significant benefit as the aero-lodge pilots operate in remote areas with less predictable weather.

b. Aero-lodge pilots must have a minimum of 500 hours of flight time in Alaska.

This requirement exceeds that required for a commercial pilot. Where a commercial pilot is only required to have 250 hours of flight time, the APHA is recommending that aero-lodge pilots be required to have 500 hours of flight time in Alaska. Increasing the number of hours required to fly as an aero-lodge pilot will necessitate the hiring of more experienced and safer pilots. Moreover, requiring significant experience in Alaska will help insure that aero-lodge pilots are fully capable of dealing with the unique terrain and weather conditions found in Alaska.

c. Aero-lodge pilots must participate in an annual flight review.

Under 14 CFR 61.56, pilots must participate in a flight review every two years. The APHA recommends the aero-lodge pilots participate in an annual flight review. This will demand the aero-lodge pilots keep their skills sharp and inform them of the newest safety innovations. Allowing the aero-lodge pilots to schedule their annual flight reviews in the off-season will encourage compliance by the pilots and help the aero-lodges remain operational in the active hunting/fishing seasons.

d. Aero-lodge pilots must qualify for and receive a second class medical certificate.

As a commercial pilot, aero-lodge pilots would have to qualify for and receive a second class medical certificate. As you are aware, the primary difference between a second class and third class medical certificate is the increased vision requirements. When flying in remote, uncontrolled airspace, it is vital that a pilot's vision be clear enough to detect otherwise unannounced aircraft. In addition, the importance of using aeronautical maps increases when flying in remote areas. By requiring the aero-lodge pilots have a second-class medical certificate you will help ensure they can clearly and easily read the aeronautical maps as well as live by the rule of "See and be seen."

These significant changes would go a long way toward increasing safety by requiring more experienced pilots without requiring the far more extensive Part 135 requirements that are better suited for bona fide air taxi operations.

2. Adding additional aircraft requirements will help aero-lodge pilots ensure the high quality of their aircraft and equipment.

The APHA is also committed to aircraft safety and related maintenance requirements. The APHA recommends that Part 91 be amended to require Alaskan aero-lodge pilots to meet the manufacturers' recommended overhaul times for the engine, propeller and prop governor. In addition, the APHA recommends that the aircraft be required to have annual and 125 hour inspections to ensure superior maintenance of the equipment. This recommendation exceeds the current requirements for Part 91 operators and raises the standard for maintenance of the aircraft used in the Alaskan bush.

3. Proposed regulatory language.

The APHA recommends that the following language be adopted to institute the above changes:

91.1(c). In addition to complying with this Part, each person who operates an aircraft to transport guests and/or equipment to or from a commercial hunting, fishing, or recreational lodge in Alaska shall also comply with §§ 61.121, 61.123, 61.127, 61.129, 61.139, 67.15, and 135.421. In addition, these pilots must also have a total of at least 500 hours of flight time in Alaska as a pilot and participate in an annual flight review as described under § 61.56 and their airplane must be inspected after 125 hours of flight time. These requirements go into effect one year from the date of publication as a final rule.

B. Requiring Aero-Lodge Pilots to Operate under Part 135 Will Not Improve Safety and Will Cripple a Thriving Industry

The APHA is also strongly requesting that the FAA not require Alaskan aero-lodge pilots to comply with Part 135. Complying with the considerable paperwork and inspection requirements for Part 135 operators would create a great hardship to the small businessmen and women who run Alaska's aero-lodges. Most fishing lodge operators only have guests for 14 weeks each summer. Hunting guides operate only during the limited hunting seasons in their Game Management Units. The season may only be 4 to 10 weeks annually. Both fishing and hunting guides use their aircraft to provide their lodges and spike camps (remote camps) with supplies, food, fuel and gear. Bringing necessary supplies is a large part of the flight operations of the aero-lodges and does not involve any passengers.

The Alaskan aero-lodge pilots fly a minimum amount of time compared with Part 135 operators. They fly hunters to their remote camps, hunt with them and then return. For example, each aircraft of most aero fishing lodges (that often fly anglers six days a week) only fly between 100 and 200 hours annually carrying anglers.

The following are only a few examples of how Part 135 requirements would significantly harm the aero-lodges in Alaska:

1. 14 C.F.R. 135.41 requires a minimum of 3 years Part 135 experience for the Director of Operations and the Chief Pilot.

Most aero-lodges do not have both a chief pilot and a director of operations. In fact, many hunting and fishing operations have only one pilot who serves as the chief pilot, the director of operations and the guide. These are small operations that should not be expected to fill out and keep the large amount of paperwork necessary to run a full service air taxi.

In addition, the pilots with the minimum 3 years of Part 135 experience are more interested in working in the more lucrative air taxi operations than working for part of the year as an Alaskan aero-lodge pilot. Importantly, most pilots with the required Part 135 experience are not qualified guides. The FAA should be aware that the State of Alaska strictly regulates and certifies hunting guides; it takes a substantial effort to become a registered guide. Few aero-lodges can afford to hire an additional non-guide pilot who would work only an hour or two each day.

2. 14 C.F.R. 135.267 requires at least 13 days of rest periods or at least 24 hours for each calendar quarter.

A calendar quarter would include the months of July, August and September, which is almost the entire sport fishing season. For the vast majority of aero-lodge operations that only have one or two aero-lodge pilots, 13 days off during the short season would cripple most operations. Aero-lodge pilots simply do not have the same kind of duties as Part 135 operators. The former typically fly 1 to 3 hours per day and rarely, if ever, approach the 8 hour limit per day. The aero-lodge pilots are not on any time table where they have to fly so many routes every day and routinely do not fly for sustained periods that induce weariness or fatigue.

This restriction alone could put several aero-lodges out of business and clearly does not make sense when applied to the aero-lodge industry.

3. Part 135 maintenance requirements are not necessary.

One of the biggest differences between Part 135 and Part 91 lies in the maintenance section. Part 135 operators must have all maintenance, including oil changes and seat installation, performed by a licensed A&P mechanic. This requirement would devastate the aero-lodge industry. There are few lodges in Alaska that could afford to hire a full time A&P mechanic to stand by to change the oil, a spark plug or remove a seat. In the remote locations where the aero-lodges are located, it is virtually impossible and potentially unsafe to return to a larger community where an A&P mechanic is available to perform routine tasks. The pilots are capable of performing these minor tasks and have done so for the past 33 years.

The aero-lodge operators recognize the vital importance of safe equipment. With advance planning, the aero-lodge operators easily are able to attend the required 125 hour inspections and can schedule a trip to a mechanic. However, when minor, unscheduled mechanical problems arise, returning to a more urban location to find a mechanic would shut down the smaller operations entirely. The aero-lodge pilots should be able to make the minor repairs and keep the lodge in business.

4. 14 C.F.R. 135.293 requires initial and recurrent pilot testing.

An important concern for aero-lodge operators centers on a potential problem arising from the requirements of 14 C.F.R. 135.293. This section requires a pilot to pass a written or oral test on the aircraft, navigation, air traffic control procedures, meteorology and new equipment within the

preceding year. This section also requires a competency check in the class of aircraft the pilot commands within the preceding year. A very real and pressing concern for the aero-lodge operators arises when a lodge operator feels it is necessary to discharge his current pilot. If this happens, it would be a virtual impossibility to get a new pilot in quickly if they had to have an authorized check ride and pass a written or oral test.

The FAA has recognized the difficulty in finding authorized check airmen in the remote parts of Alaska. Although an operator may be able to locate a qualified pilot, he would be prohibited from hiring him because of the large potential of being unable to find an authorized check airman, ground school for certification and hazardous materials certification. With the extremely short season, even a couple of days without a pilot could spell economic disaster for a guide or lodge operator.

5. 14 C.F.R. 135.299 requires route checks for Part 135 pilots.

This section requires an approved check pilot give a flight check to all Part 135 pilots within the preceding year. Importantly, this section requires the check ride consist of at least one flight over one route segment. Aero-lodge pilots do not fly standardized routes to and from remote fishing/hunting locations. The hunting/fishing destinations can change daily to reflect migrations or runs and cannot be standardized. As such, there are no routes per se that could be checked. Because the routes often change daily, a check flight along one segment of a route does not necessarily improve safety.

In addition, the areas where the aero-lodge pilots fly are remote and difficult to access by FAA approved check pilots. Many hunting and fishing camps are literally a day's flight out of Anchorage. It would be disastrous for an aero-lodge operator to have to shut down his camp while he awaited the approved check pilot to arrive from Anchorage or Fairbanks and then fly a sample route (that could change daily) with the aero-lodge pilot.

The annual flight review recommended by APHA would address many of the same safety issues addressed in 14 C.F.R. 135.299, the safety briefings and new equipment updates. However, the route checks would not be necessary in an annual flight review, thus, eliminating the problems found in this section.

C. Conclusion

As stated before, providing safe recreational opportunities is one of the primary goals of APHA. The APHA recognizes and supports regulation of air travel in Alaska. However, regulation that is unnecessary and detrimental to small businesses is not needed. The determination of what regulations best fit the unique situation in Alaska must be determined through informal consultation and ultimately rulemaking.

For these reasons, the APHA looks forward to working with you and the Alaska Congressional Delegation to find a strong solution—one that promotes safety, allows businesses to continue to operate efficiently, and does not saddle Alaskan aero-lodge pilots with unnecessary regulations.

The APHA stands ready to assist you in this rulemaking.

Sincerely,

William P Horn,

Birch, Horton, Bittner and Cherot.

[FR Doc. 98–9075 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–07–AD]

Airworthiness Directives; Eurocopter France Model AS 332C, L, L1, and L2 Helicopters

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 Eurocopter France Model AS 332C, L, L1, and L2 helicopters. This proposal would require visually inspecting the intermediate gearbox-to-structure attachment stirrup (stirrup) front tabs for cracks, and if a crack is discovered, removing the intermediate gearbox and replacing it with an airworthy intermediate gearbox; and inspecting for the conformity of the attachment parts. This proposal is prompted by five reports of failure of the two stirrup tabs. The actions specified by the proposed AD are intended to prevent failure of the intermediate gearbox stirrup front tabs, loss of anti-torque drive, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before May 7, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–07–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. 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 American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Horn, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5125, fax (817) 222–5961.

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 should 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 No. 98–SW–07–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, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–07–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Eurocopter France Model AS 332C, L, L1, and L2 helicopters with intermediate gearboxes, part number 332A35–0002 all dash numbers, 332A35–0010 all dash numbers, and 332A35–0011–01, that have not been modified in accordance with MOD 0761049 or MOD 0761050. The DGAC advises that cracks have

been discovered on the stirrup, and mandates visually inspecting the stirrup front tabs for cracks. If a crack is discovered, the DGAC mandates removing the intermediate gearbox and replacing it with an airworthy intermediate gearbox; and inspecting for the conformity of the attachment parts.

Eurocopter France has issued Eurocopter France AS 332 Service Bulletin No. 01.00.47 Revision No. 1, dated September 10, 1997. The DGAC classified this service bulletin as mandatory and issued AD 96–263–060(AB)R1 for Model AS 332C, L, and L1 helicopters, and AD 96–262–004(AB)R1 for Model AS 332L2 helicopters, both dated November 5, 1997, in order to assure the continued airworthiness of these helicopters in France.

This helicopter model is manufactured in France 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 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.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model AS 332C, L, L1, and L2 helicopters of the same type design registered in the United States, the proposed AD would require visually inspecting the stirrup front tabs for cracks, and if a crack is discovered, removing the intermediate gearbox and replacing it with an airworthy intermediate gearbox; and inspecting for the conformity of the attachment parts. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 4 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 0.25 work hours to inspect the tabs, and 3 work hours to inspect for conformity, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $780.

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 a new airworthiness directive to read as follows:

Eurocopter France: Docket No. 98–SW–07–AD.

Applicability: Model AS 332C, L, L1, and L2 helicopters, with intermediate gearboxes (IGB), part numbers (P/N) 332A35–0002 all dash numbers, 332A35–0010 all dash numbers, and 332A35–0011–01, installed, except those IGBs modified in accordance with MOD 0761049 or MOD 0761050, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the IGB-to-structure attachment stirrup (stirrup) front tabs, loss of anti-torque drive, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before the first flight of each day, perform a visual inspection of the stirrup front tabs for cracks in accordance with paragraph 2.B1) of the Accomplishment Instructions in Eurocopter France AS 332 Service Bulletin 01.00.47, Revision No. 1, dated September 10, 1997 (SB). If a crack is found, remove the IGB and replace it with an airworthy IGB before further flight. Completion of the conformity procedure contained in paragraph 2.B.2.1.3) of the SB is terminating action for the requirement of this AD to inspect for cracks prior to the first flight of each day.

(b) Within 100 hours time-in-service (TIS), inspect the two front attaching assemblies securing the stirrup of the IGB to the angle bracket of the structure (attachment assembly) for thickness of the stirrup front tabs in accordance with paragraph 2.B.2) of the SB.

(1) If the attachment assembly meets the conformity requirements of either paragraph 2.B.2.1.1) or 2.B.2.1.2) of the SB, reassemble the attachment assembly in accordance with paragraph 2.B.2.1.3) of the SB.

(2) If the attachment assembly does not meet the conformity requirements of either paragraph 2.B.2.1.1) or 2.B.2.1.2) of the SB, replace it with an attachment assembly which does meet the conformity requirements of either of those paragraphs. Install the attachment assembly hardware in accordance with 2.B.2.1.3) of the SB.

(3) If a crack is discovered in the stirrup front tabs as a result of the conformity inspection, remove the IGB and replace it with an airworthy IGB before further flight.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

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

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile

(France) AD 96–263–060(AB)R1 for Eurocopter France (ECF) Model AS 332C, L, and L1 helicopters, and AD 96–262–004(AB)R1 for ECF Model AS 332L2 helicopters, both dated November 5, 1997.

Issued in Fort Worth, Texas, on March 30, 1998.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–8989 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–022]

RIN 1218–AB55

Dipping And Coating Operations (Dip Tanks)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule.

SUMMARY: OSHA's rules for dipping and coating operations are designed to protect employees from the fire, explosion, and other hazards associated with these operations. OSHA is proposing to revise these rules, which are codified at §§ 1910.108 and 1910.94(d) of part 1910. This revision will achieve three purposes: it will rewrite these rules in plain language, consolidate them in several new sequential sections in subpart H of part 1910, and update them to increase the compliance options available to employers. OSHA believes that the proposed revisions will enhance employee protection by making the sections more understandable to employers and employees and providing additional compliance flexibility to employers. These revisions will not increase the burden imposed on employers by the rules. When the rulemaking is completed, OSHA will codify the revisions as § 1910.121 through 1910.125.

OSHA is presenting two alternative versions of the proposed plain language sections. The first version is organized in the traditional OSHA regulatory format, while the second version uses a question-and-answer format. OSHA invites comments on the substance of the proposed changes and on the alternative formats.

DATES: Written comments and requests for a hearing on this proposal must be postmarked by June 8, 1998.

ADDRESSES: Comments and requests for hearings must be submitted in quadruplicate or one (1) original (hardcopy) and one (1) diskette (5¼- or 3½-inch) in WordPerfect 5.0, 5.1, 6.0, or 6.1, or ASCII to: Docket Office, Docket No. S–022, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 219–7894. Any information not contained on the diskettes (e.g., studies, articles) must be submitted in quadruplicate with the original. Written comments of 10 pages or less may be transmitted by facsimile (fax) to the Docket Office at (202) 219–5046, provided an original and three (3) copies are sent to the Docket Office before the end of the 60-day comment period.

For an electronic copy of this **Federal Register** notice, contact the Labor News Bulletin Board at (202) 219–4748, or access OSHA's web page on the Internet at http://www.OSHA.gov. For news releases, fact sheets, and other short documents, contact the OSHA fax number at (900) 555–3400; the cost is $1.50 per minute.

FOR FURTHER INFORMATION CONTACT: Technical inquiries should be directed to Mr. Terence Smith, Office of Fire Protection Engineering and System Safety Standards, Room N-3609, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 219–7216; fax: (202) 219–7477.

Requests for interviews and other press inquiries should be directed to Ms. Bonnie Friedman, Office of Information and Consumer Affairs, Room N–3647, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 219–8148.

SUPPLEMENTARY INFORMATION:

I. Background

In 1971, OSHA used section 6(a) of the Occupational Safety and Health Act of 1970 ("the Act") (29 U.S.C. 655(a)) to adopt hundreds of national consensus standards and established Federal standards as occupational safety and health standards. Over the ensuing 27 years, OSHA became aware that some of these standards are wordy, difficult to understand, repetitive, and internally inconsistent. OSHA has also received a number of complaints that these standards were rigid and difficult to follow.

In May 1995, President Clinton asked all Federal regulatory agencies to review their regulations to determine if the regulations were inconsistent, duplicative, outdated, or in need of being rewritten in plain language. In response, OSHA conducted a line-by-line review of its standards, and committed the Agency to eliminating those standards found to be unnecessary, duplicative, and/or inconsistent and to rewriting those standards found to be complex and outdated.

In revising its rules on dipping and coating operations, OSHA's primary goal is to make them more understandable to the regulated community. The proposed revisions involve reorganizing the text, removing internally inconsistent provisions, eliminating duplicative requirements, and simplifying the overly technical language and requirements of the existing dip tank requirements, which are codified at §§ 1910.108 and 1910.94(d). OSHA also is proposing to update the current standards by revising several provisions of these standards to conform to National Fire Protection Association (NFPA) standard 34–1995; the updated requirements would replace existing provisions that were drawn from the 1966 version of the NFPA standard. For each of these proposed revisions, OSHA explains why it believes the updated requirements would provide equivalent protection to employees with no additional regulatory burden to employers.

In making these revisions, OSHA has rewritten the requirements in simple, straightforward, easy-to-understand terms. The proposed sections are performance-oriented and shorter than the existing standards. The number of subparagraphs and cross-references to other OSHA standards or to national consensus standards has been reduced. Both of the plain language versions of the proposed sections include a detailed table of contents that is intended to make the subsequent sections easier to use.

Both of the proposed plain language revisions would leave unchanged the regulatory obligations placed on employers and the safety and health protections provided to employees. OSHA believes, moreover, that the performance-oriented language of the proposed sections would facilitate compliance because it would make more compliance options available to employers than is the case with the current standards.

The proposed rules would not require employers to make technological changes and, therefore, would not impose increased costs on employers. In fact, the proposed sections may decrease

employer costs because they would permit greater compliance flexibility. Accordingly, OSHA has made a preliminary determination that no economic or regulatory flexibility analysis of the proposed sections is necessary, and certifies that the proposed sections would not have a significant impact on a substantial number of small entities.

II. The Need to Redraft OSHA's Regulations in Plain Language

Almost immediately after OSHA adopted the national consensus standards and established Federal standards under section 6(a) of the Act, many of these standards were criticized for being difficult for employers and employees to understand. The Clinton Administration's initiative to reinvent government, spearheaded by Vice President Gore, has focused renewed attention on the difficulty many employers and employees have in understanding Federal regulatory requirements, including OSHA's rules. Responding to this initiative, the Department of Labor has developed a complete regulatory reform strategy to use plain language to make rules "user friendly." The present proposal, which offers two plain language versions of the regulatory text, is one of several standards that have been identified by OSHA as part of its regulatory reform strategy.

III. Revising the Dipping and Coating Standards

Introduction—OSHA's Goals in Revising the Standards

OSHA hopes to achieve the following three goals in this proposal:

- To rewrite these rules in plain language so that they will be easily understood by employers and employees;
- To consolidate the rules applying to dipping and coating operations into several new sequential sections in subpart H of part 1910; and
- To update the rules to increase their compliance flexibility and performance orientation.

OSHA believes that the proposal would achieve these goals without decreasing the employee protections provided by the existing rules or increasing the burden imposed on employers whose work operations involve dipping and coating. In the following paragraphs, OSHA describes how each of these goals would be served by proposed §§ 1910.121 through 1910.125 of part 1910.

Plain Language Revision

This proposal is primarily a plain language revision of OSHA's standards for dipping and coating operations. In developing the proposal, the Agency has been careful to ensure that the revisions would not weaken the protections afforded to employees under current §§ 1910.108 and 1910.94(d) were not weakened in the revision process. Employers who are in compliance with current §§ 1910.108 and 1910.94(d) would continue to be in compliance with the new sections after they become effective.

The proposed revisions would delete various details and specifications from the existing rules that OSHA believes do not contribute to employee protection. For example, paragraph (c)(1) of current § 1910.108 requires that dip tanks be constructed of substantial materials, and that their supports consist of heavy metal, reinforced concrete, or masonry. The proposed rule, at paragraph (a)(1) of § 1910.123, would replace that provision with a simple requirement that dip tanks be able to withstand any expected load.

OSHA has organized proposed §§ 1910.121 through 1910.125 in a logical and understandable manner using the following principles:

- General provisions should appear before specific provisions or exceptions;
- Important provisions should appear before less important provisions;
- Frequently used provisions should appear before less frequently used provisions;
- Substantive requirements should appear before procedural requirements;
- Permanent provisions should appear before temporary, transitional, or "grandfather" provisions; and
- "Housekeeping" provisions and appendices should be placed at the end of the requirements.

The proposed revision consists of five separate sections, §§ 1910.121 through 1910.125. The first section, proposed § 1910.121, contains a table of contents for the substantive requirements contained in the other four sections. The other four sections are described as follows:

- Proposed § 1910.122, entitled "Dipping and coating operations (dip tanks); Coverage," describes what is covered and not covered by the proposed sections, and defines the significant terms used in the revision.
- Proposed § 1910.123, entitled "General requirements for dipping and coating operations," specifies, in a logical order, the requirements that would apply to all dipping and coating operations. This section begins with construction and ventilation requirements, followed by provisions for entry in dip tanks, training, personal protective equipment, hygiene facilities, and physical examination and first aid; it concludes with cleaning, maintenance, and inspection provisions.
- Proposed § 1910.124, entitled "Additional requirements for dipping and coating operations that use flammable or combustible liquids," contains provisions for preventing fires or explosions when using flammable or combustible liquids, including additional requirements for construction (including overflow piping), shutting down operations under specific hazardous conditions, controlling ignition sources, providing fire protection, and preventing liquids from overheating.
- Proposed § 1910.125, entitled "Additional requirements for special dipping and coating applications," specifies additional requirements for operations that involve: Hardening or tempering tanks; flow coating; roll coating, roll spreading, or roll impregnating with flammable or combustible liquids; vapor degreasing tanks; cyanide tanks; spray cleaning and degreasing tanks; and electrostatic paint detearing.

The proposed reorganization will eliminate the need for employers and employees to look to two separate subparts of part 1910 for dipping and coating requirements. In addition, consolidating and reorganizing the current standards have substantially reduced their combined length. Further reduction was achieved by eliminating a number of requirements from the current standards that are adequately regulated by other OSHA standards. For example, paragraphs (g)(2) to (g)(5) of current § 1910.108 regulate fire-extinguishing systems that use, respectively, water-spray, foam, carbon dioxide, or dry chemicals as the extinguishing agents. These provisions have been replaced by a single sentence in paragraph (e)(2) of proposed § 1910.124; the proposed requirement specifies that a vapor area be protected by an automatic fire-extinguishing system that complies with the requirements of subpart L of part 1910.

The Agency believes that the proposal will increase the "user friendliness" of the requirements and make them easier to interpret. OSHA has also reduced the number of paragraph and subparagraph levels in each section to make the proposed requirements easier than the existing requirements to locate and follow. In addition, OSHA has placed general requirements in proposed § 1910.123; the general requirements are

followed by more specific requirements, which are located in proposed §§ 1910.124 and 1910.125. Further, each major provision of the proposal is preceded by a heading that explains what information can be found in that provision. These headings are also found in the table of contents in proposed § 1910.121 to help readers locate relevant regulatory provisions.

The chart below gives some examples comparing the text used in several provisions of current § 1910.108 with the corresponding plain language provisions in the proposed sections (traditional format version).

Current section 1910.108	Proposed plain language revision (traditional format version)
1910.108(b)(2) Ventilation combined with drying. When a required ventilating system serves associated drying operations utilizing a heating system which may be a source of ignition, means shall be provided for pre-ventilation before the heating system can be started; the failure of any ventilating fan shall automatically shut down the heating system; and the installation shall otherwise conform to the Standard for Ovens and Furnaces (NFPA No. 86A–1969).	1910.124(d) Ignition sources must be controlled. * * * * * * (4) When a heating system that may be an ignition source is used in a drying operation: (i) The heating system must be installed in accordance with NFPA 86A–1969, Standard for Ovens and Furnaces, which is incorporated by reference in section 1910.6; (ii) Adequate mechanical ventilation must be operating before and during the drying operation; and (iii) The heating system must shut down automatically when any ventilating fan fails to maintain adequate ventilation.
1910.108(c)(6) Conveyor systems. Dip tanks utilizing a conveyor system shall be so arranged that in the event of fire, the conveyor system shall automatically cease motion and required bottom drains shall open. Conveyor systems shall automatically cease motion unless required ventilation is in full operation. See also paragraph (b)(1) of this section.	1910.124(c) Conveyor systems must shut down automatically. A conveyor system used with a dip tank must shut down automatically when: (1) There is a fire; (2) There is a failure of any fan used to maintain adequate ventilation; or (3) The rate of ventilation drops below the level required to meet the requirements in paragraph (b) of section 1910.123.
1910.108(d) Liquids used in dip tanks, storage and handling. The storage of flammable and combustible liquids in connection with dipping operations shall conform to the requirements of sec. 1910.106, where applicable. Where portable containers are used for the replenishment of flammable and combustible liquids, provision shall be made so that both the container and tank shall be positively grounded and electrically bonded to prevent static electric sparks.	1910.124(d) Ignition sources must be controlled. * * * * * * (3) When a portable container is used to add a liquid to a dip tank, the container and tank must be electrically bonded to each other, and positively grounded, to prevent static electrical sparks or arcs.
1910.108(e) Electrical and other sources of ignition. (1) Vapor areas. (i) There shall be no open flames, spark producing devices, or heated surfaces having a temperature sufficient to ignite vapors in any vapor area. Except as specifically permitted in paragraph (h)(3) of this section, relating to electrostatic apparatus, electrical wiring and equipment in any vapor area (as defined in paragraph (a)(2) of this section) shall be explosion proof type according to the requirements of subpart S of this part for Class I, Group D locations and shall otherwise conform to subpart S of this part.	1910.124(d) Ignition sources must be controlled. (1) A vapor area, and areas within 20 feet (6.1 m) of the vapor area not separated from it by tight partitions, must be free of open flames, spark-producing devices, or surfaces hot enough to ignite vapors. (2) Electrical wiring or equipment in a vapor area, and areas adjacent to it, must comply with the applicable requirements of subpart S of this part for hazardous (classified) locations.
1910.108(f)(2) Waste cans. When waste or rags are used in connection with dipping operations, approved metal waste cans shall be provided and all impregnated rags or waste deposited therein immediately after use. The contents of waste cans shall be properly disposed of at least once daily at the end of each shift.	1910.124(d) Ignition sources must be controlled. * * * * * * (6) Rags or other material contaminated with liquids from dipping and coating operations must be placed in an approved waste can immediately after use, and the contents of the waste can must be properly disposed of at the end of each shift.
1910.108(h)(2)(iii) Paint shall be supplied by direct low-pressure pumping arranged to automatically shut down by means of approved heat actuated devices, in the case of fire, or paint may be supplied by a gravity tank not exceeding 10 gallons in capacity.	1910.125(b) Additional requirements for flow coating. (1) Paint must be supplied to the process by: (i) A direct low-pressure pumping system that automatically shuts down by means of an approved heat-actuated device in the case of fire; or (ii) A gravity tank not exceeding 10 gallons (38 L) in capacity.

Proposed Question-and-Answer Version

The question-and-answer version of proposed §§ 1910.121 through 1910.125 differs significantly from the traditional format version. The question-and-answer version is intended to resemble a conversation that could occur between an employer/employee and an OSHA representative. Each question pertains to a specific provision of the proposed sections, and is followed by an answer that states the applicable requirement. For example, the question may be, "What are the requirements for the construction of a dip tank?" This question, which is the topic of paragraph (a) of proposed § 1910.123, is followed by an answer that consists of a description of the requirements for dip tank construction.

Consistency with Recent Consensus Standards

OSHA's effort to redraft the requirements for dipping and coating operations in plain language includes a review of the relevant OSHA interpretations of the current rule to determine what each provision has meant in practice. The Agency also has examined existing training materials and national consensus standards on dipping and coating operations, including NFPA 34–1995 ("Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids"). This analysis has enabled OSHA to reorganize the existing rules and eliminate duplicative or unnecessary provisions without diminishing the employee safety and health protections provided by the existing rules.

The original OSHA standards for dipping and coating operations that were adopted in 1971 under section 6(a) of the Act were based on the existing national consensus standards, NFPA

34–1966, "Standard for Dip Tanks Containing Flammable or Combustible Liquids," and ANSI Z9.1–1969, "Safety Code for Ventilation and Operation of Open-Surface Tanks." These consensus standards have been updated several times by NFPA and ANSI since 1971. Although the proposed rule is primarily a plain language revision, OSHA has reviewed carefully the most recent NFPA 34, "Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids," 1995 edition, to determine whether some updated provisions should be incorporated at this time.

OSHA has included in this proposal several provisions from NFPA 34–1995 that would provide additional compliance flexibility to employers and make the proposed sections more performance oriented compared to the existing standards, without in any way reducing employee protection. For example, paragraph (c)(2)(i) of current § 1910.108 specifies that overflow pipes from dip tanks lead to a safe location outside buildings. Consistent with Section 3–5.1 of NFPA 34–1995, paragraph (b)(1) of proposed § 1910.124 would require that pipes discharge to a "safe location," but does not identify where the "safe location" must be. In the plain language rewrite, an employer would be free to choose an interior location as the discharge point for the overflow pipe when a safe location, as might be provided by a salvage tank, is available. In situations where a safe interior location is available, the employer would no longer need to install overflow pipes over the distances often involved to reach an outside discharge point. The proposed rule would thus provide greater compliance flexibility and reduce costs for some employers.

Another example is paragraph (c)(7) of current § 1910.108, which requires that dip tank liquids not be heated to a temperature more than 50 °F below the flashpoint of the liquid. This provision is intended to assure that the liquid does not get so hot as to ignite. Section 3–9.2 of NFPA 34–1995 seeks to achieve the same purpose by prohibiting dip tank liquids from being heated above the liquid's boiling point or to within 100 °F of the liquid's autoignition temperature. OSHA is proposing to adopt the NFPA 34–1995 provision in paragraph (f) of proposed § 1910.124 because the proposed revision fully addresses the flammability hazard, provides a reasonable method of determining a safe temperature, is consistent with industry practice and with OSHA's application of the current standard, and is less restrictive than the existing requirement (i.e., it allows higher temperatures in some cases).

Rewriting specification-based standards such as OSHA's existing rules for dipping and coating operations offers the opportunity to use more performance-oriented language than the current standards, and to do so in a way that allows OSHA to maintain the current level of employee safety and health protection without increasing employer obligations. For example, in current § 1910.94, paragraph (d)(3) contains a general requirement that ventilation systems reduce air contaminants to the degree that a hazard to employees no longer exists, while paragraph (d)(4) provides several columns of specifications for ventilation system design and rates of exhaust. These requirements seek to protect employees against fire and explosion hazards that can result from the accumulation of flammable vapors and from dangerous levels of toxic air contaminants. In the proposal, the general requirement has been replaced by two sentences in paragraph (b)(1) of § 1910.123, which set forth performance-oriented requirements. The first sentence requires ventilation adequate to prevent the vapor concentration from exceeding 25% of the lower flammable limit (LFL) of any flammable material. The second sentence requires the employer to ensure that engineering controls, such as ventilation, reduce employee exposures to toxic air contaminants below the applicable permissible exposure limits specified in subpart Z of part 1910. The new language is being proposed because it gives improved guidance to employers as to what constitutes a hazard to employees in this situation.

OSHA believes the 25% LFL criterion provides improved guidance to employers because the criterion is recognized by NFPA 34–1995 as the level that must not to be exceeded when controlling fire and explosion hazards in vapor areas, and is consistent with other existing OSHA standards (e.g., § 1910.146, the standard for permit-required confined spaces). The second sentence in paragraph (b)(1) of proposed § 1910.123 would replace the requirement in paragraph (d)(2)(iii) of current § 1910.94 which states that "[t]he toxic hazard is determined from the concentration * * * below which ill effects are unlikely to occur to the exposed worker" and, in the next sentence, that "(t)he concentrations shall be those in § 1910.1000." Subpart Z of part 1910 contains permissible exposure limits for toxic air contaminants and requires employers to reduce employee exposures to those limits. Restating the subpart Z requirement in the proposal gives employers better notice than the current standard of their existing obligations, and will assure that employees receive the protection required by existing OSHA standards.

The detailed specifications and general requirements for mechanical ventilation in paragraphs (d)(1)(ii), (d)(2), (d)(4), and (d)(7)(i) through (d)(7)(iv) of current § 1910.94, and paragraph (b)(1) of current § 1910.108, would be replaced by paragraph (b)(3) of proposed § 1910.123. Employers would have several options in complying with the proposed requirement. One option would be to conform to the older consensus standards (i.e., ANSI Z9.1–1971 and NFPA 34–1966) that served as the source documents for current §§ 1910.94(d) and 1910.108. This option assures that systems designed to meet the existing requirements also would comply with the proposed requirements. In addition, the proposal would allow employers who are installing or upgrading ventilation systems to conform to the specifications provided in the following reference documents: ANSI Z9.2–1979, NFPA 34–1995, or the Industrial Ventilation Manual published by ACGIH–1995. OSHA has evaluated these reference documents and has determined that they provide protection equivalent to the specifications in the current OSHA standards. Hence, paragraph (b)(3) of proposed § 1910.123 would give employers flexibility in designing ventilation systems without reducing the level of employee protection.

Major Issues for Public Comment

The proposed revisions to the current standards that regulate dipping and coating operations differ from other Agency rulemakings because the proposal, with limited exceptions, revises only the writing style and organization of the current standards. In the past, OSHA has dispensed with public notice and comment when a proposed rule contains only minor or non-controversial revisions. For this revision, however, OSHA has decided to notify the public of the proposal and seek comments regarding the Agency's plain language versions of its existing rules for dipping and coating operations.

OSHA especially welcomes public comments on the following three issues:

- Does each plain language version of the proposed sections provide employee protection that is at least as effective as the protection provided by the current standards (i.e., §§ 1910.94(d) and

1910.108) without imposing additional regulatory burdens on employers?

- Which of the two plain language versions (traditional format or question-and-answer) is preferred, and the reason(s) why?
- Are there outdated provisions in the proposed sections, and how should these provisions be revised to bring them up to date? Comments on this issue may be used by the Agency either to improve the final rule or to develop standard-setting priorities for further action.

Significant Proposed Changes to the Current Rules

Many of the proposed revisions to the dipping and coating standards are intended to reconcile conflicting or differing provisions in the existing standards, to eliminate unnecessary requirements that do not promote employee safety, or to state requirements in performance-oriented language. OSHA invites public comment on whether these revisions are appropriate. These revisions are discussed further in the following paragraphs.

1. In current § 1910.94, the second sentence of paragraph (d)(7)(iii) requires that traps or other devices be provided to insure that condensate in exhaust ducts does not drain back into any tank. This requirement is not included in the proposal because OSHA believes that its purpose is to protect material in the dip tanks from contamination, not to protect employees.

2. Paragraph (d)(8)(i) of current § 1910.94 contains detailed requirements for measuring and recording airflow before and during dip tank operations. The proposal, in paragraph (j)(1)(i) of § 1910.123, requires the employer to inspect ventilating systems at least quarterly, and to check and maintain air-flow rates. OSHA believes that the proposal would provide equivalent protection using performance-oriented language. In addition, the first sentence in paragraph (d)(8)(i) of current § 1910.94 is covered by paragraphs (b) and (c) of proposed § 1910.123. The requirement in the second sentence of the current rule, to use specific means for measuring air flow, is replaced by performance-oriented language in paragraph (c)(3)(iii) of proposed § 1910.123 that permits the use of other equally effective devices. In the third sentence of the current rule, the requirement to record specific air measurements is not in the proposal because OSHA believes that recording the hood static pressure is not necessary to maintain proper air-flow rates. The last sentence in this paragraph of current § 1910.94(d), which refers to a 1960 consensus standard, is replaced by updated references in paragraph (b)(3) of proposed § 1910.123.

3. Paragraph (d)(8)(ii) of current § 1910.94 permits recirculation of exhaust air when contaminants have been removed, while paragraph (b)(1) of current § 1910.108 states that exhaust air must be "(moved) to a safe outside location." To resolve this conflict between the existing standards, paragraph (c) of proposed § 1910.123 would permit recirculation of exhaust air only under specified conditions, which are based on recommendations in NFPA 34–1995. The safeguards of the current standards are, therefore, provided in the proposal in updated form without reducing employee protections or increasing the burden on employers. In addition, the first sentence in paragraph (d)(8)(ii) of current § 1910.94 has not been included in the proposal because the requirement that "[t]he exhaust system shall discharge to the outer air in such a manner that the possibility of its effluent entering any building is at a minimum" has been subsumed by the specifications in paragraph (c) of proposed § 1910.123. The last sentence in paragraph (d)(8)(iii) of current § 1910.108 has not been restated in the proposal because it is covered by paragraph (c)(2) of proposed § 1910.123.

4. Several provisions in paragraph (d)(9) of current § 1910.94 specify that various types of personal protective equipment must be worn by employees who work near dip tanks to protect them from eye or skin contact with corrosive liquids. Some of these current provisions require that personal protective equipment be "provided" to employees; for example, paragraph (d)(9)(iii) of the current standard requires that employees who handle wet parts "shall be provided with gloves" that are impervious to the liquid. Others of these current provisions state explicitly that employers must require employees to use the equipment; paragraph (d)(9)(v) of the current standard, for example, specifies that when liquids could splash out of a dip tank, the employees "shall be required to wear either tight-fitting chemical goggles or an effective face shield."

In the proposal, paragraph (f) of § 1910.123 states explicitly, for each specified type of personal protective equipment, that employers must both provide and require employees to use the equipment. OSHA's interpretation, which has been upheld by the courts, is that the current standard requires employers to ensure that employees use the personal protective equipment; this interpretation applies even though this requirement is not stated explicitly in several provisions of the current standard. OSHA believes that providing such equipment without requiring its use would not serve the current standard's protective purpose. In addition, OSHA's general standard for personal protective equipment, paragraph (a) of § 1910.132, explicitly requires that personal protective equipment be both "provided" and "used" whenever necessary to protect employees against chemical and other hazards. The proposal's explicit requirement that employers ensure that employees use the personal protective equipment that has been provided to them does not, therefore, add to the obligation that employers already have under § 1910.132(a).

5. Paragraph (d)(9)(ix) of current § 1910.94 specifies that one wash basin with hot water be provided for every 10 employees. The proposal, in paragraph (g)(3) of § 1910.123, requires washing facilities for all employees but does not specify the ratio of wash basins to employees. The proposal thus takes a performance-oriented approach to allow for differing workplace needs.

6. Current § 1910.108, paragraph (a)(2), defines a vapor area as any area containing dangerous quantities of flammable vapors in the vicinity of dip tanks, while paragraph (b)(1) of existing § 1910.108 requires that a properly designed ventilation system be used to limit vapor areas to the smallest practical area. In a vapor area, several provisions of existing § 1910.108 require that employees be protected against the associated fire and explosion hazards; for example, paragraph (e)(2) prohibits open flames and spark-producing devices, and specifies that explosion-proof electrical equipment be used, within 20 feet of a vapor area. Similar requirements are found in paragraphs (e)(1)(i) and (e)(1)(ii) of the current rule.

Paragraph (d)(3) of current § 1910.94 is a generic, performance-oriented provision that requires employers to provide ventilation sufficient to eliminate any hazard to employees, including flammable and explosive hazards. OSHA interprets this provision to mean that the concentration of flammable vapors must be reduced below 25% of the lower flammable limit (LFL), and has incorporated that interpretation in paragraph (b)(1) of proposed § 1910.123. The proposed requirement will prevent the accumulation of dangerous quantities of flammable vapors in the vicinity of a dip tank; consequently, a vapor area, as that term is currently specified in

paragraph (a)(2) of current § 1910.108, should never exist.

Despite the protection afforded by paragraph (b)(1) of proposed § 1910.123, a ventilation system may fail temporarily, resulting in an accumulation of flammable vapors that exceeds the concentration allowed by the current standard. Even when ventilation is normally sufficient to prevent the accumulation of dangerous concentrations of vapors, the prohibition on ignition sources within 20 feet of a vapor area specified in paragraph (e)(2) of current § 1910.108, as well as similar provisions in paragraphs (e)(1)(i) and (e)(1)(ii), is needed to protect against fires and explosions that could result from the ignition of flammable liquids or vapors under these conditions.

To reconcile the requirements in the current standards, and to assure the same level of employee protection provided by these standards, OSHA has revised the definition of vapor area in paragraph (d) of proposed § 1910.122 by eliminating the phrase "dangerous concentrations of flammable vapors." In the proposal, a vapor area is defined as "any space containing dipping or coating operations, its drain boards, and associated drying or conveying equipment."

All requirements of existing § 1910.108 that apply to vapor areas would continue to apply to vapor areas as defined in paragraph (d) of proposed § 1910.122. These requirements include paragraphs (e)(1)(i), (e)(1)(ii), and (e)(2) of current § 1910.108, discussed earlier, which are restated in paragraphs (d)(1) and (d)(2) of proposed § 1910.124, and paragraphs (f)(1) and (g)(2) of current § 1910.108, which are incorporated into paragraphs (d)(5) and (e)(3) of proposed § 1910.124. Paragraph (f)(1) of the current section requires that "areas in the vicinity of dip tanks" be kept as clear of combustible stock as practical and be kept entirely free of combustible debris, while paragraph (g)(2) specifies that automatic water spray-extinguishing systems "be arranged to protect tanks, drain boards, and stock over drain boards." In the proposal, paragraphs (d)(5) and (e)(3) of § 1910.124 state explicitly that the requirements apply to vapor areas, thus describing the area subject to the requirements more clearly and consistently than the current standard.

7. In current § 1910.108, paragraph (c)(1) specifies that dip tanks holding flammable or combustible liquids "be constructed of substantial noncombustible material." OSHA, however, believes that the requirement should apply to all dip tanks; the current provision, therefore, has been revised slightly to expand its scope to all dip tanks and restated in paragraph (a) of proposed § 1910.123. OSHA believes that employers currently are following this requirement for all dip tanks, and, therefore, that this proposed revision to the existing rule will not impose an additional burden on employers.

8. Paragraph (c)(2)(ii) of current § 1910.108 requires that overflow pipes be of sufficient capacity, at least 3 inches in diameter, and increase in size depending on the surface area of the liquid and the length and pitch of the pipe. The first and second, but not the third, of these requirements are included in paragraph (b)(2) of proposed § 1910.124. OSHA believes that the proposed language, by requiring overflow pipes to be of "sufficient capacity," makes it unnecessary to specify further the characteristics of overflow pipes.

9. The proposal does not include the requirements in paragraphs (c)(3) and (c)(4) of current § 1910.108 that specific dip tanks be provided with bottom drains and salvage tanks to drain and collect the liquid in case of fire. OSHA believes that these requirements relate primarily to property protection rather than employee protection (i.e., bottom drains and salvage tanks are used to save the liquid for possible reuse). Moreover, bottom drains may actually increase the surface area of a fire by increasing the potential for fire on the vertical walls of the tank, thereby increasing the hazard to employees.

10. Paragraph (d) of current § 1910.108 provides that, when portable containers are used to replenish flammable or combustible liquids, both the container and the tank must be positively grounded and electrically bonded to prevent static electric sparks. In the proposal, paragraph (d)(3) of § 1910.124 clarifies the current provision by requiring that the container and tank be electrically bonded to each other. Once they are bonded electrically, it is sufficient to ground one of them to prevent static electrical sparks or arcs.

11. In current § 1910.108, paragraph (e)(2) prohibits open flames or spark-producing devices near vapor areas but provides an exception "as specifically permitted in NFPA Standard No. 86A–1969, Ovens and Furnaces, paragraph 200–7." This exception is not included in paragraph (d)(1) of proposed § 1910.124 because the NFPA standard used as a reference does not provide adequate information to make it useful and the exception has not been continued in the most recent NFPA standard (i.e., NFPA 34–1995). Also consistent with NFPA 34–1995 (see paragraph 4–1.2), paragraph (d)(1) of proposed § 1910.124 adds "surfaces hot enough to ignite vapors" to the list of ignition sources that are prohibited near vapor areas.

12. Current § 1910.108, paragraph (f)(2), requires that waste cans be emptied "at least once daily at the end of each shift." OSHA interprets this phrase to mean "at least once daily or at the end of each shift, whichever is more frequent." OSHA believes that paragraph (d)(6) of proposed § 1910.124, which requires that waste cans be emptied "at the end of each shift," would remove the ambiguity from the current standard.

13. Paragraph (d)(8) of existing § 1910.94 and paragraph (f)(3) of current § 1910.108 require inspections of dip tanks and related equipment. OSHA has reconciled and consolidated these requirements in paragraph (j) of proposed § 1910.123. For example, paragraph (d)(8) of current § 1910.94 requires quarterly inspections of specific equipment, while paragraph (f)(3) of existing § 1910.108 specifies that periodic inspections be conducted. Proposed § 1910.123, paragraph (j)(1), calls for inspecting ventilating equipment "at least quarterly," and dipping and coating equipment "periodically." OSHA believes that this requirement is appropriate and consistent with the intent of both existing standards.

14. Paragraph (f)(4) of current § 1910.108 requires that "No Smoking" signs in large letters on contrasting color background shall be conspicuously posted" near dip tanks. Paragraph (d)(7) of proposed § 1910.124 uses similar performance-oriented language, requiring that such signs be "readily visible." In addition, proposed § 1910.124, paragraph (d)(7), explicitly prohibits smoking in a vapor area. While not stated explicitly, the current standard's requirement that "No Smoking" signs be posted near dip tanks indicates that smoking is prohibited in that area. Paragraph (e)(1)(i) of existing § 1910.108 specifically prohibits open flames and hot surfaces in a vapor area. In this context, OSHA considers smoking materials to be open flames and hot surfaces, and, therefore, subject to the prohibition specified by the existing standard. To state the current standard's prohibition on smoking more clearly in the proposal, OSHA is including this prohibition in the same provision that requires "No Smoking" signs (i.e., paragraph (d)(6) of proposed § 1910.124).

15. Paragraphs (g)(2), (g)(4), and (g)(5) of current § 1910.108 require that the specified fire-extinguishing systems be arranged to protect the tanks, drain boards, and stock over drain boards. Proposed § 1910.124, paragraph (e)(3), states that "[a] vapor area must be protected by an automatic fire-extinguishing system that conforms to subpart L of this part." Since the definition of vapor area in paragraph (d) of proposed § 1910.122 is broad enough to include the tanks, drain boards, and stock over drain boards that are located in the vapor area, OSHA concludes that paragraph (e)(3) of proposed § 1910.124 is equivalent to the current standard.

16. Paragraph (g)(6)(iii) of existing § 1910.108 requires that covers on dip tanks be supported by chains or wire rope under conditions in which burning a cord used for this purpose would interfere with operation of the cover. This requirement is not specifically included in proposed § 1910.124, paragraph (e)(4), because OSHA believes that paragraph (e)(4)(i) of proposed § 1910.124, which requires that covers be activated by an approved automatic device, makes such a requirement unnecessary.

17. In current § 1910.108, paragraph (h)(1)(iii) requires that hardening and tempering tanks be designed so that the maximum workload is incapable of raising the temperature of the cooling medium to within 50 °F below its flashpoint, or be equipped with a circulating cooling system that accomplishes the same result. Paragraph (a)(5) of proposed § 1910.125, in contrast, requires the use of a circulating cooling system "when the liquid temperature can exceed the alarm set point"; the alarm set point must be at the temperature that is 50 °F (10 °C) below the liquid's flashpoint according to proposed § 1910.125, paragraph (a)(4)(i). The proposed provision would not require a circulating cooling system or any other protective device when the tank design prevents the liquid's temperature from reaching 50 °F (10 °C) below the flashpoint.

18. Paragraphs (h)(1)(vi) and (h)(1)(vii) of existing § 1910.108 contain requirements for handling oil in hardening and tempering tanks. In the proposal, paragraphs (a)(5) and (a)(6) of § 1910.125 restate the current requirements but replace the term "oil" with "liquid." While OSHA believes that oil is the only liquid currently used in hardening and tempering tanks, the revised terminology will permit the Agency to extend these requirements to other flammable or combustible liquids that may be used in the future under the conditions specified in these paragraphs.

19. With regard to flow-coating operations, paragraph (h)(2)(i) of existing § 1910.108 states that "[e]xcept as modified by this paragraph, all of the preceding standards for dip tanks apply." The introduction to proposed § 1910.125 restates this existing requirement in plain language and broadens its application to all special dipping and coating operations. OSHA believes that the proposed language would serve only to remind employers of their existing obligations, and, therefore, imposes no additional obligation on them.

20. Paragraph (h)(2)(iv) of current § 1910.108 specifies that the area of the sump, and any areas on which paint flows, are to be included within the area of the dip tank; consequently, these areas would be covered by the scope of the current standard. OSHA has not included a corresponding provision in the proposal because, in paragraph (d) of proposed § 1910.122, the definition of vapor area is broad enough to include the sump and related areas. The proposal, therefore, assures that all requirements now applicable to these areas would continue to apply.

21. Existing § 1910.108, paragraph (h)(3), contains provisions for electrostatic equipment used in paint-detearing operations. OSHA has restated these provisions in paragraph (g) of proposed § 1910.125. The Agency, however, believes that this type of equipment is no longer manufactured or used, and, therefore, questions whether any current need exists for proposed requirements; consequently, OSHA requests comments from the regulated community on the continuing need for these provisions.

22. Paragraph (h)(4) of current § 1910.108 includes requirements to prevent sparking of static electricity for operations involving roll coating, roll spreading, or roll impregnating that use Class I or Class II liquids; Class I liquids have flashpoints up to 100 °F (37.8 °C) and Class II liquids have flashpoints between 100 °F and 140 °F (37.8 °C and 60 °C). Proposed § 1910.125, paragraph (c), would require spark-prevention measures when flammable or combustible liquids with flashpoints below 140 °F (60 °C) are used in these operations. By specifying a flashpoint below 140 °F (60 °C), the proposed paragraph includes both Class I and Class II liquids addressed in paragraph (h)(4) of current § 1910.108.

Tables Comparing the Proposed and Existing Sections

For convenience, OSHA is providing tables that show the paragraph designations of the existing rules and the comparable provisions of the proposed sections. Table I covers the requirements of current § 1910.94, and Table II covers the provisions in current § 1910.108. Table III lists the provisions of proposed sections 1910.122 through 1910.125 and the sources for each provision in existing §§ 1910.94(d) and 1910.108. For these tables, the headings in the paragraph designations of the proposed rule refer to the traditional text version.

TABLE I

Current section 1910.94(d)	Proposed sections 1910.122 through 1910.125
(d) Open surface tanks-(1) General. (i) Application	122(a), (b).
(d)(1)(ii) Exhaust system construction	123(b)(3).
(d)(2)(i)-(vii) Classification of open-surface tank operations	Covered by standards referenced in 123(b)(3).
(d)(3) Ventilation	123(b)(1).
(d)(4)(i)-(v) Control requirements	Covered by standards referenced in 123(b)(3).
(d)(5) Spray cleaning and degreasing	125(f).
(d)(6) Control means other than ventilation	123(b)(2).
(d)(7)(i),(ii) System design	123(b)(3).
(d)(7)(iii) Protect against exhaust system fire	123(b)(5).
(d)(7)(iv) Exhaust system meets consensus standards	123(b)(3).
(d)(8) Operation. (i) Maintain airflow	123(c)(3), 123(j)(1)(i).
(d)(8)(ii),(iii) Exhaust discharge; makeup air	123(c).

TABLE I—Continued

Current section 1910.94(d)	Proposed sections 1910.122 through 1910.125
(d)(9) Personal protection. (i) Training	123(e).
(d)(9)(ii) Protective shoes	123(f)(1).
(d)(9)(iii) Protective gloves	123(f)(2).
(d)(9)(iv) Protective garments	123(f)(3).
(d)(9)(v) Protective goggles	123(f)(4).
(d)(9)(vi) Respirators	123(f)(5).
(d)(9)(vii) Emergency showers	123(g)(2).
(d)(9)(viii) Physician authorization, examination	123(h)(1), (2), (3).
(d)(9)(ix) Washing facilities	123(g)(3).
(d)(9)(x) Locker space	123(g)(1).
(d)(9)(xi) First aid	123(h)(3).
(d)(10) Special precautions for cyanide	125(e).
(d)(11) Inspection, maintenance, and installation. (i) Floors	Covered by section 1910.22(a).
(d)(11)(ii) Tank cleaning	123(i)(3).
(d)(11)(iii) Test tanks before entering	123(d).
(d)(11)(iv),(v) Entering tank	Covered by section 1910.146.
(d)(11)(vi) Welding operations	123(j)(2), (3), (4).
(d)(12) Vapor degreasing tanks. (i) Vapor control	125(d)(1).
(d)(12)(ii) Keep gas vapors away from heating units	125(d)(2), (3).
(d)(12)(iii) Do not create excessive vapors	125(d)(2), (3).
(d)(12)(iv) Tanks have cleanout doors	125(d)(5).
(d)(13) Scope. (i) Coverage	122(a), (b), (c).
(d)(13)(ii) Molten materials operations defined	122(c)(1).
(d)(13)(iii) Surface coating operations defined	122(c)(2).

TABLE II

Current section 1910.108	Proposed sections 1910.122 through 1910.125
(a) Definitions applicable to this section-(1) Dip tank	122(d).
(a)(2) Vapor area	122(d).
(a)(3) Approved	122(d).
(a)(4) Lister	Deleted; unnecessary.
(b) Ventilation-(1) Vapor area ventilation	123(b)(1), 123(b)(3), 123(b)(4).
(b)(2) Ventilation combined with drying	124(d)(4).
(c) Construction of dip tanks-(1) General	123(a), 124(a).
(c)(2) Overflow pipes. (i) Tank capacity	124(b)(1).
(c)(2)(ii) Overflow pipe capacity	124(b)(2).
(c)(2)(iii), (iv) Overflow pipe cleaning and location	124(b)(3), (4).
(c)(3)(i)-(iii) Bottom drains	Deleted; property protection.
(c)(4) Salvage tanks	Deleted; property protection.
(c)(5) Automatic extinguishing facilities	124(e)(1), (3), (4).
(c)(6) Conveyor systems	124(c).
(c)(7) Heating dip tank liquids	124(f).
(d) Liquids used in dip tanks, storage and handling	124(d)(3).
(e) Electrical and other sources of ignition-(1) Vapor areas. (i) No open flames, explosion proof equipment	124(d)(1), (2).
(e)(1)(ii) Electrical equipment in vapor areas	124(d)(2).
(e)(2) Adjacent areas	124(d)(1), (2).
(f) Operations and maintenance-(1) General	124(d)(5).
(f)(2) Waste cans	124(d)(6).
(f)(3) Inspection of dip tanks	123(j)(1).
(f)(4) Warning signs	124(d)(7).
(g) Extinguishment-(1) Extinguishers	124(e)(2).
(g)(2) Automatic water spray extinguishing systems	124(e)(3).
(g)(3) Automatic foam extinguishing systems	124(b)(5), (6), 124(e)(3).
(g)(4) Automatic carbon dioxide systems	124(e)(3).
(g)(5) Dry chemical extinguishing systems	124(e)(3).
(g)(6) Dip tank covers. (i) Automatically activated	124(e)(4)(i), (ii).
(g)(6)(ii)-(iv) Construction and use of covers	124(e)(4)(iii), (iv).
(h) Special dip tank applications-(1) Hardening and tempering tanks. (i) Location	125(a)(1).
(h)(1)(ii) Noncombustible hood and vent	125(a)(2), (3).
(h)(1)(iii) Temperature of cooling medium	125(a)(5).
(h)(1)(iv) High temperature limit switch	125(a)(4).
(h)(1)(v) Automatic extinguishing facilities	124(e)(1)(ii), 124(e)(3).

TABLE II—Continued

Current section 1910.108	Proposed sections 1910.122 through 1910.125
(h)(1)(vi) No pressurized air	125(a)(6).
(h)(1)(vii) Bottom drain	125(a)(5).
(h)(2) Flow coat; general. (i) All above apply	125.
(h)(2)(ii) Strong and rigid piping	123(b)(2).
(h)(2)(iii) Paint pumped at low pressure	125(b)(1).
(h)(2)(iv) Area of dip tank.	Covered by section 1910.122(d).
(h)(3) Electrostatic apparatus	125(g).
(h)(4) Roll coating	125(c).

TABLE III

Proposed sections 1910.122 through 1910.125 (proposed section 1910.121 contains a table of contents for proposed sections 1910.122 through 1910.125)	Current sections 1910.94(d) and 1910.108 (or applicable NFPA standards)
1910.122 Dipping and coating operations (dip tanks); Coverage:	
(a) Dipping and coating operations are covered	1910.94(d)(1)(i), 1910.94(d)(13)(i)
(b) Examples of covered operations	Same as above.
(c) Certain dipping and coating operations are not covered	1910.94(d)(13)(i)–(iii).
(1) Molten materials	1910.94(d)(13)(ii).
(2) Spray applications	1910.94(d)(13)(iii).
(d) Definitions that apply to dipping and coating operations	1910.108(a).
"Approved"	1910.108(a)(3).
"Autoignition temperature"	NFPA 325–1994.
"Combustible liquid"	1910.1200(c).
"Dip tank"	1910.108(a)(1).
"Flammable liquid"	1910.1200(c).
"Flashpoint"	1910.1200(c).
"Lower flammable limit"	NFPA 325–1994.
"Vapor area"	1910.108(a)(2).
1910.123 General requirements for dipping and coating operations:	
(a) Dip tanks must be constructed safely	1910.108(c)(1).
(b) Adequate ventilation must be provided:	
(1) Prevent hazardous concentrations	1910.94(d)(3), 1910.108(b)(1).
(2) Tank cover	1910.94(d)(6).
(3) Mechanical ventilation design	1910.94(d)(1)(ii), 1910.94(d)(2), 1910.94(d)(4), 1910.94(d)(7)(i)–(iv), 1910.108(b)(1).
(4) Direction of airflow	1910.108(b)(1).
(5) Independent exhaust system	1910.94(d)(7)(iii).
(c) Air must exhaust safely	1910.94(d)(8)(ii), (iii); NFPA 34–1995.
(d) Entry into a dip tank is limited	1910.94(d)(11)(iii)–(v).
(e) Training must be provided	1910.94(d)(9)(i).
(f) Personal protective equipment must be used:	
(1) Footwear	1910.94(d)(9)(ii).
(2) Gloves	1910.94(d)(9)(iii).
(3) Garments	1910.94(d)(9)(iv).
(4) Goggles	1910.94(d)(9)(v).
(5) Respirators	1910.94(d)(9)(vi).
(g) Hygiene facilities must be provided:	
(1) Locker space	1910.94(d)(9)(x).
(2) Emergency shower and eye wash	1910.94(d)(9)(vii).
(3) Washing facilities	1910.94(d)(9)(ix).
(h) Physical examination and first aid must be provided:	
(1) Physician's approval	1910.94(d)(9)(viii).
(2) Treatment by properly designated person	1910.94(d)(9)(viii).
(3) Periodic examination	1910.94(d)(9)(viii).
(4) First aid	1910.94(d)(9)(xi).
(i) Dipping and coating operations must be cleaned safely:	
(1) Drain dip tank and open cleanout doors	1910.94(d)(11)(ii).
(2) Ventilate vapor pockets in tank or pit	1910.94(d)(11)(ii).
(j) Dipping and coating operations must be inspected and maintained.	
(1) Inspect and correct deficiencies	1910.94(d)(8)(i), 1910.108(f)(3).

TABLE III—Continued

Proposed sections 1910.122 through 1910.125 (proposed section 1910.121 contains a table of contents for proposed sections 1910.122 through 1910.125)	Current sections 1910.94(d) and 1910.108 (or applicable NFPA standards)
(2) Prevent employee exposure to the release of toxic metals	1910.94(d)(11)(vi).
(3) Use local ventilation near a vapor area	1910.94(d)(11)(vi).
(4) Remove solvents and vapors	1910.94(d)(11)(vi).
1910.124 Additional requirements for dipping and coating operations that use flammable or combustible liquids:	
(a) Noncombustible construction is required	1910.108(c)(1).
(b) Overflow piping must be provided	
(1) When overflow pipes are required	1910.108(c)(2)(i).
(2) Size of overflow pipe	1910.108(c)(2)(ii).
(3) Overflow piping must permit access for inspection and cleaning	1910.108(c)(2)(iii).
(4) Location of the overflow connection	1910.108(c)(2)(iv).
(5) Overflow pipe design	1910.108(g)(3).
(6) Overflow pipe screen	1910.108(g)(3).
(c) Conveyor systems must shut down automatically:	
(1) Fire	1910.108(c)(6).
(2) Ventilation failure	1910.108(b)(1).
(3) Ventilation rate drops	1910.108(c)(6).
(d) Ignition sources must be controlled:	
(1) No open flames near vapor areas	1910.108(e)(1)(i), 1910.108(e)(2).
(2) Electrical wiring	1910.108(e)(1)(i), (ii).
(3) Prevent static electric sparks or arcs	1910.108(d).
(4) Heating system in a drying operation	1910.108(b)(2).
(5) Combustible debris and stock	1910.108(f)(1).
(6) Approved waste can	1910.108(f)(2).
(7) No smoking	1910.108(f)(4).
(e) Fire protection must be provided:	
(1) Application	1910.108(c)(5), 1910.108(h)(1)(v).
(2) Manual fire extinguishers	1910.108(g)(1).
(3) Automatic fire-extinguishing system	1910.108(c)(5), 1910.108(g)(2)–(5).
(4) Automatic closing cover	1910.108(g)(6).
(f) Liquids must not be overheated	1910.108(c)(7).
1910.125 Additional requirements for special dipping and coating operations:	
(a) Additional requirements for hardening or tempering tanks:	
(1) Location	1910.108(h)(1)(i).
(2) Noncombustible hood and vent	1910.108(h)(1)(ii).
(3) Vent ducts treated as flues	1910.108(h)(1)(ii).
(4) Alarm and shut-down device	1910.108(h)(1)(iv).
(5) Circulating cooling system	1910.108(h)(1)(iii), (vii)
(6) Air pressure for filling and agitating	1910.108(h)(1)(vi).
(b) Additional requirements for flow coating	1910.108(h)(2).
(c) Additional requirements for roll coating, roll spreading, or roll impregnating a flammable or combustible liquid with a flashpoint below 140 °F (60 °C):	
(1) Bonding and grounding parts, and installing static collectors	1910.108(h)(4)(ii).
(2) Maintain a conductive atmosphere	1910.108(h)(4)(ii).
(d) Additional requirements for vapor degreasing tanks:	
(1) Keep vapor level below the top of the tank	1910.94(d)(12)(i).
(2) Prevent solvent fumes from entering air-fuel mixture	1910.94(d)(12)(ii).
(3) Flues and draft diverters	1910.94(d)(12)(ii).
(4) Temperature of the heating element	1910.94(d)(12)(iii).
(5) Cleanout and sludge doors	1910.94(d)(12)(iv).
(e) Additional requirements for cyanide tanks:	1910.94(d)(10).
(f) Additional requirements for spray cleaning and degreasing tanks:	
(1) Spraying must be enclosed	1910.94(d)(5).
(2) Mechanical ventilation	1910.94(d)(5).
(g) Additional requirements for electrostatic paint detearing:	
(1) Approved electrostatic equipment	1910.108(h)(3)(ii).
(2) Electrodes	1910.108(h)(3)(iv), (xi).
(3) Goods being painted	1910.108(h)(3)(vii), (viii).
(4) Maintain the safe distance	1910.108(h)(3)(vi).
(5) Display the safe distance on a sign	1910.108(h)(3)(vi).
(6) Automatic controls	1910.108(h)(3)(ix).
(7) Fences, rails, and guards	1910.108(h)(3)(x).
(8) Fire protection	1910.108(h)(3)(xiii).
(9) Drip plates and screens	1910.108(h)(3)(xiv).

IV. Legal Considerations

Because this proposal is a plain language redrafting of existing Agency rules, OSHA does not believe that it is necessary to determine significant risk or the extent to which the proposed sections would reduce that risk. In *Industrial Union Department, AFL–CIO* v. *American Petroleum Institute,* 448 U.S. 607 (1980), the Supreme Court ruled that, before OSHA can increase the protection afforded by an existing standard, the Agency must find that the hazard being regulated poses a significant risk to employees and that a new, more protective, standard is "reasonably necessary and appropriate" to reduce that risk. The sections being proposed by OSHA to replace the Agency's existing standards regulating dipping and coating operations neither increase nor decrease the protection afforded to employees, nor do they increase employers' compliance burdens. Therefore, no finding of significant risk is necessary.

The Agency believes, however, that improved employee protection is likely to result from implementation of the proposed sections because employers and employees who clearly understand what a rule requires are more likely to comply with that rule. In addition, because the proposed sections are more performance oriented than the existing OSHA requirements, employers will find it easier to comply with the new sections.

V. Economic Analysis

The proposed sections are not significant rules under Executive Order 12866 or major rules under the Unfunded Mandates Reform Act or section 801 of the Small Business Regulatory Enforcement Fairness Act (SBREFA) because they impose no additional costs on any private or public sector entity and do not meet any of the other criteria for significant or major rules specified by the Executive Order or the other statutes. Because the proposed sections do not impose any additional costs on employers whose operations involve dipping and coating, no economic or regulatory flexibility analysis of the proposal is required.

VI. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (as amended), OSHA has examined the regulatory requirements of the proposed sections to determine if they would have a significant economic impact on a substantial number of small entities. As indicated elsewhere in this preamble, the proposed sections will not increase employers' compliance costs, and may even reduce the regulatory burden on all affected employers, both large and small. Accordingly, the Agency certifies that the proposed sections will not have a significant economic impact on a substantial number of small entities.

VII. Environmental Impact Assessment

The proposed sections have been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the regulations of the Council on Environmental Quality (40 U.S.C. part 1500), and the Department of Labor's NEPA procedures (29 CFR part 11). As noted earlier in this preamble, the proposed sections impose the same requirements on employers as the standards they replace; consequently, the proposed sections will have no additional impact on the environment, including no impact on the release of materials that contaminate natural resources or the environment, beyond the impact imposed by OSHA's current standards regulating dipping and coating operations.

VIII. Paperwork Reduction Act

There is a collection of information in proposed 1910.125(g)(5) (existing 1910.108(h)(3)(vi)). This provision requires the employer to determine how far away employees should remain when electrostatic paint detearing equipment is being used. This distance is called the "safe distance." The employer must conspicuously display this "safe distance" on a sign located near the equipment. OSHA does not believe that the existing rule or the proposed requirement impose a burden on the employer to collect or display the information because OSHA believes the information has already been determined and displayed on the few, about 12, pieces of equipment equipment is use today. Newer technology appears to have eliminated the need to manufacture or use electrostatic paint detearing equipment and OSHA is soliciting comment on the need to retain this provision. (See #21 under Significant Proposed Changes to the Current Rule). Under the Paperwork Reduction Act, OSHA is required to solicit public comment on the practical utility (need) for the information collection and the burden hour estimate (zero) associated with that collection.

The Department of Labor, as part of its continuing effort to reduce paperwork and respond burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collection of information in accordance with the Paperwork Reduction Act of 1995 (PRA95)(44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Therefore, OSHA is soliciting comments on the collection of information provision in proposed 1910.125(g)(5) (existing 1910.108(h)(3)(vi)). Written comments should:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the function 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 submissions of responses.

Comments on the collections of information should be sent to the OMB Desk Officer for OSHA at Room 10235, 726 Jackson Place, NW, Washington, DC 20503. Commenters are encouraged to send a copy of their comments on the collection of information to OSHA along with their other comments. The supporting statements for the collection of information requirements are available in both OSHA and OMB Docket Offices.

The collection of information requirement discussed above has been submitted to OMB for approval as required under 44 U.S.C. 3507(d) of the Paperwork Reduction Act of 1995. At this time OMB has not approved this collection of information.

IX. Unfunded Mandates

The proposed sections were reviewed by OSHA in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 et seq., and Executive Order 12875. As discussed above in Section IV of this preamble ("Legal Considerations"), OSHA has

made a preliminary determination that the proposal imposes no new regulatory burdens on any employer, either public or private. The scope and content of the proposed sections remain the same as those of the current standards and have not been expanded to include additional employers. Consequently, compliance with the proposed sections will require no additional expenditures by either public or private employers. In sum, the proposed sections do not mandate that State, local, and tribal governments adopt new, unfunded regulatory obligations.

X. Federalism

The proposed revision to the current standards regulating dipping and coating operations has been reviewed for Federalism issues, and the Agency certifies that the proposed sections have been assessed in accordance with the principles, criteria, and requirements set forth in sections 2 through 5 of Executive Order 12612.

Executive Order 12612 requires that Federal agencies, to the extent possible, refrain from limiting State policy options, consult with States prior to taking actions that restrict State policy options, and take such actions only when clear constitutional authority exists and the problem is of national scope. The Executive Order provides for preemption of State law only when Congress has expressed an intent that a Federal agency do so. Any such preemption must be limited to the extent possible.

With respect to States that do not have occupational safety and health plans approved by OSHA under section 18 of the Act (29 U.S.C. 667), OSHA finds that the proposed sections conform to the preemption provisions of the Act. Under these provisions, OSHA is authorized to preempt State promulgation and enforcement of requirements dealing with occupational safety and health issues covered by OSHA standards unless the State has an OSHA-approved State occupational safety and health plan. (See *Gade* v. *National Solid Wastes Management Association*, 112 S.Ct. 2374 (1992).) States without such programs are, by 29 U.S.C. 667, prohibited from issuing citations for violations of requirements covered by OSHA standards. The proposed sections do not expand this limitation.

Regarding States that have OSHA-approved occupational safety and health plans ("State-plan states"), OSHA finds that the proposed sections comply with Executive Order 12612 because the proposed sections address a problem that is national in scope, and Section 18(c)(2) of the Act (29 U.S.C. 667(c)(2)) requires State-plan States to adopt the OSHA sections, or develop alternative sections that are at least as effective as the OSHA sections. Having already adopted the current standards regulating dipping and coating operations (or having developed alternative standards acceptable to OSHA), State-plan States are not obligated to adopt the final sections that result from this rulemaking; they may, however, choose to adopt the final sections, and OSHA encourages them to do so.

XI. State Plan States

OSHA encourages the 25 States and Territories with their own OSHA-approved occupational safety and health plans to revise their existing standards regulating dipping and coating operations when OSHA publishes the final sections that result from this rulemaking. These States are: Alaska, Arizona, California, Connecticut (State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (State and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

XII. List of Subjects in 29 CFR 1910

Coating, Combustible liquid, Dipping, Dip tanks, Fire protection, Flammable liquid, Occupational safety and health, Ventilation.

XIII. Authority

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. The proposed sections are issued under the authority of sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No 6–96 (62 FR 111); and 29 CFR part 1911.

Signed at Washington, DC, this 2nd day of April, 1998.

Charles N. Jeffress,

Assistant Secretary of Labor.

OSHA proposes to amend 29 CFR part 1910 as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart G—Occupational Health and Environmental Control

1. The authority citation for subpart G of part 1910 would be revised to read as follows:

Authority: Secs. 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 6–96 (62 FR 111), as applicable; and 29 CFR part 1911.

§ 1910.94 [Amended]

2. Paragraph (d) of § 1910.94 would be removed.

Subpart H—Hazardous Materials

1. The authority citation for subpart H of 29 CFR part 1910 would be revised to read as follows:

Authority: Sec. 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 6–96 (62 FR 111), as applicable.

Sections 1910.103, 1910.106 through 1910.111, and 1910.119 through 1910.125 also issued under 29 CFR part 1911.

Section 1910.119 also issued under section 304, Clean Air Act Amendments of 1990 (Pub.L. 101–549), reprinted at 29 U.S.C. 655 Note.

Section 1910.120 also issued under section 126, Superfund Amendments and Reauthorization Act of 1986 as amended (29 U.S.C. 655 Note), and 5 U.S.C. 553.

§ 1910.108 [Reserved]

2. Section 1910.108 would be removed and reserved.

3. A center heading and §§ 1910.121 through 1910.125 would be added. Two alternative versions of these sections are provided below. The first alternative, referred to as the "traditional format" version, reads as follows:

Dipping and Coating Operations (Dip Tanks)

§ 1910.121 Table of Contents

The following is a listing of the sections and paragraphs contained in §§ 1910.122 through 1910.125.

§ 1910.122 Dipping and coating operations (dip tanks); Coverage.

(a) Dipping and coating operations are covered.

(b) Examples of covered operations.

(c) Certain dipping and coating operations are not covered.

(d) Definitions that apply to dipping and coating operations.

"Approved"

"Autoignition temperature"
"Combustible liquid"
"Dip tank"
"Flammable liquid"
"Flashpoint"
"Lower flammable limit"
"Vapor area"

§ 1910.123 General requirements for dipping and coating operations.

(a) Dip tanks must be constructed safely.
(b) Adequate ventilation must be provided.
(c) Air must exhaust safely.
(d) Entry into a dip tank is limited.
(e) Training must be provided.
(f) Personal protective equipment must be used.
(g) Hygiene facilities must be provided.
(h) Physical examination and first aid must be provided.
(i) Dipping and coating operations must be cleaned safely.
(j) Dipping and coating operations must be inspected and maintained.

§ 1910.124 Additional requirements for dipping and coating operations that use flammable or combustible liquids.

(a) Noncombustible construction is required.
(b) Overflow piping must be provided.
(c) Conveyor systems must shut down automatically.
(d) Ignition sources must be controlled.
(e) Fire protection must be provided.
(f) Liquids must not be overheated.

§ 1910.125 Additional requirements for special dipping and coating applications.

(a) Additional requirements for hardening or tempering tanks.
(b) Additional requirements for flow coating.
(c) Additional requirements for roll coating, roll spreading, or roll impregnating a flammable liquid or combustible liquid with a flashpoint below 140°F (60°C).
(d) Additional requirements for vapor degreasing tanks.
(e) Additional requirements for cyanide tanks.
(f) Additional requirements for spray cleaning and degreasing tanks.
(g) Additional requirements for electrostatic paint detearing.

§ 1910.122 Dipping and coating operations (dip tanks); Coverage.

(a) *Dipping and coating operations are covered.*

This rule applies to any operation where an object is dipped in or held above a dip tank containing a liquid other than water, or is roll- or flow-coated with such a liquid, to:

(i) Clean it;
(ii) Alter its surface;
(iii) Change its character; or
(iv) Add a coating or finish to it.

(2) This rule also applies to any draining or drying operation associated with dipping or coating.

(b) *Examples of covered operations.*

Examples of operations covered by this rule include: Paint dipping; electroplating; pickling; quenching; tanning; degreasing; stripping; cleaning; and roll, flow, and curtain coating.

(c) *Certain dipping and coating operations are not covered.* This rule does not apply:

(1) To dipping and coating operations that use a molten material such as a metal, alloy, or salt; or

(2) When an object is coated using a surface-coating operation covered by § 1910.107, Spray applications.

(d) *Definitions that apply to dipping and coating operations.*

Approved means the equipment is listed or approved by a nationally recognized testing laboratory as defined by § 1910.7.

Autoignition temperature means the minimum temperature required to cause self-sustained combustion, independent of the heating or heated element.

Combustible liquid means a liquid having a flash point of 100°F (37.8°C) or above.

Dip tank means a tank, vat, or container that holds liquids used for dipping or coating operations. In dipping or coating operations, an object may be immersed totally or partially in a dip tank, or held in the vapor above the dip tank.

Flammable liquid means a liquid having a flashpoint below 100°F (37.8° C).

Flashpoint means the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite when tested in accordance with the definition of "flashpoint" in paragraph (c) of § 1910.1200.

Lower flammable limit means the lowest concentration of a material that will propagate a flame. The lower flammable limit (LFL) is usually expressed as a percent by volume of the material in air (or other oxidant).

Vapor area means any space containing dipping or coating operations, its drain boards, and associated drying or conveying equipment.

§ 1910.123 General requirements for dipping and coating operations.

Employers must comply with each of the requirements below.

(a) *Dip tanks must be constructed safely.* A dip tank, including its drain boards, must be able to withstand any expected load.

(b) *Adequate ventilation must be provided.* (1) An employer must provide ventilation to prevent vapor and mist in a vapor area from reaching a concentration greater than 25% of the lower flammable limit for the substance. When subpart Z of this part establishes a permissible exposure limit for a chemical used in a dip tank, employers must control employee exposures in accordance with that subpart.

(2) A tank cover or material that floats on dipping and coating liquids, such as foam or beads, may be used as an alternative or supplement to ventilation provided they effectively reduce the concentrations of hazardous materials in the vicinity of the employee below the limits set in paragraph (b)(1) of this section.

(3) Mechanical ventilation, when used, must conform to one or more of the following:

(i) ANSI Z9.2–1979, Fundamentals Governing the Design and Operation of Local Exhaust Systems;

(ii) NFPA 34–1995, Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids;

(iii) The Industrial Ventilation Manual published by ACGIH–1995; or

(iv) ANSI Z9.1–1971, Practices for Ventilation and Operation of Open-Surface Tanks, and NFPA 34–1966, Standard for Dip Tanks Containing Flammable or Combustible Liquids.

(4) Mechanical ventilation, when used, must draw the flow of air into a hood or exhaust duct.

(5) Each dip tank must have an independent exhaust system unless the combination of the substances being removed will not cause a fire, explosion, or hazardous chemical reaction in the duct system.

(c) *Air must exhaust safely.* (1) Exhaust air must not be recirculated into the workplace unless:

(i) Recirculated air does not create a health hazard to employees; and

(ii) Vapors in the exhaust air do not exceed 25% of their lower flammable limit.

(2) Exhaust air from an operation using flammable or combustible liquids may be recirculated only when the following additional requirements are met:

(i) The recirculated air is free of solid particulates;

(ii) Approved equipment monitors the vapor concentration in exhaust air; and

(iii) An audible alarm must be sounded and the dipping or coating operations must shut down automatically when a vapor concentration greater than 25% of the lower flammable limit is detected in the exhaust system.

(3) When exhaust hoods are used:

(i) The volume of outside air provided to work areas having exhaust hoods must be between 90 and 110 percent of the exhaust volume;

(ii) The outside air supply to such areas must not damage the exhaust hood; and

(iii) The air-flow rate of the make-up air must be measured when an exhaust hood is installed.

(d) *Entry into a dip tank is limited.* Entry into a dip tank must be done in accordance with § 1910.146.

(e) *Training must be provided.* An employer must instruct all employees who work in or near a vapor area about:

(1) The hazards of their jobs;

(2) Appropriate first aid procedures; and

(3) Necessary personal protective equipment.

(f) *Personal protective equipment must be used.* When liquids used in a dipping and coating operation may contact employees, an employer must provide, and require employees to use:

(1) Protective footwear for any employee whose feet may become wet to keep their feet dry.

(2) Gloves for any employee whose hands may become wet to keep their hands dry.

(3) Protective garments for any employee whose clothing may become wet to keep their skin dry.

(4) Tight-fitting chemical goggles or an effective face shield when a liquid could splash into an employee's eyes; and

(5) Respirators when it is necessary to protect the health of the employee against exposure to an excessive concentration of a toxic chemical or oxygen deficiency. Respirator selection and use must conform with § 1910.134 and the appropriate requirements of subpart Z of this part.

(g) *Hygiene facilities must be provided.* (1) Locker space or equivalent clothing storage facilities must be provided to prevent contamination of street clothing.

(2) An emergency shower and eye wash must be located near dipping and coating operations that use liquids that may burn, irritate, or otherwise harm an employee's skin. A water hose at least 4 feet (1.22 m) long and not smaller than ¾ of an inch (18 mm), with a quick-opening valve, may be substituted for an emergency shower and eye wash.

(3) Washing facilities must be provided for all employees required to use or handle any liquids that may burn, irritate, or otherwise harm their skin. (See paragraph (d) of § 1910.141.)

(h) *Physical examination and first aid must be provided.* (1) A physician's approval to work in a vapor area must be obtained for an employee with sores, burns, or other skin lesions requiring medical treatment.

(2) Any small skin abrasions, cuts, rashes, or open sores that are found or reported must be treated by a properly designated person so that the chances of exposures to the chemicals are removed.

(3) The nostrils and other parts of an employee's body that are exposed to chromic acids must be examined periodically for skin ulcers.

(4) Appropriate first aid supplies must be located near dipping and coating operations.

(i) *Dipping and coating operations must be cleaned safely.* Before the interior of a dip tank is cleaned:

(1) The contents of a dip tank must be drained and the cleanout doors opened before the interior is cleaned; and

(2) All pockets in tanks or pits where hazardous vapors may collect must be ventilated and cleared of such vapors.

(j) *Dipping and coating operations must be inspected and maintained.* (1) An employer must inspect equipment and promptly correct any deficiencies, including the following:

(i) The ventilation system must be inspected at least quarterly, and after a prolonged shutdown, to check hoods and duct work for corrosion or damage, and to check air-flow rates to ensure that proper rates are maintained; and

(ii) All dipping and coating equipment, including covers, drains, overflow piping, and electrical and fire-extinguishing systems, must be inspected periodically.

(2) Maintenance work requiring welding, burning, or open flame done near a vapor area or under conditions in which toxic metals are released must be done with local mechanical-exhaust ventilation, or with respirators that are selected and used in accordance with § 1910.134, to prevent a health hazard to employees.

(3) Maintenance work requiring welding, burning, or open flame near a vapor area must be done under local mechanical-exhaust ventilation.

(4) A dip tank must be thoroughly cleaned of solvents and vapors before it is exposed to welding, burning, or open flame.

§ 1910.124 Additional requirements for dipping and coating operations that use flammable or combustible liquids.

An employer using flammable or combustible liquids in dipping and coating operations must comply with the requirements in this section, in addition to the requirements of §§ 1910.122, 1910.123, and 1910.125.

(a) *Noncombustible construction is required.* A dip tank must be constructed of noncombustible material.

(b) *Overflow piping must be provided.* (1) A dip tank with a capacity greater than 150 gallons (568 L) or a liquid surface area greater than 10 feet^2 (.95 m^2) must have properly trapped overflow piping discharging to a safe location.

(2) Overflow pipes must be at least 3 inches (7.6 cm) in diameter and of sufficient capacity to prevent the dip tank from overflowing when liquids are added to the tank.

(3) Piping connections on drains and overflow pipes must be constructed so as to permit ready access for inspecting and cleaning the interior of the pipe.

(4) The bottom of the overflow connection must be at least 6 inches (15.2 cm) below the top of the dip tank.

(5) The overflow pipe must be arranged to prevent fire-extinguishing foam from floating away and clogging the overflow pipe by:

(i) Extending the overflow pipe through the dip tank wall and terminating the pipe at an L-joint pointing downward; or

(ii) Providing the overflow pipe with a removable screen of ¼-inch (6.4 mm) mesh and having an area at least twice the cross-sectional area of the overflow pipe.

(6) The screen on an overflow pipe must be inspected and cleaned periodically to prevent it from clogging.

(c) *Conveyor systems must shut down automatically.* A conveyor system used with a dip tank must shut down automatically when:

(1) There is a fire;

(2) There is a failure of any fan used to maintain adequate ventilation; or

(3) The rate of ventilation drops below the level required to meet the requirements in paragraph (b) of § 1910.123.

(d) *Ignition sources must be controlled.* (1) A vapor area, and areas within 20 feet (6.1 m) of the vapor area not separated from it by tight partitions, must be free of open flames, spark-producing devices, or surfaces hot enough to ignite vapors.

(2) Electrical wiring or equipment in a vapor area, and areas adjacent to it, must conform with the applicable requirements of subpart S of this part for hazardous (classified) locations.

(3) When a portable container is used to add a liquid to a dip tank, the container and tank must be electrically bonded to each other, and positively grounded, to prevent static electrical sparks or arcs.

(4) When a heating system that may be an ignition source is used in a drying operation:

(i) The heating system must be installed in accordance with NFPA 86A–1969, Standard for Ovens and Furnaces, which is incorporated by reference in § 1910.6;

(ii) Adequate mechanical ventilation must be operating before and during the drying operation; and

(iii) The heating system must shut down automatically when any

ventilating fan fails to maintain adequate ventilation.

(5) A vapor area must be free of combustible debris and as clear of combustible stock as practical.

(6) Rags or other material contaminated with liquids from dipping and coating operations must be placed in an approved waste can immediately after use, and the contents of the waste can must be properly disposed of at the end of each shift.

(7) Smoking is prohibited in a vapor area. A readily visible "No Smoking" sign must be posted near each dip tank.

(e) *Fire protection must be provided.* (1) This paragraph (e) applies to:

(i) A dip tank with a capacity of at least 150 gallons (568 L) or having a liquid surface area of at least 4 feet^2 (.38 m^2); and

(ii) A hardening or tempering tank with a capacity of at least 500 gallons (1893 L) or having a liquid surface area of at least 25 feet^2 (2.37 m^2).

(2) Vapor areas must be provided with manual fire extinguishers suitable for flammable and combustible liquid fires, and the manual fire extinguishers must conform to the requirements of § 1910.157.

(3) A vapor area must be protected by an automatic fire-extinguishing system that conforms with subpart L of this part.

(4) An automatic closing cover may be used instead of an automatic fire-extinguishing system when it is:

(i) Activated by an approved automatic device;

(ii) Capable of manual operation;

(iii) Noncombustible or of tin-clad type with enclosing metal applied with locked joints; and

(iv) Kept closed when the dip tank is not in use.

(f) *Liquids must not be overheated.* A liquid in a dip tank must not be heated:

(1) Above the liquid's boiling point; or

(2) To a temperature within 100 °F (37.8 °C) of the liquid's autoignition temperature.

§ 1910.125 Additional requirements for special dipping and coating operations.

Employers must comply as appropriate with each of the requirements of this section in addition to the requirements for dipping and coating operations specified in §§ 1910.122 through 1910.124.

(a) *Additional requirements for hardening or tempering tanks.*

Note to paragraph (a) of § 1910.125: The requirements specified in paragraph (d)(1) of § 1910.124 do not apply to hardening or tempering tanks.

(1) Tanks must be located as far as practicable from furnaces and be placed on noncombustible flooring.

(2) Tanks must have a noncombustible hood and vent or other equivalent device for venting to the outside.

(3) For this purpose, vent ducts must be treated as flues and kept well away from combustible roofs and other materials.

(4) Tanks must have a device that:

(i) Sounds an alarm when the liquid temperature reaches within 50 °F (10 °C) of its flashpoint (alarm set point); and

(ii) When practical from an operating standpoint, shuts down the conveying equipment that supplies work to the dip tank.

(5) A circulating cooling system or similar equipment must be used when the liquid temperature can exceed the alarm set point. A bottom drain may be used in the circulating cooling system when the drain valve operates automatically with an approved heat-actuated device or manually from a safe location.

(6) Air under pressure must not be used to fill or agitate the liquid in the tank.

(b) *Additional requirements for flow coating.* (1) Paint must be supplied to the process by:

(i) A direct low-pressure pumping system that automatically shuts down by means of an approved heat-actuated device in the case of fire; or

(ii) A gravity tank not exceeding 10 gallons (38 L) in capacity.

(2) All piping must be:

(i) Erected in a strong fashion; and

(ii) Rigidly supported.

(c) *Additional requirements for roll coating, roll spreading, or roll impregnating a flammable or combustible liquid with a flashpoint below 140 °F (60 °C).* Sparking of static electricity must be prevented by:

(1) Bonding and grounding all metallic equipment parts (including rotating parts) and installing static collectors; or

(2) Maintaining a conductive atmosphere (such as a high relative humidity) in the vapor area.

(d) *Additional requirements for vapor degreasing tanks.* (1) In a degreasing tank equipped with a condenser or vapor-level thermostat, the condenser or thermostat must keep the vapor level below the top of the dip tank by at least 36 inches (91 cm) or one-half the dip tank width, whichever is shorter.

(2) When fuel gas is used to heat the liquid in a vapor degreasing tank, solvent fumes or vapors must be prevented from entering the air-fuel mixture by making the combustion chamber air tight, except for the flue opening.

Note to paragraph (d)(2) of § 1910.125: Special attention must be paid to making the combustion chamber air-tight when chlorinated- or fluorinated-hydrocarbon solvents are used.

(3) The flue must be made of corrosion-resistant material and extend to the outer air, and a draft diverter must be installed when mechanical exhaust is used on the flue.

(4) The surface temperature of a heating element must not cause a solvent or a mixture to decompose or be converted into any excess quantity of vapor.

(5) Tanks with a vapor area larger than 4 feet^2 (.38 m^2) used for solvent cleaning or vapor degreasing must have cleanout or sludge doors located near the bottom of each tank. The doors must prevent leakage of liquid when closed.

(e) *Additional requirements for cyanide tanks.* Tanks must be constructed with a dike or other method to prevent cyanide from mixing with an acid when a dip tank fails.

(f) *Additional requirements for spray cleaning and degreasing tanks.* Airborne spraying to disperse a liquid above any open-surface tank must be controlled as follows:

(1) Spraying must be enclosed to the extent feasible; and

(2) Mechanical ventilation must provide enough inward air velocity to prevent the spray from leaving the vapor area.

(g) *Additional requirements for electrostatic paint detearing.* (1) Electrostatic equipment used for paint-detearing operations must be approved.

(2) The electrodes used in such equipment must be:

(i) Constructed in a substantial manner;

(ii) Rigidly supported in permanent locations; and

(iii) Insulated effectively from ground using insulators that are nonporous, noncombustible, and kept clean and dry.

(3) Goods being paint deteared using electrostatic equipment must be:

(i) Supported on conveyors; and

(ii) Manipulated by means other than by hand.

(4) The distance between goods being paint deteared and the electrodes or conductors of the electrostatic equipment must be maintained at twice the sparking distance or greater; this distance is referred to as the "safe distance."

Note to paragraph (g)(4) of § 1910.125: The safe distance must be maintained for goods that are supported on conveyors during the paint-detearing operation.

(5) The safe distance must be displayed conspicuously on a suitable

sign located near the electrostatic equipment.

(6) Electrostatic equipment used in paint-detearing operations must have automatic controls that immediately disconnect the power supply to the high-voltage transformer and signal the operator when:

(i) Failure occurs in ventilating equipment or conveyors used in paint-detearing operations;

(ii) A ground or imminent ground occurs at any point on the high-voltage system; or

(iii) The safe distance is not maintained.

(7) Fences, rails, or guards must be used that:

(i) Safely isolate paint-detearing operations from plant storage and personnel;

(ii) Are constructed of conducting material; and

(iii) Are adequately grounded.

(8) To protect paint-detearing operations from fire:

(i) Automatic sprinklers must be used when available; and

(ii) When such sprinklers are not available, automatic fire-extinguishing systems must be used that conform to subpart L of this part.

(9) Removable drip plates and screens must be:

(i) Used to collect paint deposits; and

(ii) Cleaned in a safe location.

The second alternative, referred to as the question-and-answer version, reads as follows:

Dipping and Coating Operations (Dip Tanks)

§ 1910.121 Table of Contents.

The following is a listing of the sections and paragraphs contained in §§ 1910.122 through 1910.125.

§ 1910.122 Dipping and coating operations (dip tanks): What is covered by this rule?

(a) *Which dipping and coating operations are covered?* (1) This rule applies to any operation where an object is dipped in or held above a dip tank containing a liquid other than water, or the vapor of such a liquid, to:

(i) Clean it;

(ii) Alter its surface;

(iii) Change its character; or

(iv) Add a coating or finish to it.

(2) This rule also applies to any draining or drying operation associated with dipping or coating.

(b) *What are examples of covered operations?* Examples of operations covered by this rule include: Paint dipping; electroplating; pickling; quenching; tanning; degreasing; stripping; cleaning; and roll, flow, and curtain coating.

(c) *Which dipping and coating operations are not covered?* This rule does not apply:

(1) To dipping and coating operations that use a molten material such as a metal, alloy, or salt; or

(2) When an object is coated using a surface-coating operation covered by section 1910.107, Spray applications.

(d) *Which definitions apply to dipping and coating operations? "Approved"* means the equipment is listed or approved by a nationally recognized testing laboratory as defined by § 1910.7.

Autoignition temperature means the minimum temperature required to cause self-sustained combustion, independent of the heating or heated element.

Combustible liquid means a liquid having a flash point of 100°F (37.8°C) or above.

Dip tank means a tank, vat, or container that holds liquids used for dipping or coating operations. In dipping or coating operations, an object may be immersed totally or partially in a dip tank, or held in the vapor above the dip tank.

Flammable liquid means a liquid having a flashpoint below 100°F (37.8°C).

Flashpoint means the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite when tested in accordance with the definition of "flashpoint" in paragraph (c) of § 1910.1200.

Lower flammable limit means the lowest concentration of a material that will propagate a flame. The lower flammable limit (LFL) is usually expressed as a percent by volume of the material in air (or other oxidant).

Vapor area means any space containing dipping or coating operations, its drain boards, and associated drying or conveying equipment.

1910.123 What are the general requirements for dipping and coating operations?

(a) *What are the requirements for construction of dip tanks?* An employer must ensure that a dip tank, including its drain boards, is able to withstand any expected load.

(b) *What are the requirements for adequate ventilation?*

(1) An employer must provide ventilation to prevent vapor and mist in a vapor area from reaching a concentration that is greater than 25% of the lower flammable limit for the substance. When subpart Z of this part

establishes a permissible exposure limit for a chemical used in a dip tank, an employer must control worker exposures in accordance with that subpart. A tank cover or material that floats on dipping and coating liquids, such as foam or beads, may be used as an alternative or supplement to ventilation, provided they effectively reduce the concentrations of hazardous materials in the vicinity of the employee below the limits set in paragraph (b)(1) of this section. Mechanical ventilation, when used, must conform to one or more of the following:

(i) ANSI Z9.2–1979, Fundamentals Governing the Design and Operation of Local Exhaust Systems;

(ii) NFPA 34–1995, Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids;

(iii) The Industrial Ventilation Manual published by ACGIH–1995; or

(iv) ANSI Z9.1–1971, Practices for Ventilation and Operation of Open-surface Tanks, and NFPA 34–1966, Standard for Dip Tanks Containing Flammable or Combustible Liquids.

(2) Mechanical ventilation, when used, must draw the flow of air into a hood or exhaust duct. Each dip tank must have an independent exhaust system unless the combination of the substances being removed will not cause a fire, explosion, or hazardous chemical reaction in the duct system.

(c) *What are the requirements for recirculating exhaust air?*

(1) An employer must ensure that exhaust air is not recirculated into the workplace unless it does not create a health hazard to employees and vapors in the exhaust air do not exceed 25% of their lower flammable limit. Exhaust air from an operation using flammable or combustible liquids may be recirculated only when the following additional requirements are met:

(i) The recirculated air is free of solid particulates;

(ii) Approved equipment monitors the vapor concentration in exhaust air; and

(iii) An audible alarm must be sounded and the dipping and coating operations must shut down automatically when a vapor concentration greater than 25% of its lower flammable limit is detected in the exhaust system.

(2) When exhaust hoods are used, the volume of outside air provided to work areas having exhaust hoods must be between 90 and 110 percent of the exhaust volume, the outside air supply to such areas must not damage the exhaust hood, and the air-flow rate of the make-up air must be measured when an exhaust hood is installed.

(d) *What are the requirements for entry into a dip tank?* An employer must ensure that entry into a dip tank is done in accordance with § 1910.146.

(e) *What are the requirements for training employees?* An employer must instruct all employees who work in or near a vapor area about:

(1) The hazards of their jobs;

(2) Appropriate first aid procedures; and

(3) Necessary personal protective equipment.

(f) *What personal protective equipment must be used?* When liquids used in a dipping or coating operation may contact employees, an employer must provide, and require employees to use:

(1) Protective footwear for any employee whose feet may become wet to keep their feet dry;

(2) Gloves for any employee whose hands may become wet to keep their hands dry;

(3) Protective garments for any employee whose clothing may become wet to keep their skin dry;

(4) Tight-fitting chemical goggles or an effective face shield when a liquid could splash into an employee's eyes; and

(5) Respirators when it is necessary to protect the health of the employee against exposure to an excessive concentration of a toxic chemical or oxygen deficiency. Respirator selection and use must comply with § 1910.134 and the appropriate requirements of subpart Z of this part.

(g) *What hygiene facilities must be provided?* Locker space or equivalent clothing storage facilities must be provided by the employer to prevent contamination of street clothing. An employer must provide an emergency shower and eye wash located near dipping and coating operations that use liquids that may burn, irritate, or otherwise harm the employee's skin. An employer may provide a water hose at least 4 feet (1.22 m) long and not smaller than 3/4 of an inch (18 mm), with a quick-opening valve, as a substitute for an emergency shower and eye wash. Also, an employer must provide washing facilities for all employees required to use or handle any liquids that may burn, irritate, or otherwise harm their skin. (See paragraph (d) of § 1910.141.)

(h) *What physical examinations and first aid must be provided?* An employer must obtain a physician's approval before an employee with sores, burns, or other skin lesions requiring medical treatment may work in a vapor area. Any small skin abrasions, cuts, rashes, or open sores that are found or reported must be treated by a properly designated person so that the chances of exposures to the chemicals are removed. An employer must provide periodic examination of the nostrils and other parts of an employee's body that are exposed to chromic acids to detect skin ulcers. Appropriate first aid supplies must be located near dipping and coating operations.

(i) *What are the requirements for cleaning dipping and coating operations safely?*

An employer must ensure that, before the interior of a dip tank is cleaned, the contents of the dip tank are drained and the cleanout doors are opened. Also, all pockets in tanks or pits where hazardous vapors may collect must be ventilated and cleared of such vapors.

(j) *What are the requirements for inspecting and maintaining dipping and coating operations?*

(1) An employer must inspect equipment and promptly correct any deficiencies. An employer must inspect the ventilation system at least quarterly, and after a prolonged shutdown, to check the hoods and duct work for corrosion or damage, and check air-flow rates to ensure that proper rates are maintained. An employer must inspect periodically all dipping and coating equipment, including covers, drains, overflow piping, and electrical and fire-extinguishing systems.

(2) An employer must ensure that maintenance work requiring welding, burning, or open flame done near a vapor area or under conditions in which toxic metals are released, is done with local mechanical-exhaust ventilation or with respirators that are selected and used in accordance with § 1910.134, to prevent a health hazard to employees. A dip tank must be thoroughly cleaned of solvents and vapors before it is exposed to welding, burning, or open flame.

§ 1910.124 What are the additional requirements for dipping and coating operations that use flammable or combustible liquids?

An employer using flammable or combustible liquids in dipping and coating operations must comply with the requirements in this section, in addition to the requirements of §§ 1910.122, 1910.123, and 1910.125.

(a) *What type of construction materials must be used?* An employer must ensure that a dip tank using flammable or combustible liquids is constructed of noncombustible material.

(b) *When is overflow piping required?*

(1) An employer must provide a dip tank with a capacity greater than 150 gallons (568 L) or a liquid surface area greater than 10 feet ^{2} (.95 m ^{2}) with

properly trapped overflow piping discharging to a safe location. Overflow pipes must be at least 3 inches (7.6 cm) in diameter and of sufficient capacity to prevent the dip tank from overflowing when liquids are added to the tank.

(2) Piping connections on drains and overflow pipes must be constructed so as to permit ready access for inspecting and cleaning of the interior of the pipe. The bottom of the overflow connection must be at least 6 inches (15.2 cm) below the top of the dip tank. The overflow pipe must be arranged to prevent fire-extinguishing foam from floating away and clogging the overflow pipe, either by extending the overflow pipe through the dip tank wall and terminating the pipe at an L-joint pointing downward, or by providing the overflow pipe with a removable screen of ¼ inch (6.4 mm) mesh which has an area at least twice the cross-sectional area of the overflow pipe. The screen on an overflow pipe must be inspected and cleaned periodically to prevent it from clogging.

(c) *When is a conveyor system required to shut down automatically?* An employer must ensure that a conveyor system used with a dip tank shuts down automatically when:

(1) There is a fire;

(2) There is a failure of any fan used to maintain adequate ventilation; or

(3) The rate of ventilation drops below the level required to meet the requirements in paragraph (b) of § 1910.123.

(d) *What are the requirements for the control of ignition sources?*

(1) An employer must ensure that a vapor area, and areas within 20 feet (6.1 m) of the vapor area not separated from it by tight partitions, are free of open flames, spark-producing devices, or surfaces hot enough to ignite vapors. Electrical wiring or equipment in a vapor area, and areas adjacent to it, must conform with the applicable requirements of subpart S of this part for hazardous (classified) locations. When a portable container is used to add a liquid to a dip tank, the container and tank must be electrically bonded to each other, and positively grounded, to prevent static electrical sparks or arcs.

(2) When a heating system that may be an ignition source is used in a drying operation, the heating system must be installed in accordance with NFPA 86A–1969, Standard for Ovens and Furnaces (which is incorporated by reference in § 1910.6), adequate mechanical ventilation must be operating before and during the drying operation, and the heating system must shut down automatically when any ventilating fan fails to maintain adequate ventilation.

(3) An employer must ensure that a vapor area is free of combustible debris and as clear of combustible stock as practical. Rags or other material contaminated with liquids from dipping and coating operations must be placed in an approved waste can immediately after use, and the contents of the waste can must be properly disposed of at the end of each shift.

(4) An employer must prohibit smoking in a vapor area. A readily visible "No Smoking" sign must be posted near each dip tank.

(e) *What fire protection must be provided?*

(1) An employer must provide the fire protection required by this paragraph (e) for a dip tank with a capacity of at least 150 gallons (568 L) or having a liquid surface area of at least 4 feet^2 (.38 m^2), and a hardening or tempering tank with a capacity of at least 500 gallons (1893 L) or having a liquid surface area of at least 25 feet^2 (2.37 m^2).

(2) An employer must ensure that a vapor area is provided with manual fire extinguishers suitable for flammable and combustible liquid fires, and the manual fire extinguishers must conform to the requirements of § 1910.157. A vapor area must also be protected by an automatic fire-extinguishing system that conforms with subpart L of this part. An automatic closing cover may be used instead of an automatic fire-extinguishing system, when it is:

(i) Activated by an approved automatic device;

(ii) Capable of manual operation;

(iii) Noncombustible or of tin-clad type with enclosing metal applied with locked joints; and

(iv) Kept closed when the dip tank is not in use.

(f) *To what temperature may liquids in a dip tank be heated?* An employer must ensure that a liquid in a dip tank is not heated above the liquid's boiling point or to a temperature within 100°F (37.8°C) of the liquid's autoignition temperature.

§ 1910.125 What are the additional requirements for special dipping and coating applications?

An employer must comply as appropriate with each of the requirements of this section in addition to the requirements for dipping and coating operations in §§ 1910.122 through 1910.124.

(a) *What additional requirements apply to hardening or tempering tanks?* While the following requirements apply to hardening or tempering tanks, the requirements in the first sentence of paragraph (d)(1) of § 1910.124 do not.

(1) An employer must ensure that hardening or tempering tanks are located as far as practicable from furnaces and are placed on noncombustible flooring. Tanks must have a noncombustible hood and vent or other equivalent device for venting to the outside. For this purpose, vent ducts must be treated as flues and kept away from combustible roofs and other materials.

(2) Tanks must have a device that sounds an alarm when the liquid temperature reaches within 50°F (10°C) of its flashpoint (alarm set point), and that shuts down the conveying equipment that supplies work to the dip tank when practical from an operating standpoint. A circulating cooling system or similar equipment must be used when the liquid temperature can exceed the alarm set point. A bottom drain may be used in the circulating cooling system when the drain valve operates automatically with an approved heat-actuated device or manually from a safe location. Air under pressure must not be used to fill or agitate the liquid in the tank.

(b) *What additional requirements apply to flow coating?* An employer must ensure that paint is supplied to the process by either a direct low-pressure pumping system that automatically shuts down by means of an approved heat-actuated device in the case of fire, or a gravity tank not exceeding 10 gallons (38 L) in capacity. All piping must be erected in a strong fashion and rigidly supported.

(c) *What additional requirements apply to roll coating, roll spreading, or roll impregnating a flammable or combustible liquid with a flashpoint below 140°F (60°C)?* An employer must ensure that sparking of static electricity is prevented by bonding and grounding all metallic equipment parts (including rotating parts) and installing static collectors, or by maintaining a conductive atmosphere (such as a high relative humidity) in the vapor area.

(d) *What additional requirements apply to vapor degreasing tanks?*

(1) An employer must ensure that, in a degreasing tank equipped with a condenser or vapor-level thermostat, the condenser or thermostat keeps the vapor level below the top of the dip tank by at least 36 inches (91 cm) or one-half the dip tank width, whichever is shorter. When fuel gas is used to heat the liquid in a vapor degreasing tank, solvent fumes or vapors must be prevented from entering the air-fuel mixture by making the combustion chamber airtight, except for the flue opening. Special attention must be paid to making the combustion chamber airtight when chlorinated- or

fluorinated-hydrocarbon solvents are used. The flue must be made of corrosion-resistant material and extend to the outer air, and a draft diverter must be installed when mechanical exhaust is used on the flue.

(2) The surface temperature of a heating element must not cause a solvent or a mixture to decompose or be converted into any excess quantity of vapor. Tanks with a vapor area larger than 4 feet ^{2} (.38 m^2) used for solvent cleaning or vapor degreasing must have cleanout or sludge doors located near the bottom of each tank. The doors must prevent leakage of liquid when closed.

(e) *What additional requirements apply to cyanide tanks?* An employer must ensure that tanks are constructed with a dike or other method to prevent cyanide from mixing with an acid when a dip tank fails.

(f) *What additional requirements apply to spray cleaning and degreasing tanks?* An employer must ensure that airborne spraying used to disperse a liquid above any open-surface tank is controlled by enclosing the spraying to the extent feasible, and by using mechanical ventilation that provides enough inward air velocity to prevent the spray from leaving the vapor area.

(g) *What additional requirements apply to electrostatic paint detearing?*

(1) An employer must ensure that electrostatic equipment used for paint-detearing operations is approved. The electrodes used in such equipment must be constructed in a substantial manner, rigidly supported in permanent locations, and insulated effectively from ground using insulators that are nonporous, noncombustible, and kept clean and dry.

(2) Goods being paint deteared using electrostatic equipment must be supported on conveyors and manipulated by means other than by hand. The distance between goods being paint deteared and the electrodes or conductors of the electrostatic equipment must be maintained at twice the sparking distance or greater; this distance is referr'ed to as the "safe distance." The safe distance must be maintained for goods that are supported on conveyors during the paint-detearing operation. The safe distance must be displayed conspicuously on a suitable sign located near the electrostatic equipment.

(3) Electrostatic equipment used in paint-detearing operations must have automatic controls that immediately disconnect the power supply to the high-voltage transformer and signal the operator when failure occurs in ventilating equipment or conveyors used in paint-detearing operations, a ground or imminent ground occurs at any point on the high-voltage system, or the safe distance is not maintained.

(4) Fences, rails, or guards must be used that safely isolate paint-detearing operations from plant storage and personnel, are constructed of conducting material, and are adequately grounded.

(5) To protect paint-detearing operations from fire, automatic sprinklers must be used when available. When such sprinklers are not available, automatic fire-extinguishing systems must be used that conform to subpart L of this part.

(6) Removable drip plates and screens must be used to collect paint deposits, and must be cleaned in a safe location.

[FR Doc. 98–9044 Filed 4–6–98; 8:45 am]
BILLING CODE 4510–26–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–3 and 301–10

RIN 3090–AG73

Federal Travel Regulation; Use of Commercial Transportation, Fly America Act

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Federal Travel Regulation (FTR) provisions pertaining to use of U.S. flag air carriers under the provisions of the "Fly America Act." This rule will reduce the connecting time for use of a U.S. flag air carrier at an overseas interchange point, incorporate Comptroller General Decision, B–240956, dated September 25, 1991, requiring use of a code share air carrier service, and remove the waiting time requirement at gateway airports in the United States and gateway airports abroad when determining the availability or reasonable availability of a U.S. flag air carrier.

DATES: Comments must be received on or before May 7, 1998.

ADDRESSES: Send comments to the General Services Administration, Office of Governmentwide Policy, Office of Transportation and Personal Property, Travel and Transportation Management Policy Division (MTT), 1800 F Street, NW, Washington, DC 20405–0001. Telefax 202–501–0349. E-mail: umeki.thorne@gsa.gov.

FOR FURTHER INFORMATON CONTACT: *Technical Information:* Umeki Thorne, telephone (202) 501–1538. *FTR "plain language" format:* Internet GSA, *ftrtravel.chat@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Subsection 127(d) of the General Accounting Office Act of 1996 (Pub. L. 104–316) amended 49 U.S.C. 40118 to require that the Administrator of General Services issue regulations under which agencies may permit payment for transportation on a foreign air carrier when such transportation is determined necessary. This regulation implements the Administrator's authority under the statute, identifying when a U.S. flag air carrier is deemed unavailable (for transportation between a point in the United States and a point outside the United States) or reasonably unavailable (for transportation between two points outside the United States). The regulation states that an agency may determine that transportation on a foreign air carrier is necessary as a result of a medical necessity or a security threat and states that where the costs of transportation are reimbursed by a third party, such as a foreign government, international agency, or other organization, the requirement in 49 U.S.C. 40118 to use a U.S. flag air carrier does not apply. This proposed rule is written in the "plain language" style of regulation writing as a continuation of the GSA's effort to make the FTR easier to understand and use.

What is the "plain language" style of regulation writing?

The "plain language" style of regulation writing is a new, simpler to read and understand, question and answer regulatory format. Questions are in the first person, and answers are in the second person. GSA uses a "we" question when referring to an agency, and an "I" question when referring to the employee.

What are the significant changes proposed?

There are significant changes in the proposed rule as compared to the Fly America Act provisions currently contained in FTR § 301–3.6. The proposed rule would:

(a) Reduce connecting time at an interchange point for the use of U.S. flag air carrier service from 6 hours to 4 hours.

(b) Implement language from Comptroller General Decision, B–240956, dated September 25, 1991, stating that all airline tickets issued under a code share arrangement must be issued on U.S. flag air carrier ticket stock.

(c) Implement a new method for calculation of an employee's liability for disallowance of expenditures for unauthorized transportation on a foreign air carrier.

(d) Remove the terms "gateway airport in the United States" and "gateway airport abroad" for determining when a U.S. flag air carrier is available or reasonably available.

GSA has determined that this proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993. This proposed rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply. The Paperwork Reduction Act does not apply because the proposed revisions do not impose recordkeeping or information collection requirements, or the collection 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. 501 *et seq.*

List of Subjects in 41 CFR Parts 301–3 and 301–10

Government employees, Travel and transportation expenses. For the reasons set forth in the preamble, it is proposed that 41 CFR Chapter 301 be amended to read as follows:

PART 301–3—USE OF COMMERCIAL TRANSPORTATION

1. The authority citation for 41 CFR part 301–3 continues to read as follows:

Authority: 5 U.S.C. 5707.

§ 301–3.6 [Removed]

2. Section 301–3.6 is removed.

PART 301–10—TRANSPORTATION ALLOWABLE

3. The authority citation for 41 CFR part 301–10 contineus to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 486(c); 49 U.S.C. 40118.

4. Sections 301–10.131 through 301.144 and an undesignated center heading are added to read as follows:

Use of United States Flag Air Carrier

Sec.

Use of United States Flag Air Carriers

§ 301–10.131 What does United States mean?

For purposes of this § 301–10.131 and §§ 301–10.132 through 301–10.144 *United States* means the 50 states, the District of Columbia, and the territories and possessions of the United States (49 U.S.C. 40102).

§ 301–10.132 Who is required to use a U.S. flag air carrier?

Anyone whose air travel is financed by U.S. Government funds, except as provided in § 301–10.135, 301–10.136, and 301–10.137.

§ 301–10.133 What is a U.S. flag air carrier?

An air carrier which holds a certificate under 49 U.S.C. 41102 but does not include a foreign air carrier operating under a permit.

§ 301–10.134 What is U.S. flag air carrier service?

U.S. flag air carrier service is service provided on an air carrier which holds a certificate under 49 U.S.C. 41102 as stated in § 301–10.133. It also includes service provided under a code share agreement with a foreign air carrier in accordance with Title 14 of the Code of Federal Regulations when the entire ticket is issued by the U.S. flag air carrier, and payment is to the U.S. flag air carrier.

§ 301–10.135 When must I travel using U.S. flag air carrier service?

You are required by law (49 U.S.C. 40118, the "Fly America Act") to use U.S. flag air carrier service for all air travel funded by the U.S. Government, except as provided in §§ 301–10.136 and 301–10.137 or when one of the following exceptions applies:

(a) Use of a foreign air carrier is determined to be a matter of necessity in accordance with § 301–10.138; or

(b) The transportation is provided under a bilateral or multilateral air transportation agreement to which the United States Government and the government of a foreign country are parties if the agreement:

(1) Is consistent with the goals for international aviation policy contained in 49 U.S.C. 40101(e), and

(2) Provides for the exchange of rights or benefits of similar magnitude; or

(c) You are an officer or employee of the Department of State, United States Information Agency, United States International Development Cooperation Agency, or the Arms Control Disarmament Agency, and your travel is paid with funds appropriated to one of these agencies, and your travel is between two places outside the United States; or

(d) No U.S. flag air carrier provides service on a particular leg of the route, in which case foreign air carrier service may be used, but only to or from the nearest interchange point on a usually traveled route to connect with U.S. flag air carrier service; or

(e) A U.S. flag air carrier involuntarily reroutes your travel on a foreign air carrier; or

(f) Service on a foreign air carrier would be three hours or less, and use of the U.S. flag air carrier would at least double your en route travel time; or

(g) When the costs of transportation are reimbursed in full by a third party, such as a foreign government, international agency, or other organization.

§ 301–10.136 What exceptions to the Fly America Act requirements apply when I travel between the United States and another country?

The exceptions are:

(a) If a U.S. flag air carrier offers direct service (i.e., either nonstop service or no aircraft change) from your origin to your destination, you must use the U.S. flag air carrier service unless such use would extend your travel time, including delay at origin, by 24 hours or more.

(b) If a U.S. flag air carrier does not offer direct service between your origin and your destination, you must use a U.S. flag air carrier on every portion of the route where it provides service unless, when compared to using a foreign air carrier, such use would:

(1) Increase the number of aircraft changes you must make outside of the U.S. by 2 or more; or

(2) Extend your travel time by at least 6 hours or more; or

(3) Require a connecting time of 4 hours or more at an overseas interchange point.

§ 301–10.137 What exceptions to the Fly America Act requirements apply when I travel solely outside the United States, and a U.S. flag air carrier provides service between my origin and my destination?

You must always use a U.S. flag carrier for such travel, unless, when compared to using a foreign air carrier, such use would:

(a) Increase the number of aircraft changes you must make en route by 2 or more; or

(b) Extend your travel time by 6 hours or more.

§ 301–10.138 In what circumstances is foreign air carrier service deemed a matter of necessity?

(a) Foreign air carrier service is deemed a necessity when service by a U.S. flag air carrier is available, but

(1) Cannot provide the air transportation needed, or

(2) Will not accomplish the agency's mission.

(b) Necessity includes, but is not limited to, the following circumstances when:

(1) Determined by the agency, use of a foreign air carrier is necessary for medical reasons, including use of service by the foreign air carrier to reduce the number of connections and possible delays in the transportation of persons in need of medical treatment; or

(2) Use of a foreign air carrier is required to avoid an unreasonable risk to your safety and is approved by your agency (e.g., terrorist threats); or

(3) Your program or activity may only be financed, under statute, using excess foreign currencies, and all U.S. flag air carriers refuse to accept foreign currencies; or

(4) You can not purchase a ticket in your authorized class of service on a U.S. flag air carrier, and a seat is available in your authorized class of service on a foreign air carrier.

§ 301–10.139 May I travel by a foreign air carrier if the cost of my ticket is less than traveling by a U.S. flag air carrier?

No. Foreign air carrier service may not be used solely based on the cost of your ticket.

§ 301–10.140 May I use a foreign air carrier if the service is preferred by or more convenient for my agency or me?

No. You must use U.S. flag air carrier service, unless you meet one of the exceptions in §§ 301–10.135, 301–10.136, or § 301–10.137.

§ 301–10.141 May I use foreign air carrier service because the foreign air carrier accepts foreign currency?

No, except as provided in § 301–10.138(b)(3).

§ 301–10.142 Must I provide any special certification or documents if I use a foreign air carrier?

Yes, you must provide a certification, as required in § 301–10.143, and any other documents required by your agency. Your agency cannot pay your foreign air carrier fare if you do not provide the required certification.

§ 301–10.143 What must the certification include?

The certification must include:

(a) Your name;

(b) The dates that you traveled;

(c) The origin and the destination of your travel;

(d) A detailed itinerary of your travel, name of the air carrier and flight number for each leg of the trip; and

(e) A statement explaining why U.S. flag air carrier service was not available (or reasonably available in the case of travel between points outside the United States), i.e., why you met one of the exceptions in §§ 301–10.135, 10.136, or 10.137.

§ 301–10.144 What is my liability if I improperly use a foreign air carrier?

You will not be reimbursed for any transportation cost for which you improperly use foreign air carrier service. If you are authorized by your agency to use U.S flag air carrier service for your entire trip, and you improperly use a foreign air carrier for any or all of the trip, your transportation cost on the foreign air carrier will not be payable by your agency. If your agency authorizes you to use U.S. flag air carrier service for part of your trip and foreign air carrier service for another part of your trip, and you improperly use foreign air carrier service, your agency will pay the transportation cost on the foreign air carrier for only the portion(s) of the trip for which you were authorized to use foreign air carrier service.

Dated: March 31, 1998.

Becky Rhodes,

Deputy Associate Administrator, Office of Governmentwide Policy.

[FR Doc. 98–8897 Filed 4–6–98; 8:45 am]

BILLING CODE 6820–34–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101

[WT Docket No. 98–20; FCC 98–25]

Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this *Notice of Proposed Rulemaking*, the Commission sets forth proposals to consolidate the licensing rules into a single set of rules for all wireless radio services. The Commission's goal is to establish a streamlined set of rules that minimizes filing requirements as much as possible; eliminates redundant, inconsistent, or unnecessary submission requirements; and assures ongoing collection of reliable licensing and ownership data. These consolidated rules will eliminate duplication and inconsistencies that exist in the current rules. These proposed rules will make it easier for applicants to understand the licensing process and application requirements because there will be, if adopted, only one set of licensing rules.

DATES: Comments are due May 7, 1998, reply comments are due May 22, 1998. Comments on the proposed information collections are due June 8, 1998.

ADDRESS(ES): Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Wilbert E. Nixon, Jr., Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418–7240 or Susan Magnotti, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, at (202) 418–0871.

SUPPLEMENTARY INFORMATION: This *Notice of Proposed Rule Making* in WT Docket No. 98–20, adopted February 19, 1998 and released March 18, 1998 is available for inspection and copying during normal business hours in the FCC Reference Center, Room 230, 1919 M Street NW., Washington DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington DC 20036 (202) 857–3800. The document is also available via the internet at http://www.fcc.gov/Bureaus/Wireless/Notices/1998/index.html.

Synopsis of Notice of Proposed Rulemaking

I. Introduction

1. In this Notice of Proposed Rule Making (*NPRM*), the Commission proposes to consolidate, revise, and streamline the rules governing application procedures for radio services licensed by the Wireless Telecommunications Bureau (WTB or Bureau). This proceeding is closely related to the Commission's ongoing development of Universal Licensing System (ULS), which will become fully operational later this year. This *NPRM* proposes rule changes that will facilitate the implementation of the ULS, an integrated database and automated processing system now being developed to be used by the Bureau to support electronic filing of applications, collection of licensing information, and public access to such information for all wireless services licensed by the Bureau. As part of the ULS initiative, the Commission is replacing eleven separate WTB licensing databases with a new integrated licensing system, and establishing the Universal Licensing database to accommodate all wireless radio services. One of the most significant features of ULS is that it will support full electronic filing of all licensing-related applications and other filings associated with such applications (*e.g.*, amendments and modifications, waiver requests, and applications for transfer and assignment of licenses). To fully implement ULS for all wireless radio services, the Commission proposes to consolidate the wireless radio services licensing rules in a single section of part 1, to the extent practicable.

2. In addition, ULS will make licensing information both more accessible and more usable by Commission staff in carrying out our regulatory responsibilities. For example, ULS will greatly enhance the Commission's ability to collect reliable and accurate information on such issues as licensee ownership, including information regarding entities holding major ownership interests in licenses, and affiliated entities such as parents and subsidiaries of licensees. This will enable the Commission staff to monitor spectrum use and competitive conditions in the wireless marketplace more easily and will promote more effective implementation of our spectrum management policies. Similarly, ULS will enhance the availability of licensing information to the public, which will have on-line access to ULS by dialing into the Commission's wide area network (WAN) and using any World Wide Web (WWW) browser.

3. License applicants will be charged normal filing fees for filing applications under ULS, but will save time and resources by filing electronically. For other uses of ULS, *e.g.*, persons seeking to retrieve licensing or mapping information, the Commission will charge for on-line access, but these charges will be limited to the amount necessary solely to recover the Commission's costs of maintaining ULS, including the cost of protecting the security of the system from outside tampering. The Commission anticipates that when ULS is fully operational, it will be possible to reduce these charges because the cost can be spread among a larger number of users.

4. The Commission also notes that ULS will provide greater access to persons with disabilities. ULS will incorporate several features that will enable persons with disabilities to use the electronic filing and public access functions. The technical support hotline will have Text Telephone capabilities for the hearing impaired. In addition, the system will allow sight impaired individuals access to Interactive Voice Response Technology. This will allow applicants to determine the status of pending license applications through a touch tone telephone.

5. This proceeding is also part of the 1998 biennial review of its regulations pursuant to section 11 of the Communications Act of 1934, as amended, (Communications Act). The Commission's goal in this proceeding is to establish a simplified set of rules that (1) minimizes filing requirements as much as possible; (2) eliminates redundant, inconsistent, or unnecessary submission requirements; and (3) assures ongoing collection of reliable licensing and ownership data.

6. In this proceeding, the Commission is guided by the principles of (1) furthering competition in the telecommunications industry; (2) ensuring that all communities have access to telecommunications technology; and (3) using common sense to draft clear and concise rules that provide for fair, efficient, consistent, and effective regulation of radio services licensed by WTB (wireless radio services). Accordingly, the Commission seeks to: (1) Facilitate the development of electronic filing in general; (2) require, where appropriate, applicants for wireless radio services licenses to file applications and notifications electronically; (3) streamline licensing processes and procedures; and (4) conform application and filing rules for all wireless radio services so that similarly situated applicants and licensees are treated equally.

II. Discussion

A. Electronic Filing and New Forms

1. Consolidation of Application Forms

7. *Background.* Presently there are over 30 different forms used in the WTB application and licensing process. This myriad of forms can create substantial confusion for applicants. WTB devotes significant resources to providing the appropriate forms to the public and advising applicants of the appropriate form required for their particular business purpose.

8. *Discussion.* The Commission proposes to consolidate the current 30 forms into five new forms that have been developed specifically for ULS: FCC Forms 601, 602, 603, 604, and 605. The Commission seeks comment on any additional modifications to the proposed forms: (1) FCC Form 601 (Long-form Application for Authorization) will replace the Form 600, and will be used by the majority of applicants to file initial license applications, as well as filings for modification, renewal, special temporary authority, or other routine applications. (2) FCC Form 602 (Wireless Telecommunications Bureau Ownership Form) will be used to submit initial and updated ownership information for those wireless radio services that require the submission of such information. (3) FCC Form 603 (Application for Assignment of Authorization) will be used for requesting approval of assignment of licenses, including partitioning and disaggregation requests. (4) FCC Form 604 (Application for Transfer of Control) will be used to request approval of transfers of control of licensees, which require less information than assignments because the identity of the licensee does not change. (5) FCC Short Form 605 (Short-Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted, and General Mobile Radio Services, as well as for Commercial Radio Operator Licenses) will be used as a short-form application for applicants who are not presently required to submit extensive technical data to receive a license, such as General Mobile Radio Service, Amateurs, Ships, Aircraft, and Commercial Radio Operators. The Commission seeks comment on each of these forms and on any possible modifications commenters may wish to suggest.

9. The Commission tentatively concludes that elimination of the separate long-form filing requirement

for winning bidders after the completion of an auction will expedite the post-auction licensing process and eliminate substantial administrative burdens for both the public and the Commission. With the advent of ULS and electronic filing of long-form applications after the completion of an auction, the filing of individual applications for each license won at auction is unnecessary. The Commission proposes to permit parties to routinely file a single application to authorize all licenses won by them in a single auction. The Commission seeks comment on this tentative conclusion and proposal.

10. The Commission does not propose to eliminate use of the auction short-form application (FCC Form 175) or our antenna registration form (FCC Form 854).

2. Mandatory Electronic Filing

11. *Background.* ULS has the capability to accept electronically filed applications in all wireless radio services. The Commission's policies have consistently encouraged electronic filing. With respect to applications for licenses obtained through competitive bidding, the Commission recently amended 47 CFR 1.205(a) and 1.2107(c), to require electronic filing of all short-form and long-form applications beginning January 1, 1999, unless not feasible. See amendment of part 1 of the Commission's Rules—Competitive Bidding Procedures, WT Docket No. 97–82, *Third Report and Order and Second Further Notice of Proposed Rulemaking,* 63 FR 770, January 7, 1998 (*Part 1 Third Report and Order*).

12. *Discussion.* With the advent of ULS, the Commission will have the ability to accept electronic filing of all forms used for wireless radio services. The Commission proposes that beginning on January 1, 1999, applicants, licensees, and frequency coordinators be required to file electronically. The Commission believes that requiring electronic filing of applications for all wireless radio services is in the public interest because it will help to accomplish the goals of: (1) Effecting a more rapid transition to ULS; (2) streamlining the application processing; (3) affording parties a quick and economical means to file applications; and (4) making all licensing information quickly and easily available to interested parties and the public. The Commission requests comment on these proposals.

13. The Commission seeks comment on whether manual filing should continue as an option for certain services or classes of applicants. Some applicants may not have access to computers with the hardware and capability to utilize the software necessary to submit their applications electronically, particularly since electronic filing will be accomplished by dial-in procedures and not over the Internet. Accordingly, the Commission seeks comment on whether certain wireless radio services, excluding those subject to competitive bidding, should be exempted from our proposed general requirement to file electronically. Commenters advocating an exemption from mandatory electronic filing should explain why a particular service or a particular class of applicant requires manual filing. Commenters should also address whether it would be appropriate to require electronic filing for such services after a period of time. Commenters should suggest an appropriate period of time before mandatory electronic filing would be implemented for these exempted services, with a rationale supporting such proposals. In addition, the Commission proposes that applications affecting multiple call signs, such as mass renewals or cancellations, may only be filed electronically. Finally, the Commission requests comment on whether it would benefit applicants and licensees subject to electronic filing if computer facilities would be maintained in field offices and at the Washington, DC., offices for the public to use to file forms and pleadings electronically. Commenters should discuss the resources needed to support this, such as the number of computers necessary for the public to use.

3. Copy and Microfiche Requirements

14. *Background.* Current Commission rules require the filing of a specified number of copies of all applications and pleadings in order to ensure that appropriate Commission staff have access to the documents and that timely information is provided to the public. Additionally, in many cases copies of applications must be filed on microfiche for inclusion in the station file for the licensee.

15. *Discussion.* The Commission proposes to change the current copy and microfiche requirements to eliminate those requirements that are no longer necessary. The Commission tentatively concludes that reducing the number of copies that parties have to file and eliminating current microfiche requirements would serve the public interest because such requirements are unnecessary under ULS. In the past multiple copies and microfiche were required to make application and licensing information available to the public. ULS, however, provides an unprecedented degree of accessibility to this information. Whether applications or pleadings are filed electronically or manually, all information will be available online to interested parties. After implementation of ULS, any data that is filed manually will be entered or scanned as necessary and will be available in the same fashion as electronically filed information. Thus, there will no longer be a need for an applicant to file numerous paper copies or microfiche. The Commission proposes to amend the rules so that applicants who file applications electronically will not be required to provide paper copies, diskettes, or microfiche. The Commission seeks comment on these proposals and tentative conclusions. The Commission also seek comment on whether it would impose a significant burden on manual filers to require them to file a diskette containing electronic copies of all attachments and exhibits filed with paper forms. Requiring a diskette containing electronic copies of all attachments to be filed with manually filed applications would expedite the addition of such applications to ULS.

4. Filing of Pleadings Associated with Applications

16. *Background.* Currently, 47 CFR 1.49 requires that pleadings and documents filed in any Commission proceeding be filed on paper.

17. *Discussion.* The Commission proposes to modify the rules to allow electronic filing of pleadings regarding wireless radio service applications. With the advent of ULS, the Commission also has the ability to allow pleadings and informal requests for actions associated with applications or licenses in the wireless radio services to be filed electronically. Such pleadings include petitions to deny, petitions for reconsideration, applications for review, comments, motions for extension of time, and subsequently filed pleadings related to such filings. In addition, ULS allows waiver requests to be filed electronically on the FCC Form 601 or in connection with requests submitted on other ULS forms. Parties submitting pleadings via the ULS will continue to be required to serve paper copies on all interested parties. The Commission seeks comment on this proposal. We also seek comment on whether other WTB pleadings that are not associated with an application or a docketed proceeding should be permitted to be filed electronically via ULS.

5. Letter Requests

18. *Background.* The Commission's rules currently permit licensees in some

wireless services to request certain actions by letter instead of with a formal application filing. Each year WTB receives thousands of letter requests which must be processed manually. In addition, section 308(a) of the Communications Act of 1934, as amended (Communications Act) states that formal applications are not required during national emergencies or under other exceptional circumstances (Special Situations), 47 U.S.C. 308(a). This provision is not to be confused with the filing of requests for special temporary authority under section 309(f) of the Communications Act, 47 U.S.C. 309(f).

19. *Discussion.* The Commission seeks comment on whether requiring requests relating to licenses or applications to be filed using ULS forms rather than continuing to accept and process letter requests will better serve the public interest. Commenters should address whether the Commission should eliminate letter filings for applications, modifications, renewals, amendments, extensions, cancellations, special temporary authorizations, and name and address changes, except for the Special Situations set forth in section 308(a) of the Communications Act. The Commission notes that the forms are widely available to the public on the FCC's web page, via toll free telephone number, and through a fax-on-demand service, and their use should be far less burdensome for the public than drafting a letter request. Using a form instead of a letter will also enable Commission staff to handle requests more quickly and accurately. The Commission also notes that even if manually filed the ULS form is more likely than a letter to be sent directly to the appropriate Bureau and division for processing. In addition, many requests for minor modifications could, if filed on a form, be automatically granted, thus relieving the Commission of a significant processing burden. Nonetheless, the Commission is mindful that it may be unduly burdensome for some licensees to use a specific form rather than a letter to request minor changes to an application or license, such as a change of address. Therefore, commenters should address whether letter requests should be permitted under certain circumstances and if so, identify those circumstances.

B. Standardization of Practices and Procedures for WTB Applications and Authorizations

1. Overview—Consolidation of Procedural Rules in Part 1

20. *Background.* In the past, the Commission has adopted service-specific rules and procedures for processing applications in each wireless service, which are for the most part set forth in separate rule parts pertaining to each service. Thus, because many wireless service providers hold licenses in more than one service, they must consult multiple rule parts when filing applications. Each service's rules have generally been addressed in separate rulemaking proceedings, which took place at different times, inconsistencies arose in the processing procedures for each service as the Commission increasingly took a deregulatory approach to licensing procedures.

21. *Discussion.* The Commission proposes to consolidate the existing procedural rules for the wireless radio services into unified rules, located in part 1, that will be tailored to the new ULS database. Moreover, the Commission proposes to eliminate unnecessary or outdated procedural rules and conform inconsistent procedures to the extent feasible. The Commission notes that adopting a single set of procedural rules tailored to ULS will also make the licensing process more efficient and user-friendly. For example, applicants seeking multiple licenses in the same service or in more than one service will be able to submit basic licensee information (*e.g.*, name, address, ownership information) only once, and ULS can automatically incorporate this information into all subsequent applications associated with the same applicant. Thus, licensees need not resubmit licensee information that is already in the system unless that information has changed, in which case only a single filing would be required to update the system. The Commission encourages commenters to address the proposed changes, both to identify unnecessary and inconsistent rules and to identify any instances in which retention of service-specific rules is justified.

2. Standardization of Major and Minor Filing Rules

22. *Background.* Under current WTB rules, the standards for distinguishing between major and minor filings, particularly amendments to applications and modifications of licenses, have been addressed on a service-specific basis and are found in many provisions throughout the rules. The distinction between major and minor filings has significant procedural consequences in the application process, because a major amendment to an application causes the application to be considered newly filed, while a minor amendment generally has no impact on the filing date. A major amendment may be subject to an additional public notice period (where public notice is required) or deemed untimely filed if the new filing date falls outside a filing window. For example, a major ownership amendment to an application for which the filing window has closed would normally make that application untimely and therefore unacceptable for filing. Distinguishing major and minor modifications to licenses is similarly important, because major modifications are subject to the same public notice requirements as initial applications, and typically require prior Commission approval even where public notice is not required. Minor modifications, by contrast, do not trigger public notice obligations and often do not require prior Commission approval.

23. *Discussion.* The Commission proposes to adopt a single rule in part 1 that defines categories of major and minor changes for purposes of defining whether an amendment to an application or a request for license modification is major or minor. The Commission proposes that these major and minor categories should uniformly govern the filing date of applications in all wireless radio services. The Commission is not, however, proposing to revise the types of applications which require public notice or frequency coordination.

24. Some differentiation between services remains necessary based on whether they are licensed on a geographic area basis or a site-specific basis. For example, where a license is granted on a site-specific basis, virtually any change to the technical characteristics of the facility (*e.g.*, a change of coordinates, antenna height, or transmitting power) requires the Commission to modify the license. By contrast, most geographic licenses do not generally require modification for technical changes of this type to individual sites within a licensee's service area, because the license affords the licensee the flexibility to make these changes without modification of its authorization provided it complies with the basic operational and technical rules applicable to the service. As a result, where geographic licensing is involved, there are far fewer types of possible license modifications than where licensing is site-specific.

25. In addition, even among services licensed on a site-specific basis, some differentiation is required in defining major and minor changes due to the differing technical parameters governing mobile and fixed services. For example, mobile services involve communications between two or more stations in which at least one of the stations involved is mobile. *See* 47 U.S.C. 153(27). A common scenario would be where one or more mobile units communicate with a fixed base station and nearby co-channel and adjacent-channel stations are coordinated based on point-radius calculations of potential interference. In contrast, fixed services involve communications among one or more fixed sites. This results in the coordination of neighboring co-channel and adjacent-channel stations by identifying the potential for radio "paths" to interfere with one another. In both cases, however, the technical parameters proposed herein to define major and minor modifications are appropriate to identify which applications could significantly affect nearby licensees and differ consistent with the distinct ways in which co-channel stations are coordinated.

Major

26. Based on the proposed new categorizations, the Commission tentatively concludes that the following changes should be considered major:

For all stations in all wireless radio services, whether licensed geographically or on a site-specific basis:

- Any substantial change in ownership or control;
- Any addition or change in frequency, excluding removing a frequency;
- Any request for partitioning or disaggregation;
- Any modification or amendment requiring an environmental assessment (as governed by 47 CFR 1.1301–1319);
- Any request requiring frequency coordination—non-commercial mobile radio services (CMRS) private land mobile only; or
- Any modification or amendment requiring notification to the Federal Aviation Administration as defined in 47 CFR part 17 Subpart B.

In addition to those changes listed above, the following are major changes applicable to stations licensed to provide base-to-mobile, mobile-to-base, mobile-to-mobile, or repeater communications on a site-specific basis:

- Any increase in antenna height above average terrain (HAAT);
- Any increase in effective radiated power (ERP);
- Any change in latitude or longitude; or
- Any increase or expansion of coverage area (in this context, coverage area is defined in the rule parts governing the particular radio services).

In addition to those changes listed above, the following are major changes that apply to stations licensed to provide exclusively fixed point-to-point, multipoint-to-point, or point-to-multipoint communications on a site-specific basis:

- Any change in transmit antenna location by more than 5 seconds in latitude or longitude (*e.g.*, a 5 second change in either latitude or longitude would be minor);
- Any increase in frequency tolerance (Fixed Microwave only);
- Any increase in bandwidth;
- Any change in emission type;
- Any increase in EIRP greater than 3 dB;
- Any increase in EIRP greater than 1.5 dB (DEMS only);
- Any increase in transmit antenna height (above mean sea level) more than 3 meters;
- Any increase in transmit antenna beamwidth;
- Any change in transmit antenna polarization (fixed microwave only); or
- Any change in transmit antenna azimuth greater than 1 degree.
- Any change in latitude or longitude that requires special aeronautical study; or
- Any change which together with all minor modifications or amendments since the last major modification or amendment produces a cumulative effect greater than any of the above major criteria.

Minor

27. The Commission tentatively concludes that any change not specifically listed above as major should be considered minor. This would include:

- Any *pro forma* transfer or assignment;
- Any name change not involving change in ownership of the license;
- Any address and/or telephone number changes;
- Any changes in contact person;
- Any change to a CMRS site where the licensee's interference contours are not extended and co-channel separation criteria are met; or
- Any conversion of a site-specific license into a single wide-area license where there is no change in the licensee's aggregate service area.

28. In addition, the Commission proposes to combine the two categories of minor filings in part 101 into one category, which will not be required to be placed on public notice. The Commission is also correcting a minor discrepancy in the standard for a major change to antenna parameters that exists between an application amendment and modification to a station. The Commission seeks comment on these changes.

29. The Commission further proposes to allow licensees to implement minor modifications to their facilities without prior approval; licensees would be required only to electronically notify the Commission within 30 days of implementing the change. The Commission notes that there are times that applicants and licensees may submit multiple amendments or modifications that individually would be considered minor changes, but that combine to constitute a major change. In this connection, the Commission proposes that multiple minor changes will be considered a major change to the extent that their cumulative effects relative to the original authorization exceed the threshold(s) as major changes. We seek comment on this proposal. Commenters should address the standard we should adopt to alert applicants and licensees that multiple minor amendments or modifications will be considered a major change.

30. There are times that applicants and licensees may submit multiple amendments or modifications that individually would be considered minor changes, but that combine to constitute a major change. In this connection, the Commission proposes that multiple minor changes will be considered a major change to the extent that their cumulative effects relative to the original authorization exceed the threshold(s) as major changes. The Commission seeks comment on this proposal. Commenters should address the standard the Commission should adopt to alert applicants and licensees that multiple minor amendments or modifications will be considered a major change.

3. Submission of Ownership Information

31. *Background.* The existing service-specific rules contain varying requirements for submission of ownership information by wireless applicants and licensees. For example, in part 22, applicants for licenses are required to provide detailed real-party-in-interest information conceding stockholders, subsidiaries, and affiliates. *See* 47 CFR 22.108. Assignees and transferees of part 22 licenses must also file current ownership information on

Form 430 if a current report is not on file with the Commission. *See* 47 CFR 22.137(a). In part 101, microwave applicants are required to file real-party-in-interest information in conjunction with their applications. *See* 47 CFR 101.19. Most recently, in the *Part 1 Third Report and Order*, the Commission required all applicants for licenses or for consent to assignment or transfer of licenses in auctionable services to provide specific ownership information with either their short-form or long-form application. *See* 47 CFR 1.2112(a).

32. *Discussion.* These various reporting requirements are intended to enable the Commission to review whether applicants and licensees are in compliance with the real-party-in-interest rules, as well as with ownership restrictions such as the CMRS spectrum cap, cellular cross-ownership restrictions, eligibility for treatment as a small business at auction, and foreign ownership limitations. Entities who hold or apply for multiple licenses may be required to submit duplicative or inconsistent ownership information with each application.

33. The development of ULS provides an opportunity to fully implement the decision in the *Part 1 Third Report and Order* streamline the Commission's ownership disclosure requirements.

The Commission proposes to adopt a consolidated rule governing all submissions of ownership information by wireless applicants and licensees. The Commission proposes to utilize the new Form 602, developed for ULS, as the common form on which all wireless applicants and licensees submit required ownership information in connection with any application or licensing change. For entities applying for a license for the first time, whether by initial licensing, assignment, or transfer of control, an applicant subject to ownership reporting requirements would file this form simultaneously with the relevant license application (Form 175, 601, 603, or 604). The applicant would be required to submit only a single Form 602 in connection with multiple applications (whether in one wireless service or multiple services), and would be able to reference the same information in all future applications without refiling the form. The licensee would also use the Form 602 to provide amended or updated ownership information as required by the relevant rules, *e.g.*, in connection with transfers and assignments. The licensee would only have to file one ownership form to update this data for all of its licenses. The Commission seeks comment on this proposal.

34. The Commission also proposes to streamline and consolidate the rules regarding the types of ownership information that must be submitted by wireless applicants and licensees. The Commission proposes to eliminate all duplicative and inconsistent reporting requirements in service-specific rule parts that deal with auctionable services, *e.g.* the reporting requirements in part 22. This proposal does not preclude requiring different or more specific ownership information where circumstances warrant; *e.g.*, applicants seeking small business eligibility for auction purposes must typically file more detailed information regarding ownership and financial structure than other entities.

35. The Commission also seeks comment on whether to revise the rules regarding ownership information to be provided by applicants and licensees in non-auctionable services that are not subject to the disclosure requirements of the *Part 1 Third Report and Order*. For example, under part 101, all applicants, including private licensees operating systems exclusively for internal use, are required to disclose real party in interest information and certify that they are not representatives of foreign governments, but are not otherwise subject to ownership reporting requirements. The Commission also seeks comment on whether ULS should collect ownership information from applicants and licensees in non-auctionable services beyond what is currently required. For example, in some instances, licenses in private, non-auctionable services are held by commercial enterprises such as railroads or utilities, which could also hold licenses or interests in licenses in auctionable wireless services. The Commission seeks comment on whether the possible holding of both types of licenses raises potential competitive or spectrum management issues that would justify requiring such entities to provide ownership information in connection with applications for non-auctionable as well as auctionable licenses.

The Commission also seeks comment on what types of information should be provided. The Commission tentatively concludes that there is no need to extend ownership reporting requirements to applications or licenses held by governmental entities. The Commission also tentatively concludes that such requirements are unnecessary for the Amateur or General Mobile Radio Services or for Commercial Radio Operators, because these services are essentially personal in nature. The Commission seeks comment on these tentative conclusions.

4. Frequency Coordination of Amendment and Modification Applications

36. *Background.* In services requiring frequency coordination in parts 90 and 101 there are differing rules pertaining to coordination for amendments and modifications that involve substantial engineering changes to applications. Section 90.175 of the Commission's rules identifies numerous changes that do not require frequency coordination. However, § 101.103(d) of the rules requires all applicants seeking to amend applications or modify their authorizations to obtain a new frequency coordination.

37. *Discussion.* The Commission proposes amending § 101.103 by requiring frequency coordination only for those applicants filing amendments and modifications that involve changes to technical parameters that are classified as major.

Licensees making minor changes to technical parameters would only be required to notify the Commission, as well as the entity(ies) with which it normally engages in frequency coordination, of the minor change. The Commission seeks comment on this proposal.

5. Returns and Dismissals of Incomplete or Defective Applications

38. *Background.* Currently, electronic filing of applications involves the completion of a form on a computer and forwarding the completed application to the Commission. Incomplete or incorrectly filed applications are returned and/or dismissed in accordance with service-specific rules. The ULS filing system will reduce filing errors by assisting applicants who file electronically to fill in all required information. For example, ULS will prefill ownership and address information for applicants who are already Commission licensees. It will also interactively check that required elements of applications are completed and prompt applicants to correct errors. ULS can also be programmed to interactively perform certain clearances such as verifying tower registration. The Commission anticipates that this system, in combination with the consolidated rules proposed herein, will result in a higher percentage of grantable applications and help to ensure the integrity of the data in the licensing database.

39. There will be two means for parties to electronically file applications with the Commission: batch and interactive. Batch filing involves data transmission in a single action, without

any interaction with the Commission's ULS system. Batch filers will follow a set Commission format for entering data. Batch filers will then send via file transfer protocol (FTP) batches of data to the Commission for compiling. ULS will compile such filings overnight and respond the next business day with a return or dismissal for any defective applications. Thus, batch filers will not receive immediate corrections from the system as they enter the information.

40. Interactive filers will use a WWW browser to contact the Commission on the secure network and complete the appropriate Commission form in real time. Interactive filing will be accomplished through the Commission's WAN. No filing will be done over the Internet. The Commission's WAN can be accessed by using software available for downloading from the Commission's web site at http://www.fcc.gov/wtb/uls. Interactive filing involves data transmission with screen-by-screen prompting from the Commission's ULS system. Interactive filers will receive prompts from the system identifying data entries outside the acceptable ranges of data for the individual fields at the time the data entry is made. Interactive filers will be able to enter corrected information in real time; thus, they are less likely to submit applications that are incomplete or incorrect with respect to information in these fields.

41. *Discussion.* The Commission proposes to conform filing rules for all wireless radio services applicants so that batch, interactive, and, where applicable, manual filers will be subject to the same requirements and procedures for defective or incomplete applications. Interactively filed applications will be screened in real time by the ULS system; therefore, errors will be unlikely but may occur in some instances where erroneous information is entered. In the case of batch and manually filed applications, incomplete or erroneous filings will not be detected until after the application is filed. Manually filed applications, if erroneous, will not be returned until the WTB staff reviews the application and detects the problem. The Commission proposes that an applicant who submits an application that is accepted by ULS but that subsequently is found to have missing or incorrect information be notified of the defect in all cases, regardless of filing method, except as indicated below. The Commission seeks comment on allowing applicants 30 days from the date of this notification to correct or amend the application if the amendment is minor. If the amendment is major, the applicant's ability to refile will depend on whether major amendments are allowed under the circumstances (*e.g.*, whether the relevant filing window has closed). Notwithstanding the above, in all cases applications that are submitted without a sufficient fee or outside of an applicable filing window and manually filed applications that do not contain a valid signature will be immediately dismissed. The Commission seeks comment on these proposals.

42. Finally, the Commission proposes a method for handling confidential attachments to applications filed in the ULS. Currently, because applicants may submit proprietary or market sensitive data as attachments to their applications, they may request that the Commission treat these attachments as confidential. If the Commission does not grant this request for confidential treatment, the attachments in question are returned to the applicant, who may decide whether or not to resubmit them without restriction. Under the ULS applicants may request that an electronically submitted attachment be treated as confidential by checking the appropriate box on the attachment form. To ensure that these attachments are kept confidential in ULS, the Commission proposes the following security measures: (1) Any attachment designated as confidential will not be accessible from publicly available query utilities; and (2) a special user name and password will be required for Commission employees to view confidential attachments. To provide the same treatment under ULS as under the current system, the Commission proposes that if the request for confidential treatment is denied, the applicant would be informed and the attachments in question be deleted from the ULS database. The Commission requests comment on this proposal.

6. Discontinuation of "Reinstatement" Applications

43. *Background.* Presently, licensees in the Private Land

Mobile Services and Fixed Microwave Radio Services who do not file a timely renewal application are given a 30-day period following the expiration of their licenses in which to request reinstatement. *See* 47 CFR 1.926(c). This practice is inconsistent with other wireless radio service licensing rules where reinstatement is not permitted. *See, e.g.*, 47 CFR 22.145. The Commission seeks comment on whether to modify the rules to utilize ULS to notify applicants of the renewal period for their licenses. This would eliminate the reinstatement period and instead automatically cancel the license following expiration.

44. *Discussion.* In order to provide regulatory symmetry among all wireless services, the Commission proposes to provide automatic pre-expiration notification to all wireless radio services licensees through ULS and to eliminate the reinstatement period in those services that currently allow reinstatement applications. This proposal does not affect the five-year grace period within which holders of Commercial Radio Operator licenses may renew expired licenses without retaking the required examination. *See* 47 CFR 13.13(b). Specifically, the Commission proposes that ULS would send notices to all wireless radio services licensees, both site-specific licensees and geographic area licensees, 90 days before the expiration of their licenses. The Commission seeks comment on this proposal. Commenters should address whether 90 days is the appropriate amount of time prior to expiration to send this information. Under this procedure, failure to file for renewal of the license before the end of the license term would result in automatic cancellation of the license. The Commission tentatively concludes that existing rules allowing reinstatement of expired licenses should be eliminated because, under the proposed new rules: (1) Licensees will receive notification that their licenses are about to expire and, therefore, should be responsible for submitting timely renewal applications; and (2) interactive electronic filing will make it easier for all licensees to timely file renewal applications. In addition, Commission forms are widely available to the public on the FCC's web page, http://www.fcc.gov/formpage.html; via toll free telephone number, 1–800–418–3676; and through fax-on-demand service, (202) 418-0177. Licensees should be able to obtain the form more easily than before to timely file their renewal application. The Commission seeks comment on the tentative conclusions and on whether this approach will have a negative effect on public safety and local government licensees. In particular, the Commission requests comment on whether such entities should be subject to a different procedure, and if so, what that procedure should be.

45. To the extent that the Commission adopts its automatic cancellation proposals, licensees whose licenses have been automatically cancelled may file a petition for reconsideration of the cancellation or may file a new license application. The ULS system will show a license expiration as final 30 days

after the automatic cancellation date if no petition for reconsideration is filed. Such licenses would then be available for the Commission to reauction or otherwise reassign. If a petition for reconsideration is filed, the license would remain in the ULS pending action on the petition. If the Commission determines that the spectrum is available for reassignment or reauction, the license cancellation will be placed on public notice and a separate public notice will be issued indicating filing procedures for that spectrum. This system comports with the current rules in certain services that allow a filing window for renewals, and those services that have automatic cancellation provisions for failure to file a timely renewal application. The Commission seeks comment on these proposals. Neither the ULS procedures nor this NPRM is intended to affect the rules in place governing the amateur vanity call sign system cancellation and reassignment procedures.

46. The Commission now informs applicants and licensees of Commission actions in writing. The Commission proposes to allow licensees to choose whether they want to continue to be notified in writing via regular mail or instead be notified of Commission actions concerning applications contained in the ULS via electronic mail. The Commission proposes that notification by electronic mail be considered the same notice as notification by regular mail. The Commission further proposes that if the licensee does not choose electronic mail regular mail will be used for such notifications. The Commission seeks comment on these proposals.

7. Construction and Coverage Verification

47. *Background.* In all wireless radio services, licensees are subject to construction and, in some instances, coverage requirements, and are subject to automatic license cancellation if these requirements are not met. Different procedures have evolved in different services for verifying whether licensees have in fact met these requirements. In some wireless radio services, the rules provide that licenses are cancelled if the licensee fails to notify the Commission that it has met its construction or coverage requirement. *See, e.g.*, 47 CFR 21.44. In other services, licenses are cancelled automatically if a licensee fails to construct by its construction deadline. *See, e.g.*, 47 CFR 22.142, 90.155, 90.629, 101.63, 101.65. In some, but not all, of the latter services, the Commission staff sends letters to determine compliance and then notifies licensees that their licenses are cancelled when licensees fail to certify compliance or state that they did not meet the construction or coverage requirements. In some services that are licensed by geographic area, licensees may forfeit their license by failing to meet coverage requirements, but no procedures have been established for notifying licensees of approaching deadlines or confirming that these deadlines have been met.

48. *Discussion.* The ULS can be programmed to remind licensees by letter or electronic mail that a construction or coverage deadline is approaching and can also be programmed to permit construction notifications to be filed electronically. The Commission proposes to establish uniform procedures for using the ULS to notify all wireless radio licensees of upcoming construction or coverage deadlines. This will conform the rules for all wireless radio services licensees so that similarly situated applicants and licensees are treated equally. In addition, this will lessen the burden on applicants and will ensure that deadlines are met or that the public receives timely notification of terminations. Under this proposal, ULS would automatically send each licensee via e-mail or regular mail a reminder letter before the applicable construction or coverage deadline. The Commission seeks comment on how far in advance the notification should be sent. After receiving notification, licensees would then verify that they have met these requirements by updating their FCC Form 601 already on file with ULS. The Commission notes that the notification procedure proposed is not intended to replace the basic construction and coverage requirements. Thus, even if a licensee does not receive a reminder letter, it remains obligated to meet its construction and coverage benchmarks and cannot site the lack of notification as an excuse for non-compliance.

49. The Commission proposes requiring notifications filed by wireless radio services licensees to be filed electronically. If a licensee does not file the required notification of completion of construction or satisfaction of the coverage requirements, the ULS would send a letter advising the licensee of the termination of the authorization. The ULS would then generate a public notice announcing the termination, which would be deemed final 30 days after the public notice date. The Commission seeks comment on this proposal.

50. The Commission proposes to require wireless radio licensees to certify compliance with construction requirements relating to modification applications that involve additional frequencies. The Commission also proposes to require fixed microwave licenses awarded on a site-by-site basis to certify compliance with construction requirements for additional or increased service area coverage (*e.g.*, a new station, a change in antenna height or EIRP). In addition, the Commission proposes to amend § 101.63 of the rules, 47 CFR 101.63, to require fixed microwave licensees to file a further modification application if they fail to construct a granted modification. This proposal, if adopted, will codify the processing practice as it currently exists in which licensees failing to construct a granted modification must file a further modification application to return the license to its pre-grant status. The Commission seeks comment on these proposals.

8. Assignments of Authorization and Transfers of Control

51. *Background.* The Communications Act requires the Commission to approve assignments of licenses and transfers of control of licensees. *See* 47 U.S.C. 310(d). In the wireless radio services, the Commission currently process applications for proposed assignments and transfers of control in two ways. Under the CMRS rules, requests for approval of both assignments and transfers are filed on a common application form. Following the approval of the assignment or transfer, the licensee must then file a notification with the Commission that the transaction has been consummated, at which point the Bureau amends its licensing database. *See, e.g.*, 47 CFR 22.137, 24.839, 26.324, 27.324. In the private and common carrier microwave services, licensees use one of two forms to request Commission approval, depending on whether the proposed transaction is an assignment of license or a transfer of control. The rules applicable to part 90 services and microwave transfers and assignments also differ from the equivalent CMRS rules in that no post-consummation notice is required; instead, the Bureau amends its database upon approval of the assignment or transfer without seeking confirmation that the transaction was consummated. *See, e.g.*, 47 CFR 80.29, 87.31, 90.153, 101.53.

52. We note that we recently exercised our forbearance authority for certain *pro forma* transfers of control and assignments or licenses involving telecommunications service providers licensed by the Wireless Telecommunications Bureau. Specifically, we granted a petition for

forbearance filed by the Federal Communications Bar Association regarding the prior notification and approval requirements for *pro forma* transfers and assignments. Rather than requesting approval of the *pro forma* transaction before it has occurred, licensees must submit written notification of the *pro forma* transaction within 30 days after consummation, either in letter form or by using the appropriate FCC transfer and assignment form, and must update their records as necessary. *See* 47 CFR 22.137(a)(1), (b); 24.439(a)(3); 24.839(a)(1); 27.324(a)(3), (b)(3); 90.153(a)(1), (b); 101.53(a)(1). Those licensees subject to unjust enrichment provisions, and those transactions involving proxy mechanisms, require additional review and may not take advantage of this forbearance.

53. *Discussion.* The Commission proposes to consolidate the transfer and assignment rules for all wireless services in part 1, and to eliminate inconsistencies between the procedures that currently govern CMRS and microwave licenses. First, the Commission proposes to replace the multiple existing forms for transfers and assignments in the various services with two ULS forms, FCC Form 603 for assignment of licenses and FCC Form 604 for transfers of control. *See* proposed rule 47 CFR 1.931(c). The Commission proposes using two different forms tailored to the two categories of transactions. This will make entering the required information easier and will thereby reduce the filing burden on licensees. The Commission seeks comment on these proposals.

54. The Commission also proposes to conform the rules with respect to post-transaction notification that a Commission-approved transfer or assignment has been consummated. The Commission proposes to require post-consummation notification prior to changing the database to reflect the grant. *See* proposed rule 47 CFR 1.913. Problems can occur when an assignment or transfer approved by the Commission is entered into the licensing database under this streamlined procedure and is not subsequently consummated. In the absence of a notification procedure, no efficient mechanism exists for correcting the database under these circumstances. Instead, the Commission has generally required the filing of a second transfer application that reflects the "return" of the license from the putative transferee to the original licensee.

55. With the advent of ULS, a uniform post-consummation notification process can be established that will be efficient and easy to use for all wireless licensees. Using the electronic filing capabilities of the system, licensees will be able to provide such notification by accessing their previously filed Form 603 or 604 associated with a transaction and entering updated information regarding its consummation. The Commission proposes to require post-consummation notification under ULS using procedures similar to those currently applicable to CMRS transfers and assignments. The Commission also tentatively concludes that these notification procedures should be reinstated for transfers and assignments of microwave licenses, notwithstanding the prior elimination of the post-consummation notification requirement in the microwave services. Under ULS, the burden of filing such notifications will be substantially reduced. In addition, uniform procedures will ensure regulatory symmetry and will help avoid database errors associated with unconsummated transactions. The Commission seeks comment on this approach.

56. Finally, the Commission proposes to apply these same post-consummation procedures to pro forma transactions for which the streamlined procedures were recently adopted. Thus, in the case of pro forma transfers and assignments involving telecommunications carriers, for which prior Commission approval is no longer required, the Commission tentatively concludes that licensees should provide the required post-consummation notification and related information regarding the transaction on Form 603 or 604.

9. Change to North American Datum 83 Coordinate Data

57. *Background.* To perform its licensing role, WTB requires that certain applicants submit coordinate data with their applications. In these rules, applicants are required to submit coordinate data using the 1927 North American Datum (NAD27) geographical survey. A more recent North American Datum (NAD83) was completed in 1983, which provides updated coordinate data. NAD83 was adopted as the official coordinate system for the United States in 1989.

58. *Discussion.* The Commission tentatively concludes that use of NAD83 will result in more accurate licensing decisions via the ULS and will also conform with the current Federal Aviation Administration regulations which require the use of NAD83 data. The Commission proposes that all wireless radio services application processing rules requiring the submission of site coordinate data should be revised to require that such data be supplied using the NAD83 datum for sites located in the coterminous United States and Alaska. Additionally, the Commission proposes that the rules be revised to require site coordinate data for sites in areas such as Hawaii, Puerto Rico, the South Pacific Islands, etc., be submitted using WGS84. Adoption of this proposal would conform the rules with those of the FAA. The Commission seeks comment on this tentative conclusion and proposal.

10. Use of Taxpayer Identification Numbers

59. *Background.* In 1996, Congress enacted the Debt Collection Improvement Act as part of an effort to increase collection from private entities of delinquent government debts. *See* Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104–34, Chapter 10, 110 Stat 1321, 1321–1358 (1996) (DCIA). As a result of DCIA, the Commission and executive agencies are required to monitor and provide information about their regulatees to the U.S. Treasury. This provision includes a requirement that the Commission collect Taxpayer Identifying Numbers (TIN) and share them with the U.S. Treasury to ensure that the Commission does not refund monies to entities that have an outstanding debt with the federal government. TINs are 9-digit identifiers required of all individuals and employers to identify their tax accounts. Individuals use their Social Security Number as their TIN. Therefore, for the purposes of this NPRM, the term "Taxpayer Identification Number" shall mean "Social Security Number" for individuals. Employers use their Employer Identification Number (EIN) as their TIN. Such numbers are sometimes referred to as Federal Identification Numbers (FIN). EINs are issued by the IRS to all employers whether or not they pay taxes. These employers include corporations, sole proprietors, partnerships, state and local governments, limited liability companies, non-profit organizations, and federal government/military agencies. TINs are an integral part of the DCIA system and are necessary for the collection of delinquent debt owed to federal agencies. The TIN matches payment requests with delinquent information. As a result, federal agencies have been required to share the TINs of payment recipients since April 26, 1996, the effective date of DCIA. The Financial Management Service of the U.S. Treasury has recommended that agencies obtain the TIN when an agency first has direct contact with a person.

60. The Commission has already taken steps to ensure proper collection of TINs from parties seeking to make filings using ULS. Development of the ULS will require that we continue to collect TINs from wireless radio services applicants and licensees because some of these parties may be the recipients of a refund for overpayment of filing and/or regulatory fees or auction bids. The WTB has received approval from OMB to require existing licensees to register their TIN using FCC Form 606. Form 606 is for use on an interim basis, until the ULS is operational.

61. *Discussion.* The Commission proposes that all parties seeking to make filings through ULS should be required to submit a TIN as a prerequisite for using the system and the Bureau should use TINs as the unique identifier for such parties. Parties submitting manually filed applications should also be required to supply their TIN on their application form because all such applications will be placed on the ULS and a TIN is necessary to track these applications. Parties filing applications using ULS would be required to complete Form 606 to register their TIN. Parties seeking to file a pleading electronically through ULS would not be required to submit a TIN but rather will be permitted to register with the ULS using a unique identifier and password of their choosing. Members of the public would not be required to register to simply view applications or search the ULS database. The Commission seeks comment on whether requiring the use of TINs with the ULS system would satisfy the requirements of the DCIA and would provide a unique identifier for parties filing applications with the ULS that would ensure that the system functions properly. The Commission tentatively concludes that the TIN is the logical choice for the system identifier because it is unique to each licensee and applicant, and these parties will likely have already obtained a TIN from the Internal Revenue Service in order to conduct their business. The Commission would take steps to prevent misuse of TINs; for example, the ULS system would be designed so that TINs will not be available to the public. Only a small number of Commission employees would have access to TIN information in conjunction with their work. Finally, a Privacy Act submission would be published in the **Federal Register** to obtain the requisite public and Congressional comment and OMB approval prior to implementation of the ULS system. The Commission seeks comment on these tentative conclusions and proposals.

C. Collection of Licensing and Technical Data

1. Overview

62. The Commission has identified certain existing data collection requirements and licensing requirements that no longer serve a useful purpose or that can be further streamlined. Accordingly, the Commission takes this opportunity to propose the elimination or streamlining of such requirements. The Commission seeks comment on the types of technical data that should be collected from applicants and licensees, and whether there are particular data collection requirements that should be either added or deleted.

63. *Background.* Prior to geographic area licensing, all wireless radio services were licensed on a site-by-site basis. The Commission's rules currently require most applicants for site-specific licenses in the wireless radio services to submit technical details regarding their proposed stations. For example, all applicants are required to disclose the location of all antenna sites, transmit power, and emission characteristics. *See, e.g.,* 47 CFR 90.119. Such detail is necessary for site-specific licensing (1) to minimize the potential for harmful interference between stations; (2) to meet the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4335; (3) to perform international coordination; (4) to carry out spectrum management responsibilities; and (5) to ensure the proper enforcement of our rules. The collection of technical data for each site may not be appropriate under geographic area licensing. The Commission has reduced the amount of technical information required by geographic area licensees; however, geographic area licensees currently have different reporting requirements depending on the service under which they are licensed. For example, PCS licensees must comply with the technical rules of 47 CFR part 24, but are not required to submit any technical data to the Commission on their application forms and cellular licensees need only submit technical data for the cell sites that comprise their Cellular Geographic Service Area (CGSA). In contrast, the service specific rules for the Local Multipoint Distribution Service (LMDS), 220 MHz, and 800 MHz Specialized Mobile Radio (SMR) require that applicants submit technical data for all sites even though licenses for these services either have been or are scheduled to be auctioned on a geographic basis.

64. *Discussion.* The Commission proposes to examine the technical reporting requirements for all geographic area licensees with a view toward equalizing, as much as possible, the reporting burden on such license holders. This proposal will ensure that similarly situated licensees are treated in a consistent manner, and allow the Commission to more effectively collect the data needed to fulfill the statutory mandates. The Commission believes that applicants for geographic area licenses in the wireless telecommunications services should, at a minimum, provide technical information (1) when an Environmental Assessment is needed, as prescribed by 47 CFR 1.1307; or (2) to effect international coordination, when necessary. Site data is also needed where towers will extend more than 200 feet above ground or will be located near an airport in order to maintain safety in air navigation.

65. The Commission believes that a reduced filing burden would be in the public interest. The Commission believes that it can eliminate those rules and requirements that are no longer necessary by changing the rules to make the technical reporting requirements more consistent. The Commission realizes that technical data is needed in situations other than those cited above (*e.g.,* for coordination between adjacent geographic areas, for enforcement purposes, or to improve our overall management of the spectrum), and that some licensees may be required to submit more detailed information than previously required. The Commission seeks comment on what reporting requirements, both technical and non-technical, should be established for geographic area licensees. Commenters should indicate those rules and requirements that can be eliminated from the wireless radio services rules, those that will need to be modified, and any additional requirements that may be necessary to make the reporting requirements consistent across services. When providing comments on this issue, commenters should clearly distinguish between the reporting requirements for geographic area and site-specific licensees. Additionally, there are many instances where geographic area licenses have been granted in areas that have site-specific, incumbent licensees (*e.g.,* LMDS, 220 MHz, 800 MHz SMR). These situations should also be considered when addressing reporting requirements. Finally, when discussing rule and reporting requirement changes,

commenters should suggest specific procedures to allow the collection of required information in a way that puts the least burden on licensees.

2. Use of Notification or Certification in lieu of Informational Filings

66. *Discussion.* The Commission proposes to replace many data or other informational filing requirements with either certification or notification, where appropriate. As with applications, the Commission proposes to require that wireless radio services licensees file certifications and notifications electronically. Some certification statements will be made directly on a form or schedule, while others will be made in an exhibit. Only certifications made on a form or schedule will be searchable in ULS. An example of a new certification requirement in lieu of an information filing requirement can be found in proposed § 101.701, which requires common carrier fixed microwave licensees to certify that substantial non-private use is being made of facilities used to relay broadcast television signals.

67. The Commission is proposing to change some informational filings to notification. An example of a new notification requirement in lieu of an informational filing is in proposed section 101.305, where non-dominant common carriers planning to discontinue service must give electronic notification of discontinuance to the Commission. The Commission seeks comment on these proposals.

3. Public Mobile Radio Service Data Requirements

68. *Discussion.* Under part 22 of the Commission's rules, applicants for certain Public Mobile Radio Service licenses are required to file antenna model, manufacturer, and type with the Commission. *See* 47 CFR 22.529(b)(2). This antenna information is no longer required due to the way that service contours and CGSAs are determined. Accordingly, the Commission tentatively concludes that the antenna information that is presently collected is superfluous. The Commission proposes to eliminate this filing requirement.

69. In addition, the rules currently require that unserved area applicants in the Cellular Radiotelephone Service submit paper copies of: (1) An application cover, (b) transmittal sheet, (c) table of contents, and (d) numerous engineering exhibits. *See* 47 CFR 22.953. These paper copy requirements are inconsistent with the proposal to require electronic filing by cellular applicants. The Commission proposes to eliminate this requirement for cellular unserved applicants. The Commission seeks comment on this proposal.

4. Fixed Microwave Service Data Requirements

70. *Discussion.* Effective August 1996, the Commission consolidated all regulations concerning fixed microwave services from parts 21 and 94 of the Commission's rules into a single consolidated part 101, eliminating and combining a number of rules. Fixed microwave service applicants are required to file the following four items of technical information: Type acceptance number, line loss, channel capacity, and baseband signal type for each application. *See* 47 CFR 101.21. The Commission proposes to eliminate these filing requirements for fixed microwave service applicants because it is not critical that such information be filed with the Commission, nor does it provide useful data in support of WTB licensing processes. The Commission seeks comment on this proposal.

5. Maritime and Aviation Services Data Requirements

71. *Discussion.* Presently, applicants for certain types of station licenses in the Maritime and Aviation radio services are required to submit written showings with their applications in order to provide specific information concerning eligibility, to verify frequency coordination, or to show that the U.S. Coast Guard or Federal Aviation Administration approves of the operation of the proposed station. In order to facilitate electronic filing for these radio services, the Commission proposes to eliminate various rules which currently require applicants to attach the types of showings and coordination statements described above. *See* 47 CFR 80.21, 80.33, 80.53, 80.469, 80.511, 80.513, 80.553, 80.605, 87.37, 87.215, 87.239, 87.301, 87.305, 87.307, 87.321, 87.323, 87.347, 87.419, 87.421, 87.423, 87.447, 87.475, 87.481, 87.527. The Commission proposes to allow applicants to certify that certain information is correct or that appropriate coordination has taken place in lieu of these written showings. Where applications involve safety of life at sea or in air navigation, the Commission proposes to reserve the right to contact applicants to obtain additional information where such action serves the public interest. The Commission seeks comment on whether this proposal could negatively affect the quality of maritime or aviation communications. Commenters opposing the proposed rule changes should identify which written showings should be retained, why they should be retained, and any alternative rule changes that could aid in achieving our goal of facilitating electronic filing in the wireless services.

72. Section 87.305 requires flight test station applications to include a statement from a frequency advisory committee, including detailed technical information to be specified at the time of licensing. This is in contrast to other coordination statements required for these services. The Commission seeks comment on how best to implement these proposals. The Commission seeks comment on whether the frequency advisory committee should be required to submit the application on behalf of the applicant, as is current practice in the Private Land Mobile Radio Services. Alternatively, the Commission seeks comment on whether individual applicants should be allowed to specify the technical data at time of application and certify that it is correct and represents the committee's recommendation.

73. In addition to the written showings, there is another inconsistency between the current procedures for licensing Maritime and Aviation radio stations and other types of wireless systems. The rules currently prohibit the assignment of ship and aircraft station licenses between entities otherwise eligible for licensing. *See* 47 CFR 80.56 and 87.33. The intent of these rules is to maintain the integrity of the data stored in the Commission's ship and aircraft licensing databases. As a practical matter, this means that when a ship or aircraft is sold, the former owner is required to submit its license to the Commission for cancellation and the new owner must request a new station license. The Commission tentatively concludes that prohibiting the assignment of ship and aircraft station licenses no longer serves any regulatory purpose and that better service to the public could be provided by allowing licensees to assign their station licenses, as is done for other wireless services. Therefore, the Commission proposes to eliminate the prohibition against assigning ship and aircraft station licenses, so long as applicants provide updated information concerning the stations in question upon application for assignment. The Commission seeks comment on this tentative conclusion and proposal.

6. Commercial Radio Operator License Data Requirements

74. *Discussion.* Commission-licensed Commercial Radio Operators serve as radio officers aboard U.S. vessels, repair and maintain maritime or aviation radio

equipment, and use international maritime and aviation frequencies to communicate with foreign stations. In order to obtain a license, an applicant must contact a Commission-certified examination manager, pass one or more written tests, obtain a proof of passing certificate (PPC) from the examination manager, and provide the original PPC to the Commission upon application for a license. *See* 47 CFR 13.9. The Commission tentatively concludes that it must retain measures to verify whether an applicant has passed the requisite examinations. License holders are responsible for emergency communications aboard vessels and for repairing radio equipment that serves as a mariner's or pilot's lifeline during emergencies. In the future, the Commission's role in ship inspections may be performed by the private sector and license holders may be responsible for inspecting compulsory radio installations aboard U.S. vessels. Because of the critical, safety-related responsibilities of license holders, the Commission must ensure that only qualified individuals receive a Commercial Radio Operator license. The Commission seeks comment on ways to automate the verification of applicants' PPCs. One alternative would be for examination managers to electronically file with the Commission data showing which examination elements an examinee has passed. A second option would be for examination managers to establish procedures that would allow them to verify the authenticity of a PPC, upon Commission request. A third option would be to require examination managers to submit applications on behalf of applicants. Commenters should discuss the administrative burdens associated with automating the verification of PPCs, and any alternative solutions.

7. Amateur Radio Services

75. *Discussion.* The United States has reciprocal arrangements with 65 countries to allow amateur operators to operate their stations temporarily in the other country. The Commission currently grants annually some 2,000 reciprocal permits for alien amateur licensee (FCC Form 610–AL) to amateur operators from those countries. The visitor must obtain the application form (FCC Form 610–A)—which is often difficult to do in a foreign country—and file it with the Commission. No standards are required of these applicants other than possession of the license document issued by their country of citizenship. There is no fee. The FCC-issued permit simply confirms that the holder of the permit also holds a license from his or her home country. No permit is required for Canadian amateur operators who visit the United States because they are authorized to operate by rule. *See* CFR 97.5(c)(2), 97.7(b). The Commission tentatively concludes that there is little or no need to continue issuing the reciprocal permit for alien amateur licensees because the license from any foreign country with which the United States has reciprocity would stand as the proof that the foreign operator is qualified for the reciprocal operating authority. The Commission proposes to authorize all reciprocal operation by rule. No citizen of the United States, regardless of any other citizenship held, would be eligible under this authorization procedure. United States citizens would continue to have to acquire an FCC-issued amateur operator license by passing the requisite examinations.

76. Currently, the Commission processes annually some 1,500 applications for new, renewed, and modified amateur service club, military recreation, and radio amateur civil emergency service ("RACES") station grants. Application is made on FCC Form 610–B. There is no fee. The resulting license grant simply authorizes the use of a unique call sign in the station identification procedure; it does not authorize any operating privileges. Section 4(g)(3)(B) of the Communications Act authorizes the Commission, for purposes of providing club and military recreation station call signs, to use the voluntary, uncompensated and unreimbursed services of amateur radio organizations that have tax-exempt status under section 501(c)(3) of the Internal Revenue Code. ULS provides an opportunity to utilize the electronic batch filing services provided by the private sector. The Commission proposes to accept the services of any organization meeting the minimum requirements of section 4(g)(3)(B) of the Communications Act that completes a pilot electronic autogrant batch filing project similar to that completed by the 16 volunteer-examiner coordinators ("VECs"). The Commission anticipates that many VECs would be likely to volunteer their service as club station call sign administrators. The Commission seeks comment on this proposal.

8. General Mobile Radio Service

77. *Background.* The GMRS is a land mobile radio service for short-distance two-way communications. It is used to facilitate the business or personal activities of licensees and their immediate family members. There are fifteen channels allocated to this service. Applicants may be authorized to use up to ten of these channels. Applicants are currently required to submit technical information and location information for control points and small base stations.

78. *Discussion.* All GMRS channels are shared and no frequency coordination is required; therefore, the Commission proposes to revise the rules for GMRS to limit the data collection required of individuals applying for a license to contact information, such as name, address, and telephone number. Additionally, the Commission proposes to authorize stations to transmit on any authorized channel from any geographical location where the FCC regulates communication without the need for temporary licensing. The Commission believes that there is no regulatory purpose to be served by limiting the number of frequencies for which a licensee may be authorized or by collecting technical information from applicants. The Commission seeks comment on these proposals.

III. Conclusion

79. In this proceeding, the Commission has set forth proposals to consolidate the licensing rules into a single set of rules for all wireless radio services. The Commission's goal is to establish a streamlined set of rules that minimizes filing requirements as much as possible; eliminates redundant, inconsistent, or unnecessary submission requirements; and assures ongoing collection of reliable licensing and ownership data. These consolidated rules will eliminate duplication and inconsistencies that exist in the rules and will make it easier for applicants to determine our application requirements by referencing a single set of licensing rules. Such consolidation will allow the ULS to function more efficiently and provide licensing information to members of the public. The Commission also believes that development of full electronic filing and universally available databases for the wireless radio services will shorten application filing times for applicants, make the most recent data available to them concerning other spectrum uses, and allow the Commission to operate with greater efficiency.

IV. Procedural Matters and Ordering Clauses

A. Regulatory Flexibility Act

Summary: As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities

of the rules proposed in the Notice of Proposed Rulemaking (*NPRM*) in WT Docket No. 98–20. Written public comments are requested on the IRFA. Comments on the IRFA must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM*. The Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Reason for Action: In this *NPRM*, the Commission proposes to revise, consolidate, and streamline the rules governing application procedures for radio services licensed by the Wireless Telecommunications Bureau ("wireless radio services").

Objectives: The Commission proposes to modify and consolidate the rules to: (1) Facilitate the development of electronic filing through the universal licensing system (ULS); (2) require, where appropriate, electronic filing of applications; (3) streamline licensing processes and procedures; and (4) conform application and filing rules for all wireless radio services licensees so that similarly situated applicants and licensees are treated fairly.

Reporting, Recordkeeping and Other Compliance Requirements: All wireless radio services will be subject to processing through the ULS, if the proposed rules are adopted. Therefore, under the proposed rules, all new wireless radio services license applications will be processed through ULS using one or more of the new forms to the *NPRM*. In addition, any modification to an existing license will also use the new forms and will be entered and processed in the ULS. Other notifications that are required by the proposed rules will also be filed with the new standard forms and processed through ULS.

Under the proposed rules, each applicant or licensee must submit the appropriate application form depending on the purpose of the application. In addition, some licensees may be required to submit or confirm ownership information on an annual basis. The *NPRM* seeks comment on whether manual filing will be permitted. Electronic filing through the ULS should be easier for applicants than the current system. The ULS will prompt the applicant for the necessary information and will provide interactive error messages if information is not filed correctly. The system will allow the applicants to correct applications prior to submitting them, saving time and processing steps for the FCC and the applicants. The Commission notes that electronic filing will require a modem equipped computer to file interactively through the FCC private wide area network, which may be burdensome for some filers.

The ULS was designed to identify each individual licensee by their taxpayer identification number (TIN) assigned to the entity or individual (social security number will be used in the case of an individual filing for a license). The TIN is required by licensees pursuant to the Debt Collection Act of 1995. All existing licensees will be required to identify all of their call signs and their TIN. The system will assign a unique sequential identification number to each entity or individual. This number will be used instead of the TIN for public queries to the ULS database. Uniquely identifying entities and associating their license records to the entity will eliminate the data collection requirement for modifications and new license applications that are filed electronically through the ULS.

Federal Rules Which Overlap, Duplicate or Conflict With These Rules: None.

Description and Number of Small Entities Involved: 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 our rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, there are 275,801 small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were 85,006 such jurisdictions in the United States.

In addition, the term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act. Under 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) meets any additional criteria established by the Small Business Administration (SBA).

The rule changes proposed in the *NPRM*, if adopted, will affect all small businesses filing new license applications or modifying or renewing an existing license. To assist the Commission in analyzing the total number of affected small entities, commenters are requested to provide estimates of the number of small entities who will be affected by the rules proposed in this *NPRM*. The Commission estimates the following number of small entities may be affected by the proposed rule changes:

1. Cellular Radiotelephone Services

The Commission has not developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. The size data provided by the SBA does not enable the Commission to make a meaningful estimate of the number of cellular providers which are small entities because it combines all radiotelephone companies with 500 or more employees. The 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, is the most recent information available. This document shows that only twelve radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. The Commission assumes, for purposes of this IRFA, that all of the current cellular licensees are small entities, as that term is defined by the SBA. In addition, the Commission notes that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. The most reliable source of information regarding the number of cellular service providers nationwide appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). The report places cellular licensees and Personal Communications Service (PCS) licensees in one group. According to the data released in November, 1997, there are 804 companies reporting that they engage in cellular or PCS service. It seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees; however, the Commission is unable at this time to estimate with greater precision the number of cellular service carriers qualifying as small business concerns under the SBA's definition.

For purposes of this IRFA, the Commission estimates that there are fewer than 804 small cellular service carriers.

2. Broadband and Narrowband PCS

Broadband PCS. The broadband PCS spectrum is divided into six frequency blocks designated A through F. The Commission has defined "small entity" in the auctions for Blocks C and F as a firm that had average gross revenues of less than $40 million in the three previous calendar years. This definition of "small entity" in the context of broadband PCS auctions has been approved by the SBA. The Commission has auctioned broadband PCS licenses in blocks A through F. All qualified bidders in the C and F block auctions were entrepreneurs. Entrepreneur was defined for these auctions as entities, together with affiliates, having gross revenues of less than $125 million and total assets of less than $500 million at the time the FCC Form 175 application was filed. Ninety bidders, including C block reauction winners, won 493 C block licenses and 88 bidders won 491 F block licenses. For purposes of this IRFA, the Commission assumes that all of the 90 C block broadband PCS licensees and 88 F block broadband PCS licensees, a total of 178 licensees, are small entities.

Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded in the auctions. Given that nearly all radiotelephone companies have no more than 1,500 employees, and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, the Commission assumes, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

3. 220 MHz Radio Services

Since the Commission has not yet defined a small business with respect to 220 MHz radio services, it will utilize the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. With respect to the 220 MHz services, the Commission has proposed a two-tiered definition of small business for purposes of auctions: (1) For Economic Area (EA) licensees, a firm with average annual gross revenues of not more than $6 million for the preceding three years; and (2) for regional and nationwide licensees, a firm with average annual gross revenues of not more than $15 million for the preceding three years. Given that nearly all radiotelephone companies employ no more than 1,500 employees, for purposes of this IRFA the Commission will consider the approximately 3,800 incumbent licensees as small businesses under the SBA definition.

4. Paging Services

The Commission has proposed a two-tier definition of small businesses in the context of auctioning geographic area paging licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million; or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Since the SBA has not yet approved this definition for paging services, the Commission will utilize the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to *Telecommunications Industry Revenue* data, there were 172 "paging and other mobile" carriers reporting that they engage in these services. Consequently, the Commission estimates that there are fewer than 172 small paging carriers. The Commission estimates that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

5. Air-Ground Radiotelephone Service

The Commission has not adopted a definition of small business specific to the Air-Ground radiotelephone service. Accordingly, the Commission will use the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground radiotelephone service, and the Commission estimates that almost all of them qualify as small entities under the SBA definition.

6. Specialized Mobile Radio (SMR) Service

The Commission awarded bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than $15 million in each of the three previous calendar years. This regulation defining "small entity" in the context of 900 MHz SMR has been approved by the SBA. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. The Commission assumes for purposes of this IRFA that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 900 MHz SMR band, and recently completed an auction for geographic area 800 MHz SMR licenses. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. In the recently concluded 800 MHz SMR auction there were 524 licenses won by winning bidders, of which 38 licenses were won by small or very small entities.

7. Private Land Mobile Radio Service

Private Land Mobile Radio systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. The Commission has not developed a definition of small entities specifically applicable to Private Land Mobile Radio licensees due to the vast array of Private Land Mobile Radio users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission is unable at this time to estimate the number of small businesses which could be impacted by the rules. The Commission's 1994 Annual Report on Private Land Mobile Radio indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the Private Land Mobile Radio bands below 512 MHz. Any entity engaged in a commercial activity is eligible to hold a Private Land Mobile Radio license, therefore these proposed rules could potentially impact every small business in the United States.

8. Aviation and Marine Radio Service

Small entities in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the SBA rules. Most applicants for individual recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of the evaluations and conclusions in this IRFA, the Commission estimates that there may be at least 712,000 potential licensees which are individuals or are small entities, as that term is defined by the SBA.

9. Offshore Radiotelephone Service

This service operates on several TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition for radiotelephone communications.

10. General Wireless Communication Service (GWCS)

This service was created by the Commission by transferring 25 MHz of spectrum in the 4660–4685 MHz band from the federal government to private sector use. The Commission has scheduled the GWCS auction for May 27, 1998. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition for radiotelephone communications.

11. Fixed Microwave Services

Microwave services include common carrier fixed, private operational fixed, and broadcast auxiliary radio services. At present, there are 22,015 common carrier fixed licensees and approximately 61,670 private operational fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, the Commission will utilize the SBA definition applicable to radiotelephone companies, *i.e.*, an entity with less than 1,500 persons. The Commission estimates that for purposes of this IRFA all of the Fixed Microwave licensees (excluding broadcast auxiliary radio licensees) would qualify as small entities under the SBA definition for radiotelephone communications.

12. Commercial Radio Operators (restricted and commercial)

There are several types of commercial radio operator licenses. Individual licensees are tested by Commercial Operator License Examination managers (COLEMs). COLEMs file the applications on behalf of the licensee. The Commission has not developed a definition for a small business or small organization that is applicable for COLEMs. The RFA defines the term "small organization" as meaning "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field * * *" The Commission's rules do not specify the nature of the entity that may act as a COLEM. However, all of the COLEM organizations would appear to meet the RFA definition for small organizations.

13. Amateur Radio Services

Amateur Radio Service licensees are coordinated by Volunteer Examiner Coordinators (VECs). The Commission has not developed a definition for a small business or small organization that is applicable for VECs. The RFA defines the term "small organization" as meaning "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field * * *" The Commission's rules do not specify the nature of the entity that may act as a VEC. All of the sixteen VEC organizations would appear to meet the RFA definition for small organizations.

14. Personal Radio Services

Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. These services include citizen band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS). Inasmuch as the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition.

15. Public Safety Radio Services and Governmental Entities

Public Safety radio services include police, fire, local governments, forestry conservation, highway maintenance, and emergency medical services. There are a total of approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small business. There are approximately 37,566 governmental entities with populations of less than 50,000. The RFA also includes small governmental entities as a part of the regulatory flexibility analysis. The definition of a small governmental entity is one with a population of less than 50,000. There are 85,006 governmental entities in the nation. This number includes such entities as states, counties, cities, utility districts, and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000; however, this number includes 38,978 counties, cities, and towns and of those, 37,566 or 96 percent have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, the Commission estimates that 96 percent or 81,600 are small entities that may be affected by our rules.

16. Rural Radiotelephone Service

The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). The Commission will use the SBA definition applicable to radiotelephone companies; *i.e.*, an entity employing fewer than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the SBA definition.

17. Marine Coast Service

The Commission has not adopted a definition of small business specific to the Marine Coast Service. The Commission will use the SBA definition applicable to radiotelephone companies; *i.e.*, an entity employing fewer than 1,500 persons. There are approximately 10,500 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as small under the SBA definition.

18. Wireless Communications Services (WCS)

WCS is a wireless service which can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined "small business" for the WCS auction as an entity with average gross revenues of $40 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. There were seven winning bidders who qualified as very small business entities and one small business entity in the WCS auction. Based on this information, the Commission concludes that the number of geographic area WCS licensees affected include these eight entities.

In addition to the above estimates, new applicants in the wireless radio services will be affected by these rules, if adopted. To assist the Commission in analyzing the total number of affected small entities, commenters are requested to provide information regarding how many small business entities will be affected by the proposed rules. Comments relating to the number of small business entities affected are due by the deadlines contained in the NPRM.

Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives:

1. *Electronic Filing and Consolidated Application Forms.* In services that do not require extensive technical data, such as Amateurs, Maritime, Aviation, Commercial Operators, and GMRS, the Commission proposed implementing a quick form to minimize the economic impact on small entities in these services. In addition, the forms have been developed to ensure that applicants are not required to duplicate information that has been already filed with the Commission. The Commission has also proposed to modify the current copy and microfiche requirements for electronically filed applications.

2. *Auction Long Form Application Submissions.* For auctionable services, the Commission proposes to modify the current process to allow winning bidders to file a single long-form application to cover all markets. Elimination of separate filing requirements will lift the administrative burden to small businesses of having to file separate long form applications for each license won in the auction.

3. *Filings of Pleadings.* The Commission proposes permitting, but not requiring, pleadings to be filed electronically. Manually filed pleadings will be scanned so that all pleadings will be easily accessible to the public. Electronic filing through the ULS should be easier for applicants than the current system because the ULS will prompt the applicant for the necessary information and will provide interactive error messages if information is not filed correctly. ULS will allow the applicant to correct their applications prior to submitting them. This system will allow all interested parties, including small entities, easy access to pleadings that are filed in connection with applications and licenses.

4. *Standardization of Major and Minor Filing Rules.* The Commission proposes to consolidate major and minor filing standards to both amendments of pending applications and to modifications of existing licenses. The current fragmented system is confusing for applicants and licensees, including small entities, because they are required to keep track of different procedures for different radio services. Licensees, especially small entities, will find it easier and more convenient to have all standards in one place in the rules.

5. *Filing of Multiple Modifications.* The Commission proposes to adopt a unified approach to the filing of multiple modification applications: If a modification application is pending regarding a given station parameter, and the licensee decides to elaborate upon or change that request with an additional request to modify the same or a related parameter, the document filed to effect that change will be automatically deemed an amendment to the modification, rather than a separate modification application. This will prevent applicants from filing conflicting modification requests and will prevent the Commission from erroneously granting or dismissing modification applications because they were processed out of sequence.

6. *Construction Notification Requirements.* The Commission is proposing to notify licensees through the ULS by mailing a reminder letter before the construction or coverage deadline. Notifications of construction or coverage would be accepted either electronically or manually. If a licensee fails to file the required notification of completion of construction or satisfaction of the coverage or substantial service requirements, the ULS would send a letter terminating the authorization. The Commission seeks comment on whether to exempt public safety entities from this procedure.

7. *Annual Ownership Requirements.* The Commission proposes to require submission of annual ownership information. Private mobile radio services (PMRS) licensees, while subject to some alien ownership restrictions, *i.e.*, they may not be granted to or held by a foreign government or a representative of a foreign government, are not subject to most of the other restrictions placed on commercial mobile radio services (CMRS) licensees. Accordingly, PMRS licensees and private fixed microwave licensees have not previously been required to submit detailed ownership information. The Commission proposes that PMRS licensees be required to certify their status with respect to foreign government ownership or ownership by a representative of a foreign government each time they submit a Form 601.

Legal Basis. The proposed action is authorized under sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 USC 154(i), 161, 303(g), 303(r), and 332(c)(7).

IRFA Comments. The Commission requests written public comment on the foregoing Initial Regulatory Flexibility Analysis. Comments must have a separate and distinct heading designating them as responses of the IRFA and must be filed by the deadline for comments in response to the *NPRM.*

B. Paperwork Reduction Act

Dates: Written comments by the public on the proposed and/or modified information collections are due May 7, 1998. Written comments must be submitted by OMB on the proposed information collections on or before June 8, 1998.

Address: In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

Further Information: For additional information concerning the information collections contained in this *NPRM* contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

Supplementary Information: This *NPRM* contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under PRA. As part of its continuing effort to reduce paperwork burdens, the Commission invites the general public and OMB to take this opportunity to comment on the

proposed or modified information collections contained in this *NPRM*. Public and agency comments are due at the same time as other comments on this *NPRM*; OMB notification of action is due June 8, 1998. Comments should address (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 estimates; (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.

OMB Approval Number: 3060–XXXX.
Title: Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Service (Short Form).
Form No.: FCC Form 605.
Type of Review: New collection.
Respondents: individuals or households; businesses and other for-profit.
Number of Respondents: 170,000.
Estimated Time Per Response: 27 minutes.
Total Annual Burden: 75,366 hours.
Frequency of Response: On occasion.
Needs and Uses: FCC 605 is used to apply, or to amend a pending application, for an authorization to operate a license for Wireless Communications Bureau radio services. This includes the Ship Radio, Aircraft Radio, Amateur Radio, restricted and Commercial Operator Radio, and the General Mobile Radio Services. The data is used by the Commission to determine whether the public interest would be served by a grant of the requested authorization. The FCC 605 replaces FCC 404, 405A, 405B, 506, 574, 574R, 610, 610A, 610B, 610V, 753, 755 and 756.

OMB Approval Number: 3060–0797.
Title: Application for Transfer of Control.
Form No.: FCC Form 604.
Type of Review: Revision of an existing collection.
Respondents: individuals or households; businesses and other for-profit.
Number of Respondents: 23,368.
Estimated Time Per Response: 1.5 hours.
Total Annual Burden: 35,052 hours.
Frequency of Response: On occasion.
Needs and Uses: FCC 604 is used to apply for FCC consent to transfer of control of licenses in the Public Mobile Services, Personal Communications Services, General Wireless Communications Services, Maritime Services (excluding ships), Private Land Mobile Radio Services, Fixed Microwave Services and Aviation Services (excluding aircraft). The data is used by FCC to determine whether the public interest would be served by a grant of the requested transfer. This form replaces FCC forms 490, 703, and 704.

OMB Approval Number: 3060–0800.
Title: Application for Assignment of Authorization.
Form No.: FCC Form 603.
Type of Review: Revision of an existing collection.
Respondents: Individuals or households; businesses and other for-profit.
Number of Respondents: 8,783.
Estimated Time Per Response: 2 hours.
Total Annual Burden: 17,566.
Frequency of Response: On occasion.
Needs and Uses: FCC 603 is used to apply for approval of assignment of authorizations in the For Public Mobile Services, Personal Communications Services, General Wireless Communications Services, Private Land Mobile Radio Services, Broadcast Auxiliary Services, Fixed Microwave Services, Maritime Services (excluding ships) and Aviation Services (excluding aircraft). This data is used by the FCC to determine whether the public interest would be served by the grant of the request assignment. This form replaces FCC forms 490, 702, and 1046.

OMB Approval Number: 3060–0799.
Title: FCC Ownership Disclosure Information for the Wireless Telecommunications Services.
Form No.: FCC Form 602.
Type of Review: Revision of an existing collection.
Respondents: Individuals or households; businesses and other for-profit.
Number of Respondents: 3,000.
Estimated Time Per Response: 2 hours.
Total Annual Burden: 6,000 hours.
Frequency of Response: On occasion.
Needs and Uses: FCC 602 is used to collect ownership data pertaining to the applicant for proposed authorization. The data is used by the FCC to determine whether the public interest would be served by a grant of the requested authorization. The form is to be filed by applicants who acquired their license by participation in an auction or who are applying for a license in a service which is subject to Part 1, subpart Q of the Commission's Rules, or by common carrier licensees whether or not the service was originally subject to auctions under the following circumstances: Applicants for a new license or authorization who do not have a current FCC 602 on file with the FCC; Applicants filing to renew an existing license if there is no current FCC 602 on file with the FCC; Applicants for a transfer of control of a license or assignment of an authorization who do not have a current FCC 602 on file with the FCC; and Applicants who are going to participation in an FCC auction and do not have a current FCC 602 on file.

OMB Approval Number: 3060–0798.
Title: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.
Form No.: FCC Form 601
Type of Review: Revision of an existing collection.
Respondents: Individuals or households; business and other for-profit.
Number of Respondents: 240,320.
Estimated Time Per Response: 1.25 hours.
Total Annual Burden: 300,400 hours.
Frequency of Response: On occasion.
Needs and Uses: FCC 601 is used to apply, or to amend a pending application, for an authorization to operate a license for Wireless Telecommunications Bureau (WTB) radio services. This includes Public Mobile Services, Personal Communications Services, General Wireless Communications Services, Private Land Mobile Radio Services, Broadcast Auxiliary Services, Fixed Microwave Services, Maritime Services (excluding ships), and Aviation Services (excluding aircraft). The data is used by the FCC to determine whether the public interest would be served by a grant of the requested authorization. This form replaces FCC Forms 313, 13R, 402, 402R, 405, 405A, 406, 415, 464, 464A, 489, 494, P3, 503R, 574, 574R, 600, and 701.

C. Ex Parte Presentations—Permit but disclose Proceeding

This is a permit but disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.1203, 1.1206(a).

D. Comment Period

Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before May 7, 1998.

Reply comments are to be filed on or before May 22, 1998. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and ten copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554. Parties should also submit two copies of comments and reply comments to Wilbert E. Nixon, Jr., Commercial Wireless Division, Wireless Telecommunications Bureau, 2100 M Street, NW., Room 7102, Washington, DC. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, INc., 1231 20th Street, NW., Washington, DC 20036.

E. Authority

The above action is authorized under the Communications Act of 1934, 1, 4(i), 152, 222, 252(c)(5), 301, and 303, 47 U.S.C. 151, 154(i), 222, 252(c)(5), 301, and 303, as amended.

F. Ordering Clauses:

It is ordered that pursuant to sections 4(i), 11, 303(g), 03(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c), this *notice of proposed rulemaking* is hereby *adopted.*

It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, *shall send* a copy of this *notice of proposed rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101

Communications common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–9042 Filed 4–6–98; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 803 and 852

RIN 2900–AJ06

Acquisition Regulations: Improper Business Practices and Personal Conflicts of Interest; Solicitation Provisions and Contract Clauses

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs Acquisition Regulations (VAAR) concerning the requirement to include an Ethics in Government Act certification in solicitations. This action is proposed in accordance with the requirements of the Federal Acquisition Reform Act of 1996 (also known as the Clinger-Cohen Act), 41 U.S.C. 425, which stipulate that certain certification requirements not required by statute be eliminated from agency supplemental acquisition regulations.

DATES: Comments must be received on or before June 8, 1998.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AJ06." All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidiays).

FOR FURTHER INFORMATION CONTACT: John Corso, Office of Acquisition and Materiel Management, Acquisition Policy Team (95A), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8754.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–602, since it does not contain any substantive provisions. This proposed rule would not cause a significant effect on any entities. This proposed rule deletes a requirement for contracting officers to include a particular provision in solicitations, which does not impact the public. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

List of Subjects

48 CFR Part 803

Antitrust, Conflict of interests, Government procurement.

48 CFR Part 852

Government procurement, Reporting and recordkeeping requirements.

Approved: March 26, 1998.

Togo D. West, Jr.,

Acting Secretary.

For the reasons set forth in the preamble, 48 CFR Chapter 8 is proposed to be amended as follows:

PART 801—VETERANS AFFAIRS ACQUISITION REGULATIONS SYSTEM

1. The authority citation for parts 803 and 852 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

PART 803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. In part 803, § 803.101–3, paragraph (c) is removed.

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. In subpart 852.2, § 852.203–70 is removed.

[FR Doc. 98–9027 Filed 4–6–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 424

[I.D. 032498B]

Endangered and Threatened Species; Notice of Public Hearings on Proposed Listings and Proposed Designations of Critical Habitat for West Coast Steelhead, Chinook, Chum, and Sockeye Salmon

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

ACTION: Notice of public hearings.

SUMMARY: NMFS has proposed to list 13 evolutionarily significant units (ESUs)

of Pacific salmon and steelhead under the Endangered Species Act (ESA) of 1973. NMFS has also proposed to designate critical habitat for the proposed salmon ESUs. NMFS will shortly propose critical habitat for steelhead ESUs previously listed as threatened or endangered, as well as for the two steelhead ESUs recently proposed as threatened under the ESA.

These proposed listings, and proposed and pending designations of critical habitat include ESUs of west coast steelhead, and chinook, chum and sockeye salmon in California, Oregon, Washington, and Idaho.

Public hearings are scheduled to provide the public with opportunities to comment on the proposals and to provide information and data about these species and their critical habitat.

DATES: See **SUPPLEMENTARY INFORMATION** for hearing dates.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for hearing addresses.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, (503) 231-2005; Craig Wingert, (562) 980–4021; or Joe Blum, (301) 713–1401. Copies of the **Federal Register** notices cited herein and additional salmon-related materials are available via the Internet at www.nwr.noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

On February 26, 1998, NMFS issued proposed rules to protect 13 ESUs of Pacific salmon and steelhead as threatened or endangered under the ESA (chinook salmon—63 FR 11482, March 9, 1998; sockeye salmon—63 FR 11750, March 10, 1998; chum salmon—63 FR 11774, March 10, 1998; and steelhead–63 FR 11798, March 10, 1998). The ESUs proposed for listing include two proposed endangered ESUs: California's Central Valley spring-run chinook salmon (*Oncorhynchus tshawytscha*) and Upper Columbia River spring-run chinook salmon and 11 proposed threatened ESUs: Upper Willamette River steelhead (*Oncorhynchus mykiss*), Middle Columbia River steelhead, California's Central Valley fall-run chinook salmon, Southern Oregon and California coastal chinook salmon, Puget Sound chinook salmon, Lower Columbia River chinook salmon, Upper Willamette River chinook salmon, Columbia River chum salmon (*Oncorhynchus keta*), Hood Canal summer-run chum salmon, Ozette Lake sockeye salmon (*Oncorhynchus nerka*), and a proposal to redefine the listed Snake River fall-run chinook salmon ESU to include Deschutes River fall chinook salmon.

In addition, NMFS has proposed the designation of one sockeye salmon ESU (Baker River) as a candidate for listing because of uncertainty regarding its status.

NMFS concurrently proposed to designate critical habitat for the proposed chinook, chum, and sockeye salmon ESUs. Critical habitat for these species is described in the same **Federal Register** notices announcing the proposed listings (see **Federal Register** notices cited previously). In a forthcoming **Federal Register** notice, NMFS will also propose designating critical habitat for nine ESUs of west coast steelhead that have been listed or proposed for listing under the ESA.

Public Hearings

Public hearings on the proposed listings provide the opportunity for the public to give comments and to permit an exchange of information and opinion among interested parties. The Department of Commerce's ESA implementing regulations state that the Secretary of Commerce "shall promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to list * * * a species" (50 CFR section 424.16 (c)(3)). NMFS encourages public involvement in such ESA matters and has decided to schedule hearings on these proposals.

NMFS is soliciting specific information, comments, data, and/or recommendations on any aspect of the aforementioned proposals from all interested parties. In particular, NMFS is requesting information or data as described in the **Federal Register** notices announcing the proposed listings for each species (see **Federal Register** notices cited previously). This information is considered critical in helping NMFS make final determinations on the proposed listings and proposed designations of critical habitat. NMFS will consider all information, comments, and recommendations received during the comment period or at the public hearings before reaching a final decision.

The public will have the opportunity to provide oral and written testimony at the public hearings. Written comments on the proposals may also be submitted (see **Federal Register** notices cited previously). Public hearings on the proposed listings will be held as follows:

(1) April 20, 1998, 6:00 - 9:00 p.m., The Chapel, Fort Warden State Park, 200 Battery Way, Port Townsend, WA;

(2) April 21, 1998, 6:00 - 9:00 p.m., Bellingham City Hall, Council Chambers 210, Lottie Street, Bellingham, Washington;

(3) April 22, 1998, 6:00 - 9:00 p.m., Bonneville Power Admin. Auditorium, 911 NE 11th Ave., Portland, Oregon;

(4) April 28, 1998, 6:00 - 9:00 p.m., Yakima County Courthouse, Room 420, 128 North 2nd Street, Yakima, Washington;

(5) April 29, 1998, 6:00 - 9:00 p.m., Chelan Center, 317 East Johnson, Chelan, Washington;

(6) April 29, 1998, 6:00 - 9:00 p.m., Eureka Inn, 518 Seventh Street, Eureka, California;

(7) April 30, 1998, 6:00 - 9:00 p.m., Columbia River Maritime, Museum, 1792 Marine Drive, Astoria, Oregon;

(8) April 30, 1998, 6:00 - 9:00 p.m., Double Tree Hotel, 1 Double Tree Drive, Rohnert Park, California;

(9) May 4, 1998, 6:00 - 9:00 p.m., Lewiston Community Center, 1424 Main Street, Lewiston, Idaho;

(10) May 5, 1998, 6:00 - 9:00 p.m., Natural Resource Center, Bureau of Land Management, 1387 South Binnell Way, Boise, Idaho;

(11) May 5, 1998, 6:00 - 9:00 p.m., Double Tree Hotel, 1830 Hilltop Drive, Redding, California;

(12) May 6, 1998, 6:00 - 9:00 p.m., Jackson County Courthouse, 10 South Oakdale, Medford, Oregon;

(13) May 6, 1998, 6:00 - 9:00 p.m., Beverly Garland Hotel, 1780 Tribute Road, Sacramento, California;

(14) May 7, 1998, 6:00 - 9:00 p.m., City of Gold Beach City Hall, 29592 Ellensburg, Gold Beach, Oregon;

(15) May 7, 1998, 6:00 - 9:00 p.m., Eugene City Hall Council Chambers, 777 Pearl Street, Eugene, Oregon;

(16) May 7, 1998, 6:00 - 9:00 p.m., Modesto Irrigation District, 1231 11th Street, Modesto, California;

(17) May 11, 1998, 6:00 - 9:00 p.m., WA State Department of Natural Resources, Orca Room 1, 411 Tillicum Lane, Forks, Washington;

(18) May 12, 1998, 6:00 - 9:00 p.m., NMFS NW Fish. Sci. Ctr., 2725 Montlake Blvd. E, Seattle, Washington;

(19) May 13, 1998, 6:00 - 9:00 p.m., FWS/NMFS offices, Abbott Raphael Bldg. - Sawyer Hall, 510 Desmond Drive SE, Olympia, Washington;

(20) May 14, 1998, 6:00 - 9:00 p.m., Columbus Gorge Discovery Center & Wasco Hist. Museum, M.J. Murdock Auditorium, 5000 Discovery Drive, The Dalles, Oregon.

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other aids should be directed to Garth Griffin or Craig

Wingert (see **ADDRESSES**) by 7 days prior to each meeting date.

Dated: April 2, 1998

Hilda Diaz-Soltero,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–9083 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 66
Tuesday, April 7, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporation's (CCC) intention to request an extension for and revision to a currently approved information collection in support of the Cooperative Marketing Associations (CMA's) program.

DATE: Comments on this notice must be received on or before June 8, 1998 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: James Goff, Agricultural Program Specialist, Price Support Division, USDA, FSA, 1400 Independence Avenue, S.W., STOP 0512, Washington, DC 20250–0512, telephone (202) 720–5396: e-mail James__Goff@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

This notice announces CCC's intention to request an extension for and revision to the currently approved information collection in support of the CMA program. Changes are being proposed to the CMA regulations which will substantially reduce the reporting burden of cooperatives in obtaining and maintaining CMA approval status. In conjunction with the regulation, changes two existing forms are being deleted and two others are being revised to reflect the new reporting requirements.

Title: 7 CFR Part 1425, Cooperative Marketing Associations.

OMB Control Number: 0560–0040.

Expiration Date: February 28, 2000.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: This information is needed to administer the CMA program. The information will be gathered from applicant cooperatives to determine whether they may be approved to participate in the CMA program and from existing CMA's to determine whether their approval status may be continued. Cooperatives are required to meet certain requirements to ensure the integrity of the program so that:

(1) only cooperatives are approved to participate in the CMA program; and

(2) CCC is assured commodity loan proceeds and loan deficiency payments will be paid to eligible producer members of the cooperatives .

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.757 hours per response.

Respondents: Agricultural marketing cooperatives.

Estimated Number of Respondents: 36.

Estimated Number of Responses per Respondent: 41.61.

Estimated Total Annual Burden on Respondents: 4,130 hours.

Proposed topics for comments are: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (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. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to James Goff, Agricultural Program Specialist, USDA-Farm Service Agency-Price Support Division, 1400 Independence Avenue, S.W., STOP 0512, Washington, D.C. 20250–0512; telephone (202) 720–5396: e-mail James__Goff@wdc.fsa.usda.gov. Copies of the information collection may be obtained from James Goff at the above address.

OMB is required to make a decision concerning the collection contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on March 27, 1998.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 98–9016 Filed 4–6–98; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Request for Reinstatement of a Previously Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporation's (CCC) intention to request a reinstatement, with change, of a previously approved information collection. Since the previous information collection package has expired, an emergency information collection package clearance is being sought by the Department. This information collection is used in support of conservation programs which offer flexible assistance for threats to soil, water, grazing lands, wetlands, and wildlife habitat, involve the purchase of conservation easements on farms with prime, unique, or other productive soil for the purpose of protecting topsoil by limiting nonagricultural uses of the land, and address other natural resource concerns, such as nonpoint source pollution, water quality protection or improvement, and wetland restoration, protection, and creation, as authorized

by the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act).

DATES: Comments on this notice must be received on or before June 8, 1998 to be assured consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Ilka Gray, Agricultural Program Specialist, USDA, FSA, CEPD, STOP 0513, 1400 Independence Avenue, SW, Washington, D.C. 20250–0513; telephone (202) 690–0794; e-mail Ilka Gray @ wdc.fsa.usda.gov; or facsimile (202) 720–4619.

SUPPLEMENTARY INFORMATION:

Title: CCC Conservation Contract.

OMB Control Number: 0560–0174.

Type of Request: Reinstatement of a previously approved information collection.

Abstract: The 1996 Act authorized the Environmental Quality Incentives Program, the Farmland Protection Program, and the Conservation Farm Option Program to assist farmers and ranchers in solving natural resource related problems on agricultural land. The information is necessary to ensure the integrity of the programs and to ensure that only eligible producers are authorized contracts.

Producers requesting cost-share or incentive payments from the Commodity Credit Corporation must provide specific data related to the conservation payment request. Forms included in this information collection package require farm and tract numbers, conservation practice or benefits requested, major resource concerns, and similar information, in order to determine eligibility. Producers must also agree to the terms and conditions contained in the conservation contract. Without the collection of this information, CCC cannot ensure the integrity of CCC conservation programs.

Estimate of Respondent Burden: Public reporting burden for this collection of information is estimated to average .25 hours per response.

Respondents: Individuals producers, partnerships, corporations, tribal members, or other eligible agricultural producers.

Estimated Number of Respondents: 88,500.

Estimated Number of Annual Responses per Respondent: 7.

Estimated Total Annual Burden on Respondents: 5.88.

Proposed topics for comment include: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information collected; or (d) ways to minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments must be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C., 20503, and to Ilka K. Gray, Agricultural Program Specialist, USDA–FSA–CEPD, STOP 0513, 1400 Independence Avenue, SW, Washington, D.C. 20250–0513; telephone (202) 690–0794; e-mail Ilka.Gray@wdc.fsa.usda.gov; or facsimile (202)720–4619. Copies of the information collection may be obtained from Ilka Gray at the above address.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, D.C., on March 27, 1998.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 98–9018 Filed 4–6–98; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Oregon Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on April 21 at the Coos Bay Bureau of Land Management Office at 1300 Airport Way in North Bend, Oregon.

The meeting will begin at 9:00 a.m. and continue until 5:00 p.m. Agenda items to be covered include: (1) Coordinated watershed restoration between federal and non-federal land managers; (2) Province monitoring priorities; (3) Forest health issues; (4) Report from local BLM and Forest Service on local issues; (5) Identification of new issues for Committee work; (6) Review of Committee operating guides and (7) Public comment. All Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Chuck Anderson, Province Advisory Committee staff, USDA, Forest Service, Rogue River National Forest, 333 W. 8th Street, Medford, Oregon 97501, phone 541–858–2322.

Dated: March 30, 1998.

James T. Gladen,

Forest Supervisor, Designated Federal Official.

[FR Doc. 98–9086 Filed 4–6–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designation of Schaal (IA) to provide Class X or Class Y Weighing Services

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: GIPSA announces the designation of D. R. Schaal Agency, Inc. (Schaal), to provide Class X or Class Y weighing services under the United States Grain Standards Act, as amended (Act), in the Schaal geographic area.

EFFECTIVE DATE: April 1, 1998.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, S.W., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the November 2, 1995, **Federal Register** (60 FR 55697), GIPSA announced the designation of Schaal to provide official inspection services under the Act, effective January 1, 1995, and ending November 30, 1998. Subsequently, Schaal asked GIPSA to amend their designation to include official weighing services. Section 7A(c)(2) of the Act authorizes GIPSA's Administrator to designate authority to

perform official weighing to an agency providing official inspection services within a specified geographic area, if such agency is qualified under section 7(f)(1)(A) of the Act. GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act, and determined that Schaal is qualified to provide official weighing services in their currently assigned geographic area.

Effective April 1, 1998, and terminating November 30, 1998 (the end of Schaal's designation to provide official inspection services), Schaal's present designation is amended to include Class X or Class Y weighing within their assigned geographic area, as specified in the June 1, 1995, **Federal Register** (60 FR 28570). Official services may be obtained by contacting Schaal at 515–444–3122.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: March 30, 1998.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 98–8988 Filed 4–6–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

President's Export Council Subcommittee on Encryption; Notice of Partially Closed Meeting

A partially closed meeting of the President's Export Council Subcommittee on Encryption will be held on April 23rd 1998, 8:30 a.m., in Salon D of the J.W. Marriott Hotel, 1331 Pennsylvania Avenue, N.W., Washington, D.C. The closed session will be held at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 3884, 14th Street between Pennsylvania and Constitution Avenues, N.W., Washington, D.C. The Subcommittee provides advice on matters pertinent to policies regarding commercial encryption products.

Public Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Update on Administration initiatives.
4. Task Force reports.

Closed Session

5. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

A Notice of Determination to close meetings, or portions of meetings, of the Subcommittee to the public on the basis of 5 U.S.C. 522(c)(1) was approved July 21, 1997, in accordance with the Federal Advisory Committee Act. A copy of the Notice of Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. For further information, contact Ms. Lee Ann Carpenter on (202) 482–2583.

Dated: April 1, 1998.

William V. Skidmore,

Acting Deputy Assistant Secretary for Export Administration.

[FR Doc. 98–9041 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 16–98]

Foreign-Trade Zone 14—Little Rock, Arkansas; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Little Rock Port Authority, on behalf of the State of Arkansas' Economic Development Commission, grantee of FTZ 14, requesting authority to expand its zone in Little Rock, Arkansas, within the Little Rock 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 March 27, 1998.

FTZ 14 was approved on October 4, 1972 (Board Order 90, 37 F.R. 24853, 11/22/72). The zone was relocated on March 23, 1979 (Board Order 143, 43 F.R. 19502, 4/3/79) to its present location within the Little Rock Port Industrial Park (28 acres).

This application is requesting authority to expand the existing FTZ site (Site 1) and to add two new general-purpose sites to its FTZ project as follows: *Site 1*—add 731 acres to the existing 28 acre zone site at the Little Rock Port Industrial Park; *Proposed Site 2* (969 acres)—industrial site adjacent to Proposed Site 1 expansion area at the southeast corner of the Little Rock Port Industrial Park, on the McClellan-Kerr Arkansas River Navigation System, Little Rock; and, *Proposed Site 3* (192 acres)—Little Rock National Airport, Adams Field, Little Rock. The proposed change would increase Site 1 to 759 acres and the zone overall to 1,920 acres. Site 1 is owned by the applicant; Site 2 is owned by W. B. Isgrig & Sons, Inc., Sea Bright Corporation, Paul A. Brinbach and M. L. Walt; and, Site 3 is owned by the City of Little Rock. 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 June 8, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 22, 1998.

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, 425 W. Capitol Avenue, Suite 700, Little Rock, AR 72201

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: March 30, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–8980 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 969]

Approval for Manufacturing Authority (All-Terrain Vehicles), Within Foreign-Trade Subzone 26D, Yamaha Motor Manufacturing Corporation of America, Newnan, Georgia

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

After consideration of the application of the Georgia Foreign-Trade Zone, Inc., grantee of FTZ 26 (filed 3–6–97; Docket 11–97), requesting authority to expand the scope of manufacturing for FTZ Subzone 26D (Yamaha Motor

Manufacturing Corporation of America plant, in Newnan, Georgia) to include the manufacture of all-terrain vehicles under FTZ procedures, the Board, finding that the requirements of the FTZ Act and the Board's regulations have been satisfied, and that the proposal is in the public interest, approves the application.

Approval is subject to the FTZ Act and the Board's regulations, including § 400.28; and, further to the existing restrictions described in FTZ Board Order 433.

Signed at Washington, DC, this 30th day of March 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–9098 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 966]

Grant of Authority for Subzone Status, Halter Marine, Inc. (Shipbuilding), Lockport, LA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the South Louisiana Port Commission, grantee of FTZ 124, for authority to establish special-purpose subzone status for the Halter Marine, Inc., shipyard in Lockport, Louisiana, was filed by the Board on July 16, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 60–97, 62 FR 39808, 7–24–97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval were given subject to the standard shipyard restriction on foreign steel mill products;

Now, therefore, the Board hereby grants authority for subzone status at the Halter Marine, Inc., shipyard in Lockport, Louisiana (Subzone 124G), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following special conditions:

1. Any foreign steel mill products admitted to the subzone, including plate, angles, shapes, channels, rolled steel stock, bars, pipes and tubes, not incorporated into merchandise otherwise classified, and which is used in manufacturing, shall be subject to Customs duties in accordance with applicable law, if the same item is then being produced by a domestic steel mill; and,

2. In addition to the annual report, Halter Marine, Inc., shall advise the Board's Executive Secretary (§ 400.28(a)(3)) as to significant new contracts with appropriate information concerning foreign purchases otherwise dutiable, so that the Board may consider whether any foreign dutiable items are being imported for manufacturing in the subzone primarily because of subzone status and whether the Board should consider requiring Customs duties to be paid on such items.

Signed at Washington, DC, this 30th day of March 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–9096 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 15–98]

Foreign-Trade Zone 92—Pascagoula, MS, Request for Manufacturing Authority, Friede Goldman International, Inc., (Shipbuilding/ Offshore Drilling Platforms)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Greater Gulfport/Biloxi Foreign Trade Zone, Inc., grantee of FTZ 92, pursuant to § 400.32(b)(1) of the Board's regulations (15 CFR Part 400), requesting authority on behalf of Friede Goldman International, Inc. (FGI) and its subsidiary HAM Marine, Inc., for the manufacture, refurbishment, and repair of ships, offshore oil and gas drilling rigs, and other marine vessels under FTZ procedures within FTZ 92. It was formally filed on March 27, 1998.

FGI operates an 85-acre facility (1,200 employees) within FTZ 92-Site 5 (Greater Gulfport/Biloxi Foreign Trade Zone, Inc.) for the manufacture, refurbishment, and repair of ships, offshore oil and gas drilling rigs, and other marine vessels (HTSUS headings 8901, 8902, 8904, 8905, or 8906). Currently, components purchased from foreign sources comprise 30 percent of the finished product's value, including a semi-finished hull and superstructure. On future projects, foreign content is expected to range from 30 to 70 percent of the finished products' value. The duty rates on the imported components currently range from free to 15.2 percent.

This application requests authority to allow HAM Marine to conduct the activity under FTZ procedures, subject to the "standard shipyard restriction" applicable to foreign-origin steel mill products, which requires that full duties be paid on such items.

FTZ procedures would exempt HAM Marine from Customs duty payments on the foreign components used in export activity (currently 100% of shipments). On its domestic sales, the company would be able to choose the duty rate that applies to finished oceangoing vessels (duty free) for foreign components such as the hull and superstructure noted above. Foreign-sourced steel mill products, such as pipe and plate, would be subject to the full Customs duties applicable to those items. FTZ procedures would also exempt certain merchandise from certain *ad valorem* inventory taxes. The application indicates that the savings would help improve the facility's international competitiveness.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 8, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 22, 1998).

A copy of the application will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: March 30, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–8979 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 968]

Expansion of Foreign-Trade Zone 181, Akron-Canton, Ohio, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from Akron-Canton Regional Airport Authority, grantee of Foreign-Trade Zone 181, for authority to expand FTZ 181 to include a new site in Mansfield, Ohio, adjacent to the Cleveland/Akron Customs port of entry, was filed by the Board on April 28, 1997 (FTZ Docket 38–97, 62 FR 26773, 5/15/97);

Whereas, the grant of authority for FTZ 181 was recently reissued to the Northeast Ohio Trade and Economic Consortium (Board Order 965, 3/13/98), which has replaced Akron-Canton Regional Airport as grantee and applicant in this case;

Whereas, notice inviting public comment was given in **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 181 is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to the standard 2,000-acre activation limit for the overall zone project.

Signed at Washington, DC, this 30th day of March 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–9097 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 14–98]

Foreign-Trade Zone 78, Nashville, Tennessee Area Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Metropolitan Nashville-Davidson County Port Authority, grantee of FTZ 78, Nashville, Tennessee, requesting authority to expand its zone at two sites in the Nashville, Tennessee area, within the Nashville 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 March 27, 1998.

FTZ 78 was approved on April 2, 1982 (Board Order 190, 47 FR 16191, 4/15/82). The zone project currently consists of the following sites: *Site 1* (52,000 sq. ft.)—within a 200,000 sq. ft. warehouse, 750 Cowan Street, Nashville; *Site 2* (63 acres)—within the 2,000-acre Cockrill Bend Industrial Park, Nashville; and, *Site 3* (100,000 sq. ft.)—within a 300,000 sq. ft. warehouse, 323 Mason Road, La Vergne.

This application is requesting authority to expand the general-purpose zone to include two new sites (58 acres) in Goodlettsville, Tennessee (Nashville area) (Proposed Sites 4 and 5): *Proposed Site 4* (39 acres)—Space Park North Industrial Park, 1000 Cartwright Street, Goodlettsville; and, *Proposed Site 5* (19 acres)—Old Stone Bridge Industrial Park, Old Stone Bridge, Goodlettsville. Both facilities are owned by ATREPO Nashville, Inc. Space is available at both parks for a variety of general-purpose zone activity. 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 June 8, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 22, 1998).

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, Parkway Towers, Suite 114, 404 James Robertson Parkway, Nashville, TN 37219

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: March 27, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–8978 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

TITLE: Format for Petition Requesting Relief Under U.S. Antidumping Duty Law.

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burdens, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 350(c)(2)(A)).

DATES: Written comments must be submitted on or before June 8, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of

Commerce, Room 5327, 14th & Constitution Avenue, NW, Washington, DC 20230. Phone number: (202) 482–3272.

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the information collection instrument and instructions should be directed to: Andrew Stephens, Import Administration, Office of Policy, Room 3713, 14th & Constitution Avenue, NW, Washington, DC 20230; Phone number: (202) 482–3693, and fax number: (202) 482–2308.

SUPPLEMENTARY INFORMATION:

I. Abstract

The International Trade Administration, Import Administration, Antidumping/Countervailing Enforcement, implements the U.S. antidumping and countervailing duty law. Import Administration investigates allegations of unfair trade practices by foreign governments and producers and, in conjunction with the U.S. International Trade Commission, can impose duties on the product in question to offset the unfair practices. Form ITA–357P—Format for Petition Requesting Relief Under the U.S. Antidumping Duty Law—is designed for U.S. companies or industries that are unfamiliar with the antidumping law and the petition process. The Form is designed for potential petitioners that believe that an industry in the United States is being injured because a foreign competitor is selling a product in the United States at less than fair value. Since a variety of detailed information is required under the law before initiation of an antidumping duty investigation, the Form is designed to extract such information in the least burdensome manner possible.

II. Method of Collection

Form ITA–357P is sent by request to potential U.S. petitioners and completed in written form.

III. Data

OMB Number: 0625–0105.

Form Number: ITA–357P.

Type of Review: Revision-Regular Submission.

Affected Public: U.S. companies or industries that suspect the presence of unfair competition from foreign firms selling merchandise in the United States below fair value.

Estimated Number of Respondents: 38.

Estimated Time Per Response: 40 hours.

Estimated Total Annual Burden Hours: 1,520 hours.

Estimated Total Annual Costs: The estimated annual cost for this collection is $376,200 ($273,600 for respondents and $102,600 for federal government).

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 costs) 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 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: April 1, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–9010 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–602]

Brass Sheet and Strip from Germany: 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 from the petitioners, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on brass sheet and strip from Germany. This review covers one manufacturer and exporter of the subject merchandise, Wieland-Werke AG (Wieland). The period of review (POR) is March 1, 1996, through February 28, 1997.

We preliminarily determine that sales have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties based on to the difference between export price (EP) and NV.

Interested parties are invited 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: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam, Alain Letort, or John Kugelman, Enforcement Group III Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, D.C. 20230; telephone (202) 482–2704 (Killiam), 4243 (Letort), or 0649 (Kugelman).

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 353 (April 1997). Although the Department's new regulations, codified at 19 CFR Part 351 (62 FR 27296, May 19, 1997), do not govern these proceedings, citations to those regulations are provided, where appropriate, to explain current departmental practice.

Background

The Department published the antidumping duty order on brass sheet and strip from Germany on March 6, 1987 (52 FR 6997). The Department published a notice of Opportunity to Request an Administrative Review of the antidumping duty order for the 1996/97 review period on March 7, 1997 (62 FR 10521). On March 31, 1997, petitioners Hussey Copper Ltd., The Miller Company, Outokumpu American Brass, Revere Copper Products, Inc., International Association of Machinists and Aerospace Workers, International Union, Allied Industrial Workers of America (AFL–CIO), Mechanics Educational Society of America (Local 56) and the United Steelworkers of America (AFL–CIO/CLC), requested that the Department conduct an administrative review of the antidumping duty order on brass sheet and strip from Germany for Wieland. We published a notice of initiation of

this review on April 24, 1997 (62 FR 19988).

On May 1, 1997, the petitioners requested, pursuant to section 751(a)(4) of the Act, that the Department determine whether antidumping duties had been absorbed by the respondent during the POR. Section 751(a)(4) provides for the Department, if requested, to determine, during an administrative review initiated two years or four years after publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. Section 751(a)(4) was added to the Act by the URAA.

The regulations governing this review do not address this provision of the Act. However, for transition orders as defined in section 751(c)(6)(C) of the Act, *i.e.*, orders in effect as of January 1, 1995, section 351.213(j)(2) of the Department's new antidumping regulations provides that the Department will make a duty-absorption determination, if requested, in any administrative review initiated in 1996 or 1998. *See* 19 CFR § 351.213(j)(2), 62 FR at 27394. As noted above, while the new regulations do not govern the instant review, they nevertheless serve as a statement of departmental policy. Because the order on brass sheet and strip from Germany has been in effect since 1987, it is a transition order in accordance with section 751(c)(6)(C) of the Act. However, since this review was initiated in 1997, the Department will not undertake a duty-absorption inquiry as part of this administrative review.

Under the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On November 10, 1997, the Department extended the time limits for these preliminary results to March 31, 1998. *See Brass Sheet and Strip from Germany; Extension of Time Limits for Antidumping Duty Administrative Review* (62 FR 60469, November 10, 1997).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

This review covers shipments of brass sheet and strip, other than leaded and tinned, from Germany. The chemical composition of the covered products is currently defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C2000; this review does not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the products covered by this review have a solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included. The merchandise is currently classified under Harmonized Tariff Schedule (HTS) item numbers 7409.21.00 and 7409.29.00. The HTS item numbers are provided for convenience and Customs purposes; the written description of the scope of this order remains dispositive.

The POR is March 1, 1996 through February 28, 1997. This review covers sales of brass sheet and strip from Germany by Wieland.

Transactions Reviewed

In accordance with section 751 of the Act, the Department is required to determine the EP (or CEP) and NV of each entry of subject merchandise.

As in past reviews, we are treating Wieland, Metallwerke Schwarzwald GmbH (MSV), and Langenberg Kupfer- und Messingwerke GmbH (LKM) as affiliated parties, identified in the questionnaire response of June 16, 1997, and have collapsed them as a single producer of brass sheet and strip in order to analyze the universe of home market affiliated sales.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all brass sheet and strip, covered by the descriptions in the Scope of the Review section of this notice, *supra*, and sold in the home market during the POR, to be foreign like products for the purpose of determining appropriate product comparisons to U.S. sales of brass sheet and strip. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's September 19, 1996 antidumping questionnaire. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent.

Fair Value Comparisons

To determine whether sales of brass sheet and strip by the respondent to the United States were made at less than fair value, we compared EP to NV, as described in the Export Price and Normal Value sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Export Price

We calculated the price of United States sales based on EP, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer or exporter outside the United States to unaffiliated purchasers in the United States prior to the date of importation.

We calculated EP based on packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for discounts, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. inland freight, U.S. brokerage and handling, and U.S. Customs duties.

Normal Value

Based on a comparison of the aggregate quantity of home-market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, 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 product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade.

Where appropriate, we deducted rebates, discounts, post-sale warehousing, inland freight, inland insurance, and packing. We made adjustments to NV, where appropriate, for differences in credit expenses.

We increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. For comparison of U.S. merchandise to home-market merchandise which was not identical but similar, we made adjustments to NV for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act. '

Differences in Levels of Trade

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or

CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or when NV is based on constructed value ("CV"), that of the sales from which we derive selling, general and administrative ("SG&A") expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, 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 LOT, 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 LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, 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 *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In its questionnaire responses Wieland stated that there were no differences in its selling activities by customer categories within each market. In order independently to confirm the absence of separate levels of trade within or between the U.S. and home markets, we examined Wieland's questionnaire responses for indications that its functions as a seller differed qualitatively and quantitatively among customer categories. *See* commentary to section 351.412 of the Department's new regulations (62 FR at 27371).

Wieland sold to original equipment manufacturers in both the U.S. and home markets. Wieland performed the same selling and marketing functions for its home-market and U.S. customers. Pursuant to section 773(a)(1)(B)(i) of the Act, we consider the selling functions reflected in the starting price of home-market sales before any adjustments. Our analysis of the questionnaire response leads us to conclude that sales within or between each market are not made at different levels of trade. Accordingly, we preliminarily find that all sales in the home market and the U.S. market were made at the same level of trade. Therefore, all price comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7)(A) of the Act is unwarranted.

Cost-of-Production Analysis

Petitoners alleged on July 16, 1997, that Wieland sold brass sheet and strip in the home market at prices below cost of production (COP). Based on these allegations, the Department determined, on August 4, 1997, that it had reasonable grounds to believe or suspect that Wieland had sold the subject merchandise in the home market at prices below the COP. We therefore initiated a cost investigation in order to determine whether the respondent made home-market sales during the POR at prices below their COP within the meaning of section 773(b) of the Act.

Before making any fair value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We used the COP based on the sum of the respondent's cost of materials and fabrication for the foreign like product, plus amounts for home-market selling, general, and administrative expenses (SG&A), and packing costs in accordance with section 773(b)(3) of the Act.

B. Test Home-Market Prices

We used the respondent's weighted-average COP for the period July 1995 to June 1996. We compared the weighted-average COP figures to home-market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home-market prices (not including VAT), less any applicable movement charges, discounts, and rebates.

C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of respondent's sales of a given product during the POR were at prices less than the COP, we found that sales of that model were made in substantial quantities within an extended period of time, in accordance with sections 773(b)(2) (B) and (C) of the Act, and were not at prices which would permit recovery of all costs within an extended period of time, in accordance with section 773(b)(2)(D) of the Act. When we found that below-costs 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.

On January 8, 1998 the U.S. Court of Appeals for the Federal Circuit issued a decision in *Cemex* v. *United States*, WL 3626 (Fed. Cir). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market value when the Department finds foreign market sales to be outside the ordinary course of trade. This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the ordinary course of trade to include sales below cost. *See* Section 771(15) of the Act. Consequently, the Department has reconsidered its practice in accordance with this court decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the ordinary course of trade. Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the Scope of Investigation section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the information provided by SKC in response to our antidumping questionnaire. We have implemented the Court's decision in this case to the extent that the data on the record

permitted. Since there were sufficient sales above cost, it was not necessary to calculate constructed value in this case.

Currency Conversion

For purposes of the preliminary results, 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) 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 the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists:

BRASS SHEET AND STRIP FROM GERMANY

Producer/manufacturer/exporter	Weighted-average margin (percent)
Wieland	0.85

Parties to this proceeding may request disclosure within five days of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication of this notice. The Department will publish a notice of the final results of the administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

Cash Deposit

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 Act: (1) the cash deposit rate for Wieland will be the rate established in the final results of this administrative review (no deposit will be required for a zero or *de minimis* margin, *i.e.*, margin lower than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in these reviews but covered in a previous segment of these proceedings, the cash deposit rate will be the company specific rate published for the most recent segment; (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) if neither the exporter nor the manufacturer is a firm covered in these or any prior review, the cash deposit rate will be 8.87 percent, the all others rate established in the LTFV investigation. 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 353.26 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. These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 353.22.

Dated: March 31, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–9095 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–812]

Calcium Aluminate Flux From France; Final Results of Changed Circumstances Antidumping Duty Administration Review, Revocation of Order, and Rescission of Antidumping Duty Administrative Review.

AGENCY: Important Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of changed-circumstances antidumping duty administrative review, revocation of order, and rescission of antidumping duty administration review.

SUMMARY: On February 9, 1998, the Department of Commerce (the Department) initiated a changed circumstances antidumping duty administrative review of the antidumping duty order on calcium aluminate flux (CA flux) from France, and issued the preliminary results of review with intent to revoke the order (63 FR 6524). We received one comment from the sole respondent, Lafarge Aluminates and Lafarge Calcium Aluminates, Inc. (Lafarge), regarding the preliminary results. We are now revoking the order on CA flux, based on fact than the domestic party, Lehigh Portland Cement (Lehigh), has expressed its lack of interest in the order on CA flux from France.

On June 30, 1997, Lafarge requested an administrative review of the antidumping duty order on calcium aluminate flux from France. On August 1, 1997, the Department published in the **Federal Register** (62 FR 41339) a notice of initiation of this administrative review for the period June 1, 1996 through May 31, 1997. The Department is rescinding this review as a result of the Department's revocation of the order due to petitioner's expression of no interest in the order.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips or Linda Ludwig, Office of AD/CVD Enforcement Group III, Office 8, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0193 or (202) 482–3833.

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 (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

Background

On December 12, 1997, Lafarge, the respondent, requested that the Department conduct a changed circumstances administrative review to determine whether to revoke the antidumping duty order on CA flux from France. Subsequent to Lafarge's request for a changed circumstances administrative review, Lehigh, the petitioner and the sole U.S. producer of

the subject merchandise during the less-than-fair value (LTFV) investigation, informed the Department that it had no interest in continuing the antidumping duty order on CA flux from France (see Memorandum to the File, January 28, 1998).

We preliminarily determined that petitioner's affirmative statement of no interest constituted changed circumstances sufficient to warrant a revocation of this order. Consequently, on February 9, 1998, the Department published a notice of initiation and preliminary results of changed circumstances antidumping duty administrative review and consideration of revocation of the order (63 FR 6524). We gave interested parties an opportunity to comment on the preliminary results of this changed circumstances review. The respondent, Lafarge, contended that the requirements for revocation of the order had been met in this case and, therefore, the Department should issue a final determination revoking the antidumping duty order on CA flux from France. We received no other comments.

Scope of the Review

Imports covered by this changed circumstances review are shipments of CA flux, other than white, high purity CA flux. This product contains by weight more than 32 percent but less than 65 percent alumina and more than one percent each of iron and silica.

CA flux is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 2523.10.0000. The HTSUS subheading is provided for convenience and U.S. Customs' purposes only. The written description of the scope of this order remains dispositive.

Final Results of Changed Circumstances Antidumping Duty Administrative Review; Revocation of Antidumping Duty Order; Rescission of Antidumping Duty Administrative Review

The affirmative statement of no interest by the petitioner, the only U.S. producer, in CA flux from France constitutes changed circumstances sufficient to warrant revocation of this order. Therefore, the Department is revoking the order on calcium aluminate flux from France, pursuant to sections 751(b) and (d), and section 782(h) of the Act, as well as sections 351.216 and 351.222(g) of the Department's regulations. Because we are revoking the order, we are also rescinding the ongoing administrative review on CA flux from France pursuant to section 751(d)(3) of the Act. This review covers the period June 1, 1996 through May 31, 1997.

The Department, in accordance with 19 CFR 351.222, will instruct the U.S. Customs Service (Customs) to proceed with liquidation, without regard to antidumping duties, of all unliquidated entries of CA flux from France, entered, or withdrawn from warehouse, for consumption on or after June 1, 1996, the date of suspension of liquidation for the 1996–1997 administrative review. The Department will further instruct Customs to refund with interest any estimated duties collected with respect to unliquidated entries of CA flux entered, or withdrawn from warehouse, for consumption on or after June 1, 1996, in accordance with section 778 of the Act.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

This changed circumstances administrative review, revocation of the antidumping duty order, and notice are in accordance with sections 751(b) and (d) and 782(h) of the Act and sections 351.216(d) and 351.222(g) of the Department's regulations. The rescission of the 1996–1997 antidumping duty administrative review on CA flux from France is being rescinded in accordance with section 751(d)(3) of the Act.

Dated: March 30, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–8974 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–806]

Carbon Steel Wire Rope from Mexico; Preliminary Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review; Carbon Steel Wire Rope from Mexico.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on steel wire rope from Mexico in response to a request by respondent, Aceros Camesa S.A. de C.V. (Camesa). This review covers exports of subject merchandise to the United States during the period March 1, 1996 through February 28, 1997.

We have preliminarily determined that sales have not been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs to liquidate entries without regard to antidumping duties. Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to submit with each comment (1) a statement of the issue and (2) a brief summary of the comment.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: Leah Schwartz or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–3782 or (202) 482–3020.

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise stated, all citations to the Department's regulations are references to the regulations as codified at 19 CFR Part 353 (April 1996).

SUPPLEMENTARY INFORMATION:

Background

The Department published in the **Federal Register** the antidumping duty order on steel wire rope from Mexico on March 25, 1993 (58 FR 16173). On March 7, 1997 we published in the **Federal Register** (62 FR 10521) a notice of opportunity to request an administrative review of the antidumping duty order on steel wire rope from Mexico covering the period March 1, 1996 through February 28, 1997.

In accordance with 19 CFR 353.22(a)(2), Camesa requested that we

conduct an administrative review of its sales. We published a notice of initiation of this antidumping duty administrative review on May 21, 1997 (62 FR 27720).

On September 18, 1997, we solicited comments from Camesa and from petitioner, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers, regarding the product characteristics used to match subject merchandise sold in the United States to foreign like products sold in the home market. We received comments from petitioner on September 25, 1997 and comments from Camesa on September 26, 1997. (*See* the Model Match section below for further discussion.)

On September 29, 1997, petitioner requested that the Department initiate an investigation of sales below the cost of production (COP) for Camesa. Based on our analysis of petitioner's COP allegation, we initiated an investigation of sales at less than COP, pursuant to section 773(b) of the Act. (*See Memorandum For Edward Yang from Leon McNeill, Steel Wire Rope from Mexico: Whether to Initiate a Sales Below Cost Investigation*, October 6, 1997.) We received cost data from Camesa on December 1, 1997 and December 29, 1997.

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the established time limit. The Department published a notice of extension of the time limit for the preliminary results in this case, on October 22, 1997. *See Steel Wire Rope from Mexico: Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review*, 62 FR 54831 (October 22, 1997). On January 5, 1998, the Department published a second notice of extension of the time limit for the preliminary results. *See Steel Wire Rope from Mexico: Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review*, 63 FR 206 (January 5, 1998). The Department is conducting this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

The product covered by this review is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or carbon steel, other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass plated wire. Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7312.10.9030, 7312.10.9060 and 7312.10.9090.

Excluded from this review is stainless steel wire rope, which is classifiable under the HTS subheading 7312.10.6000, and all forms of stranded wire, with the following exception.

Based on the final affirmative determination of circumvention of antidumping duty order, 60 FR 10831 (February 28, 1995), the Department has determined that steel wire strand, when manufactured in Mexico by Camesa and imported into the United States for use in the production of steel wire rope, falls within the scope of the antidumping duty order on steel wire rope from Mexico. Such merchandise is currently classifiable under subheading 7312.10.3020 of the HTS.

Although HTS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order remains dispositive.

This review covers one manufacturer and exporter, Camesa, and the period March 1, 1996 through February 28, 1997.

Verification

As provided in section 782(i) of the Act, we verified information provided by Camesa using standard verification procedures, including on-site inspection of the manufacturer's facilities, examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Camesa covered by the description in the "Scope of Review" section, above, and sold in the home market during the period of review (POR) to be foreign like products for the purposes of determining appropriate product comparisons with U.S. sales. In the Product Concordance section (Appendix V) of the questionnaire, we provided the following hierarchy of product characteristics to be used for reporting identical and most similar comparisons of merchandise: 1) type of steel wire (finishing type), 2) diameter of wire rope, 3) type of core, 4) class of wire rope, 5) grade of steel, 6) number of wires per strand, 7) design of strands, and 8) lay of rope. In response to arguments raised by petitioner regarding the use of certain product characteristics as model match criteria, we solicited comments from both parties on September 18, 1997. Based on our analysis of the comments we received, our findings at verification, and information contained in Camesa's submissions, we have preliminarily determined not to change the model match criteria set forth in our June 11, 1997 questionnaire. (*See* the Memorandum from Leah Schwartz to Edward Yang, dated March 31, 1998: *Model Matching Criteria in the First Administrative Review of Steel Wire Rope from Mexico* (Model Match Memo).)

Camesa requested to limit its reporting of home market sales of steel wire rope during the POR because it claimed that it sold only a limited number of models of steel wire rope to the United States, and that many of its home market models of steel wire rope would not match the steel wire rope sold to the United States. We told Camesa that it might report only the home market sales of identical or most similar foreign like products sold during the POR, but that we might, at a later date, require the reporting of additional home market sales at short notice. In the sales section of its questionnaire response, Camesa limited its reporting of home market sales to one general category of steel wire rope which encompasses the specific models of steel wire rope sold to the United States. In the COP section of the questionnaire response, Camesa reported data for a smaller, more specific group of steel wire rope products which it considered to be identical or most similar to the subject merchandise sold to the United States. In its sales response, Camesa provided a comprehensive list of all steel wire rope products which Camesa manufactures for sale in the home market. Upon examination of this information, and the results of our verification of Camesa's home market sales and costs, we preliminarily determine that the steel wire rope models which Camesa did not report are neither identical nor most similar to steel wire rope that Camesa sold to the United States during the POR. Moreover, the Department verified that Camesa had home market sales of identical or most similar models in the home market during the period of time contemporaneous with the U.S. sales. We preliminarily determine that the models for which Camesa submitted cost information are identical and most similar to the models sold to the United States.

United States Price

We based United States price on export price (EP), as defined in section 772(a) of the Act, because the merchandise was sold directly by the exporter to unaffiliated U.S. purchasers

prior to the date of importation and constructed export price was not indicated by other facts of record.

The Department calculated EP for Camesa based on packed, delivered prices to customers in the United States. We made deductions, where applicable, for foreign inland freight, U.S. Customs duties, and brokerage and handling, in accordance with 19 CFR 353.41(d). We added to U.S. price an amount for duty drawback received by Camesa. We found at verification that Camesa over-reported the amount of duty drawback to be added to the U.S. price. (*See* the *Report on the Sales and Cost Verification of Aceros Camesa S.A. de C.V. (Camesa) in the First Administrative Review of Steel Wire Rope from Mexico*, dated March 31, 1998 (Verification Report).) Since Camesa stated in its questionnaire response that it calculated its reported duty drawback amount using the average price for imported rod during the POR, and we found at verification that Camesa in fact did not use an average price for wire rod purchased during the POR, we determine in accordance with section 776(a) of the Act, that the use of facts available is appropriate, as the basis of our adjustment to U.S. price for duty drawback. Section 776(b) of the Act further provides that an adverse inference may be used with respect to a party that has failed to cooperate to the best of its ability. *See* Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 316, 103rd Cong., 2d Sess. 870. As adverse facts available, we based the adjustment to U.S. price for duty drawback on the smallest per-unit amount of duty drawback calculated using any invoice for steel wire rod purchased during the POR.

Normal Value

Based on a comparison of the aggregate quantity of home-market and U.S. sales, we determined that the quantity of foreign like product sold in the home market was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, 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 (exclusive of value-added tax (VAT)) at which foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade. All of Camesa's home market sales were made to unaffiliated customers.

Cost of Production Analysis

Section 773(b)(1) of the Act provides that, whenever the Department has reasonable grounds to believe or suspect that home market sales under consideration for the determination of NV have been made at below-cost prices, it shall determine whether, in fact, there were below-cost sales. Based on our analysis of petitioner's September 29, 1997 allegation of sales below COP, and in accordance with section 773(b)(2)(A)(ii) of the Act, the Department determined that reasonable grounds exist to believe or suspect that Camesa made below-cost home market sales during the POR. Accordingly, we requested and obtained from Camesa the cost data necessary to determine whether below-cost sales occurred during the POR. Before making any NV comparisons for Camesa, we conducted the COP analysis described below.

We calculated the COP based on the sum of Camesa's cost of materials and fabrication employed in producing the foreign like product, plus amounts for home market selling, general, and administrative expenses (SG&A), and the cost of all expenses incidental to placing the foreign like product in condition packed ready for shipment in accordance with section 773(b)(3) of the Act. Mexico experienced significant inflation during the POR, as measured by the Consumer Price Index issued by the Bank of Mexico. Therefore, in order to avoid the distortive effects of inflation on our comparisons of costs and prices, we used monthly, model-specific cost data provided by respondent. *See, e.g., Porcelain-On-Steel Cookware from Mexico: Preliminary Results of Administrative Review*, 63 FR 1430, 1432 (January 9, 1998) and *Notice of Preliminary Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey*, 63 FR 6155, 6156 (February 6, 1998). We calculated a model-specific total cost of manufacture (COM) for each month of the POR and indexed these costs to a common point (i.e. February 1997, the last month of the POR) using the consumer price index for Mexico as maintained by the Bank of Mexico. We then divided the sum of the monthly model-specific costs by the total model-specific production quantity to obtain a model-specific POR weighted-average cost corresponding to the February 1997 reference point. The weighted average COM was then restated based on the currency value of each respective month. We multiplied Camesa's SG&A and finance rates by the monthly COMs and added these amounts to derive product-specific monthly COPs. We relied on the home market sales and COP information provided by Camesa in its questionnaire responses and implemented changes based on findings at verification (See the Analysis Memo).

We compared the monthly weight-averaged per unit COP figures, indexed to account for the effects of inflation as noted above, to home market sales of foreign like product as required under section 773(b) of the Act, in order to determine whether these sales were made at prices below COP. In determining whether to disregard home market sales made at prices below COP, we examined whether: (1) such sales were made in substantial quantities within an extended period of time; and (2) such sales were made at prices which permitted recovery of all costs within a reasonable period of time. We compared the model-specific COP, plus packing, and net of direct selling expenses, to the reported home market prices less any applicable movement charges, discounts, and direct selling expenses.

In accordance with section 773(b)(2)(C), where less than 20 percent of home market sales of a given model were made at prices less than the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of home market sales during the POR were made at prices less than the COP, we disregarded the below-cost sales because we determined that the below-cost sales were made in "substantial quantities" and at prices which would not permit the recovery of all costs within reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX* v. *United States*, 133 F.3d 897 (Fed Cir., 1998). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market value when the Department finds home market sales to be outside the "ordinary course of trade." This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the "ordinary course of trade" to include sales below cost. *See* Section 771(15) of the Act. Consequently, the Department has reconsidered its practice in accordance with this court decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market

sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the "ordinary course of trade." We will match a given U.S. sale to foreign market sales of the next most similar model when all sales of the most comparable model are below cost. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market, as described above in the "Scope of Review" section of this notice, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare with U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C of our antidumping questionnaire.

Price-to-Price Comparisons

Pursuant to section 777A(d)(2), we compared the EPs of individual transactions to the monthly weighted-average price of sales of the foreign like product where there were sales at prices above COP, as discussed above. We based NV on packed, delivered prices to unaffiliated purchasers in the home market. We made adjustments, where applicable, in accordance with section 773(a)(6) of the Act. Where applicable, we made adjustments to home market price for invoice corrections, discounts, and inland freight. We also made a circumstance-of-sale adjustment for differences in credit, warranty, and insurance expenses, pursuant to section 773(a)(6)(C)(iii) of the Act. Because credit, warranty, and insurance expenses are incurred on a sale-by-sale basis and directly related to sales, we have treated these expenses as direct selling expenses in the applicable market(s). Accordingly, we made the circumstance-of-sale adjustments by adding the amounts of U.S. credit for each U.S. sale to the NV, and subtracting the home market credit and warranty expense amounts from NV. At verification we found that Camesa did not incur U.S. warranty expenses which it reported. Therefore, we did not add the reported per-unit warranty expense amount to NV. In order to adjust for differences in packing between the two markets, we increased home market price by U.S. packing costs and reduced it by home market packing costs. Prices were reported net of VAT and, therefore, no deduction for VAT was necessary.

Home Market Credit Expense

During the POR, Camesa did not have any short-term borrowings in pesos. In cases where there are no borrowings in the currency of the sales made, it is the Department's practice to use external information about the cost of borrowing in a particular currency. (*See Final Determination of Sales at Less Than Fair Value: Fresh Cut Roses from Colombia*, 60 FR 6980, 6998 (February 6, 1995); and Import Administration Policy Bulletin 98.2 (February 23, 1998).) Therefore, for these preliminary results, we are recalculating Camesa's home market credit expense using the average interbank equilibrium rate (abbreviated TIIE in Spanish) for the POR as published by the Bank of Mexico. We find that the rate is both reasonable and representative of usual commercial behavior in Mexico based on the sample rates quoted by other Mexican banks as submitted in Camesa's questionnaire responses.

Sales of Strand to U.S. Affiliate

Pursuant to the final affirmative determination of circumvention of this antidumping duty order (*see Steel Wire Rope from Mexico: Affirmative Final Determination Circumvention of Antidumping Duty Order*, 60 FR 10831, (February 28, 1995)), steel wire strand, when manufactured in Mexico by Camesa and imported into the United States for use in the production of steel wire rope, falls within the scope of the antidumping duty order on steel wire rope from Mexico. Therefore, in our June 11, 1997 antidumping questionnaire, we requested that Camesa: (1) report separately all sales of steel wire strand imported into the United States during the period of review for use in the manufacture of steel wire rope; and (2) report the monthly quantity and value of sales of steel wire strand which is imported into the United States during the period of review and which is not intended for use in the manufacture of steel wire rope (*see* pages C–1 and C–2 of the questionnaire). In its August 11, 1997 questionnaire response, Camesa reported that during the POR it "did not export any strand products that are subject to the antidumping order to United States, and its U.S. affiliates did not sell any steel wire rope manufactured using such imported strand products. Accordingly, all of the U.S. sales reported in the sales listing provided in Appendix C–1 are sales of steel wire rope that was entirely produced in and exported from Mexico." (*See* page 40, footnote 17.) At verification, we found that Camesa did sell steel wire strand to its U.S. affiliate during the period of review which it did not report. However, at verification we examined the specifications of the strand that Camesa sold to the United States, and found that it falls outside the scope of the order as defined in the Department's Final Circumvention Determination (60 FR 10831, February 28, 1995) and is not used in the manufacture of steel wire rope. Therefore, the Department is not applying facts available under section 776 of the Act (*See* the March 31, 1998 verification report and the Analysis Memo.)

Duty Reimbursement

In its September 17, 1997 response, Camesa stated that it was identified as the importer of record in the U.S. Customs entry summary corresponding to the U.S. sales during the POR, because Camesa is responsible for the payment of any import charges to U.S. Customs on the entry. At verification, Camesa further stated that it paid the antidumping duties for certain U.S. sales. Section 353.26 of the Department's regulations state that "[i]n calculating the United States price, the Secretary will deduct the amount of any antidumping duty which the producer or reseller: (i) [p]aid directly on behalf of the importer; or (ii) [r]eimbursed to the importer." 19 CFR 353.26(a)(1). It has been our practice that separate corporate entities must exist as producer/reseller and importer in order to invoke the duty reimbursement regulation. (*See Circular Welded Non-Alloy Steel-Pipe and Tube from Mexico: Preliminary Results of Administrative Review and Partial Termination of Review*, 62 FR 64564, 64566, (December 8, 1997).) In the present case, however, we have preliminarily determined that there are no dumping margins, and hence no antidumping duties will be assessed on the subject merchandise exported and imported by Camesa. Therefore, there is no issue regarding reimbursement.

Preliminary Results of the Review

As a result of our comparison of EP and NV, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/exporter	Period	Margin (percent)
Aceros Camesa S.A. de C.V. (Camesa)	3/1/96–2/28/97	0.00

Parties to the proceeding may request disclosure within 5 business days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Pursuant to 19 CFR 353.38, any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. 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 37 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, not later than 120 days after the date of publication of this notice.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service not to assess antidumping duties on the merchandise subject to review. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of steel wire rope products from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) the cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original investigation of sales at less than fair value (LTFV) or a previous review, the cash deposit 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 or a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 111.68 percent, the "all others" rate established in the LTFV investigation (58 FR 7531, February 8, 1993).

These deposit rates, 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 353.26 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) of the Act (19 U.S.C. 1675(a)) and 19 CFR 353.22.

Dated: March 31, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–9092 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–815/A–580–816]

Certain Cold-Rolled Carbon Steel Flat Products & Certain Corrosion-Resistant Carbon Steel Flat Products From Korea: Antidumping Duty Administrative Reviews: Extension of Time Limit

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce (the Department) is extending the time limit of the preliminary results of the antidumping duty administrative reviews of Certain Cold-Rolled Carbon Steel Flat Products & Certain Corrosion-Resistant Carbon Steel Flat Products from Korea. These reviews cover the period August 1, 1996 through July 31, 1997.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: Samantha Denenberg or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.; telephone (202) 482–0414 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION: Due to the complexity of issues involved in these cases, it is not practicable to complete these reviews within the original time limit. The Department is extending the time limit for completion of the preliminary results until August 31, 1998, in accordance with Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994. See memorandum to Robert S. LaRussa from Joseph A. Spetrini regarding the extension of the case deadline, dated March 27, 1998.

This extension is in accordance with 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)(3)(A)).

Dated: March 31, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 98–9094 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–804, A–533–813, A–560–802, and A–570–851]

Certain Preserved Mushrooms From Chile, India, Indonesia, and the People's Republic of China: Comments Regarding Product Coverage

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Mary Jenkins, Office 5, AD/CVD Enforcement Group II, Import Administration-Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–4136 and (202) 482–1756, respectively.

Issues Regarding Product Coverage

On January 26, 1998, the Department of Commerce ("the Department") initiated antidumping duty

investigations on Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China 63 FR 5360 (February 2, 1998).

As stated in the preamble to the new regulations (62 FR at 27323), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by April 30, 1998. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

This period of scope consultation is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Dated: March 30, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–8976 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India; Initiation of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce has received three requests to conduct a new shipper administrative review of the antidumping duty order on stainless steel bar from India. In accordance with 19 CFR 351.214(d), we are initiating this administrative review.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: Zak Smith or Stephanie Hoffman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–1279 or (202) 482–4198, respectively.

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. In addition, unless otherwise indicated, all citations to section 351 of the regulations of the Department of Commerce ("the Department") are to the current regulations, as published in the **Federal Register** on May 19, 1997 (62 FR 27296).

SUPPLEMENTARY INFORMATION:

Background

On February 15 and 27, 1998, the Department received requests from Sindia Steels Limited ("Sindia"), Chandan Steel Limited ("Chandan"), and Madhya Pradesh Iron and Steel Company ("Madhya"), pursuant to section 751(a)(2)(B) of the Act, and in accordance with 19 CFR 351.214(d), for a new shipper review of the antidumping duty order on stainless steel bar from India. This order has a February anniversary date. On February 23 and March 17, 1998, we asked that the initial requests be supplemented. Sindia submitted the requisite additional information on February 26, 1998; Chandan and Madhya did so on March 24 and March 26, 1998. Accordingly, we are initiating a new shipper review for Sindia, Chandan, and Madhya as requested. The period of review is February 1, 1997 through January 31, 1998.

Initiation of Review

In accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214(d)(1), we are initiating a new shipper review of the antidumping duty order on stainless steel bar from India. Sindia, Chandan, and Madhya agreed to waive the time limits of 19 CFR 351.214(i), in order that the Department may conduct this review concurrent with the administrative review of this order for the period 2/1/97–1/31/98 as requested pursuant to section 751(a) of the Act and 19 CFR 351.214(j)(3). Therefore, we intend to issue the final results of this review not later than 365 days after the last day of the anniversary month. All other provisions of 19 CFR 351.214 will apply to Sindia, Chandan, and Madhya throughout the duration of this new shipper review.

Antidumping duty proceeding	Period to be reviewed
India: Stainless Steel Bar, A–533–810:	
Sindia Steels Limited	02/01/97–01/31/98
Chandon Steel Limited	02/01/97–01/31/98
Madhya Pradesh Iron and Steel Company	02/01/97–01/31/98

We will instruct the Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the above listed companies, in accordance with 19 CFR 351.214(e).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b).

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: March 31, 1998.

Gary Taverman,

Acting Deputy Assistant Secretary, AD/CVD Enforcement, Group I.

[FR Doc. 98–8975 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–828]

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Taiwan

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Alexander Amdur, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4740 or (202) 482–5346, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to 19 CFR part 351 (62 FR 27296 (May 19, 1997)).

Amended Preliminary Determination

We are amending the preliminary determination of sales at less than fair value for stainless steel wire rod (SSWR) from Taiwan to reflect the correction of ministerial errors made in the margin calculations in that determination. We are publishing this amendment to the preliminary determination pursuant to 19 CFR 351.224(e).

Case History

On February 25, 1998, the Department preliminarily determined that SSWR from Taiwan is being, or is likely to be, sold in the United States at less than fair value (63 FR 10836, March 5, 1998). On March 5, 1998, we disclosed our calculations for the preliminary determination to counsel for Walsin Cartech Specialty Steel Corporation (Walsin), Yieh Hsing Enterprise Corporation, Ltd. (Yieh Hsing) and the petitioners.

On March 12, 1998, we received a submission, timely filed pursuant to 19 CFR 351.224(c)(2), from Yieh Hsing, alleging ministerial errors in the Department's preliminary determination. In its submission, Yieh Hsing requested that these errors be corrected and an amended preliminary determination be issued reflecting these changes. We did not receive ministerial error allegations from the other respondent or from the petitioners.

Amendment of Preliminary Determination

The Department's regulations provide that the Department will correct any significant ministerial error by amending the preliminary determination. See 19 CFR 351.224(e). A significant ministerial error is an error the correction of which, either singly or in combination with other errors:

(1) Would result in a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination; or

(2) Would result in a difference between a weighted-average dumping margin of zero (or *de minimis*) and a weighted-average dumping margin of greater than *de minimis*, or vice versa. *See* 19 CFR 351.224(g).

After analyzing Yieh Hsing's submission, we have determined that ministerial errors were made in the margin calculation for Yieh Hsing in the preliminary determination. Specifically, we inadvertently used programming language that incorrectly applied a second billet cost adjustment factor for certain steel grades after these grades had already been correctly adjusted with grade-specific adjustments. Furthermore, we also inadvertently double-counted interest revenue in calculating normal value.

Yieh Hsing also alleged that the Department made ministerial errors by double-counting another billet cost adjustment; double-counting the billet cost for a specific grade of billets; triple-counting a grinding loss adjustment; and failing to use weighted-average U.S. prices. The Department has determined that these are not ministerial errors under 19 CFR 351.224(f). See Memorandum To Holly Kuga From The Team, dated March 26, 1998, for a detailed discussion of Yieh Hsing's ministerial errors allegations and the Department's analysis.

Because the correction of the two ministerial errors results in a change of at least five absolute percentage points in, and not less than 25 percent of, the weighted-average dumping margin calculated for Yieh Hsing in the original (erroneous) preliminary determination, the Department hereby amends its preliminary determination to correct these errors. In addition, we have recalculated the "All Others Rate." The revised weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Walsin Cartech Specialty Steel Corporation	27.81
Yieh Hsing Enterprise Corporation, Ltd.	2.42
All Others	12.09

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct the U.S. Customs Service to continue to require a cash deposit or posting of bond on all entries of subject merchandise from Taiwan that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** at the rates indicated above. The suspension of liquidation will remain in effect until further notice. The revised company-specific rate for Yieh Hsing and the "All Others" rate, as well as those rates which have not changed, are listed above.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the International Trade Commission of the amended preliminary determination.

This amended preliminary determination is published pursuant to section 777(i) of the Act.

Dated: March 30, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–8977 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–834–802, A–835–802]

Agreement Suspending the Antidumping Investigation on Uranium from Kazakhstan and Kyrgyzstan

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Price Determination on Uranium from Kazakhstan and Kyrgyzstan.

SUMMARY: Pursuant to Section IV.C.1. of the agreements suspending the antidumping investigation on uranium from Kazakhstan and Kyrgyzstan, as amended, (antidumping suspension agreement on uranium from Kazakhstan and Kyrgyzstan), the Department of Commerce (the Department) calculated a price for uranium of $11.76/pound of U_3O_8 for the relevant period, as appropriate.[1] Under Section IV.A, exports from Kazakhstan to the U.S. are subject to quotas determined based on price levels as outlined in Appendix A. On the basis of this price and Appendix A of the suspension agreement with Kazakhstan, there is no quota for uranium from Kazakhstan for the period April 1, 1998, through September 30, 1998.

EFFECTIVE DATE: April 1, 1998.

FOR FURTHER INFORMATION CONTACT: Letitia Kress or Jim Doyle, Office of Antidumping Countervailing Duty Enforcement—Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482-6412 or (202) 482–0159, respectively.

Price Calculation

Background

Section IV.C.1. of the antidumping suspension agreements on uranium from Kazakhstan and Kyrgyzstan specifies that the Department will issue its determined market price on April 1, 1997, and use it to determine the quota applicable to imports from Kazakhstan during the period April 1, 1998, to September 30, 1998. Consistent with the February 22, 1993 letter of

[1] Section IV.A. of the agreement with Uzbekistan calls for a quota allocation that is tied to U.S. Production of U_3O_8. Pursuant to such provision, the quota for the current relevant period for Uzbekistan, October 13, 1997-October 12, 1998, has been announced separately in the letter, *Production-Based Quota Methodology for Uzbekistan*, dated October 10, 1997 in accordance with Section IV.A of that agreement.

interpretation, the Department provided interested parties with the preliminary price determination on March 20, 1998.

Calculation Summary

Section IV.C.1. of these agreements specifies how the components of the market price are reached. In order to determine the spot market price, the Department calculated a simple average utilizing the monthly average of the Uranium Price Information System Spot Price Indicator (UPIS SPI) and the weekly average of the Uranium Exchange Spot Price (Ux Spot). In order to determine the long-term market price, the Department calculated a simple average utilizing the weighted-average long-term price as determined by the Department (see explanation below) on the basis of information provided by market participants (market study) and a simple average of the UPIS U.S. Base Price for the months in which there were new contracts reported.

With regard to the market study, the Department's letters to market participants provided a contract summary sheet and directions requesting the submitter to report his/her best estimate of the future price of merchandise to be delivered in accordance with the contract delivery schedules (in U.S. dollars per pound U_3O_8 equivalent). Using the information reported in the market study's proprietary summary sheets, the Department calculated the present value of the prices reported for any future deliveries assuming an annual inflation rate of 2.30 percent. The inflation rate was derived from a rolling average of the annual Gross Domestic Product Implicit Price Deflator index from the past four years. The Department then calculated weight-averaged annual price factors according to the specified nominal delivery volumes for each delivery year. These factors are summed to arrive at the long-term price by reported contract. These contract prices are then weight-averaged together to determine one overall long-term contract price for the market study component. The Department then calculated a simple average of the market study long-term contract price UPIS U.S. Base Price.

Weighting

The Department used the average spot and long-term volumes of U.S. utility and domestic supplier purchases, as reported by the Energy Information Administration (EIA), to weight the calculated spot and long-term components of the observed price. In this instance, we have used purchase data from the period 1993–1996. During this period, the spot market accounted for 79.31 percent of total purchases, and the long-term market for 20.69 percent.

As in previous determinations, the Department used the Energy Information Administration's (EIA) *Uranium Industry Annual* to determine the available average spot- and long-term volumes of U.S. utility purchases. We have continued to use data which reflects the period 1993 through 1996. The EIA has withheld certain business proprietary contract data from the public versions of the *Uranium Industry Annual 1993, Uranium Industry Annual 1994, Uranium Industry Annual 1995* and the *Uranium Industry Annual 1996* (the most recent edition). The EIA, however, provided all business proprietary data to the Department and the Department has used it to update its weighting calculation.

Calculation Announcement

The Department determined, using the methodology and information described above, that the observed market price is $11.76. This reflects an average spot market price of $11.84, weighted at 79.31 percent, and an average long-term contract price of $12.29, weighted at 20.69 percent. Since this price is below $12.00–$13.99 as defined in Appendix A of the suspension agreement with Kazakhstan, Kazakhstan does not receive an Appendix A quota for the period April 1, 1998, to September 30, 1998.

Comments

Consistent with the February 22, 1993, letter of interpretation, the Department provided interested parties the preliminary price determination for this period on March 20, 1998. No interested party submitted comments.

Dated: April 1, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary for Antidumping Countervailing Duty—Group III.

[FR Doc. 98–9093 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–502]

Certain Welded Carbon Steel Pipes and Tubes from Thailand: 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: Certain Welded Carbon Steel Pipes and Tubes from Thailand

SUMMARY: In response to requests by Saha Thai Steel Pipe Co., Ltd. ("Saha Thai") and its affiliated exporter, S.A.F. Pipe Export Co., Ltd., ("SAF"), and two importers, Ferro Union Inc. ("Ferro Union"), and ASOMA Corp. ("ASOMA"), the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain welded carbon steel pipes and tubes from Thailand. This review covers Saha Thai/SAF, a manufacturer/exporter of the subject merchandise to the United States. The period of review (POR) is March 1, 1996 through February 28, 1997.

We have preliminarily determined that the respondent sold subject merchandise at less than normal value (NV) during the POR. If these preliminary results are adopted in our final results, we will instruct U.S. Customs to assess antidumping duties based on the differences between the export price and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding should also submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: John Totaro or Dorothy Woster, AD/CVD Enforcement Group III, Office VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1374 or (202) 482–3362, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (hereinafter, "the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the old regulations (19 C.F.R. Part 353 (1997)), as amended by the interim regulations published in the Federal Register on May 11, 1995, (60 FR 25130). Although the Department's new regulations, codified at 19 CFR 351 (62 FR 27296, May 19, 1997) ("Final Regulations"), do not govern this administrative review, citations to those regulations are provided, where appropriate, as a statement of current departmental practice.

SUPPLEMENTARY INFORMATION:

Background

On March 11, 1986, the Department published in the **Federal Register** an antidumping duty order on welded carbon steel pipes and tubes from Thailand (51 FR 8341). On March 7, 1997, the Department published a notice of opportunity to request an administrative review of this order covering the period March 1, 1996 through February 28, 1997 (62 FR 10521). A timely request for an administrative review of the antidumping order with respect to sales by Saha Thai/SAF during the POR was filed jointly by Saha Thai, SAF, Ferro Union, and ASOMA. The Department published a notice of initiation of this antidumping duty administrative review on April 24, 1997 (62 FR 19988). On May 14, 1997, certain domestic producers of standard pipe products entered an appearance in this review: Allied Tube & Conduit Corporation, Sawhill Tubular Division—Armco, Inc., Wheatland Tube Company, and Laclede Steel Company, ("petitioners" or "domestic interested parties").

Because the Department determined that it was not practicable to complete this review within statutory time limits, on November 19, 1997, we published in the **Federal Register** our notice of extension of time limits for this review (62 FR 61802). As a result, we extended the deadline for these preliminary results. The deadline for the final results will continue to be 120 days after publication of these preliminary results.

Scope of the Review

The products covered by this administrative review are certain welded carbon steel pipes and tubes from Thailand. The subject merchandise has an outside diameter of 0.375 inches or more, but not exceeding 16 inches. These products, which are commonly referred to in the industry as "standard pipe" or "structural tubing," are hereinafter designated as "pipe and tube." The merchandise is classifiable under the Harmonized Tariff Schedule (HTS) item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085 and 7306.30.5090. Although the HTS subheadings are provided for convenience and Customs purposes, our written description of the scope of the order is dispositive. This review covers sales by Saha Thai/SAF during the period March 1, 1996 through February 28, 1997.

Verification

As provided in section 782(i) of the Act, we verified sales information provided by the respondent Saha Thai from March 2–6, 1997, using standard verification procedures, including examination of relevant financial records and analysis of original documentation used by Saha Thai to prepare responses to requests for information from the Department. We also verified sales and level of trade issues at one of Saha Thai's home market resellers which the Department determined was an affiliate of Saha Thai. Our verification results are outlined in the public version of the verification report (Memorandum to Roland L. MacDonald) from John B. Totaro and Dorothy A. Woster, March 19, 1998 ("Saha Thai Verification Report").

Affiliation and Collapsing Determinations

Pursuant to section 771 (33) of the Act, the Department considers the following persons or parties to be affiliated:

A. Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

B. Any officer or director of an organization and such organization.

C. Partners.

D. Employer and employee.

E. Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization.

F. Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

G. Any person who controls any other person and such other person. For the purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

It is the Department's practice to collapse affiliated producers for purposes of calculating a margin when the facts demonstrate that the relationship is such that there is a strong possibility of manipulation of prices and production decisions that would result in circumvention of the antidumping order. Although the Department's new regulations published May 19, 1997 (62 FR 27410) do not govern this review, they do codify the Department's current practice. Current practice calls for the Department to treat two or more affiliated producers as a single entity (i.e., "collapse" the firms) for purposes of calculating a dumping margin when the following three criteria are met:

1. The producers must be affiliated;
2. The producers must have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and
3. There must be a significant potential for the manipulation of price or production. *Final Regulations*, 62 FR 27296, 27410.

In identifying whether there is a significant potential for the manipulation of price or production, the factors the Department considers include: the level of common ownership; whether managerial employees or board members of one of the affiliated producers sit on the board(s) of directors of the other affiliated parties; and whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers

A. Producers of Subject Merchandise

The Department finds that Saha Thai is affiliated under section 771(33)(F) of the Act with two Thai producers of the subject merchandise that are not respondents in this review: Thai Tube Co., Ltd. ("Thai Tube"), and Thai Hong Steel Pipe Import Export Co., Ltd. ("Thai Hong"). This affiliation is established through common control by the Lamatipanont family. For a more detailed discussion of the Department's analysis, see Memorandum to the File, March 31, 1998 ("Producers Affiliation-Collapsing Memorandum.")

Further, based on public information on the record of this review, the Department determines that Thai Tube and Thai Hong are both producers of the subject merchandise, and therefore have production facilities for identical products to those produced by Saha Thai. We, therefore, conclude that Thai Tube and Thai Hong could restructure their production priorities to produce the subject merchandise with little or no retooling of their facilities.

In considering the "significant potential" factors described above, the Department finds, based on the evidence on the record, that there is substantial involvement in the ownership and management of these three producers by members of the Lamatipanont family. However, because there is no evidence of intertwined

operations, we preliminarily find that a significant potential for manipulation of price or production does not exist between Saha Thai and Thai Tube or between Saha Thai and Thai Hong. Therefore, we have not collapsed these three entities for the purpose of calculating a dumping margin. However, we will continue to examine this issue for the final results. *See* Producers Affiliation-Collapsing Memorandum.

B. Siam Steel Group

The Department finds that the member companies of the Siam Steel Group are affiliated under section 771(33)(F) of the Act because they are owned and managed by the Karuchit/ Kunanantakul family. In discussing the scope of the Department's analysis of affiliation through "control" under section 771(33) of the Act, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act states that "[a] company may be in a position to exercise restraint or direction, for example, through corporate or family groupings * * *" Statement of Administrative Action, H.R. Doc. 316, Vol.1, 103d Cong. (1994) ("SAA") at 838. The facts on the record in this review demonstrate that the Siam Steel Group, a grouping of Thai entities (including Saha Thai) which produce, sell and provide services related to various steel products under common control by the Karuchit/Kunanantakul family, is the type of "corporate or family grouping" envisioned in the SAA and the Final Regulations. Based on the facts in this case, we find that Saha Thai is affiliated under section 771(33)(F) with each and every member of the Siam Steel Group. *See* Memorandum to the File, March 31, 1998 ("SSG Affiliation-Collapsing Memorandum.")

"Company E" is a producer of PVC-lined steel pipes and a member of the Siam Steel Group. Therefore, we considered whether Saha Thai and Company E should be collapsed as a single entity for purposes of calculating an antidumping margin. Company E produces standard welded steel BS-medium grade pipe as an intermediate product to finished PVC-lined pipe. In doing so, Company E uses a production process similar to that used by Saha Thai to manufacture the subject merchandise with additional steps to yield PVC-lined pipe. Saha Thai stated that Company E subjects the intermediate, unlined steel pipe to substantial additional manufacturing operations and associated costs to transform this the intermediate product to PVC-lined pipe. In consideration of these facts, we preliminarily do not conclude that it would not require substantial retooling of Company E's facilities to shift production of the subject merchandise from Saha Thai to Company E. Evidence on the record indicates that executing this type of shift would require extensive and expensive infrastructure changes in Company E. Therefore, the second collapsing criterion of section 351.401(f) of the Final Regulations is not satisfied. We will continue to examine this issue for the final results.

Because we determine that the second collapsing criterion is not satisfied, it is not necessary to consider the third criterion in the collapsing analysis—identifying the potential for manipulation of price or production. *See Certain Porcelain-on-Steel Cookware From Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 42496, 42497 (August 7, 1997). For these reasons, we determine that it is not appropriate to treat the affiliated companies Saha Thai and Company E as a single entity for the purposes of calculating an antidumping margin. *See* SSG Affiliation-Collapsing Memorandum.

C. Resellers

The record evidence demonstrates that the Sae Haeng/Ratanasirivilai family controls both Saha Thai and Company A, the Lamatipanont family controls both Saha Thai and Company B, and the Ampapankit family controls both Saha Thai and Company C. The record therefore supports our finding of affiliation under section 771(33)(F) of the Act between Saha Thai and these three resellers. *See* Memorandum to the File, March 31, 1998 ("Resellers Affiliation Memorandum").

Fair Value Comparisons

To determine whether sales of steel pipes and tubes from Thailand to the United States were made at less than normal value (NV), we compared the United States price (USP) to the NV for Saha Thai as specified in the "United States Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

United States Price

We based USP on EP, in accordance with section 772(b) of the Act, when the subject merchandise was sold to unaffiliated purchasers in the United States prior to importation. Saha Thai sells to the United States through its affiliated export company SAF. We classified all Saha Thai sales to United States customers as EP sales because we did not find Saha Thai/SAF to be affiliated with its U.S. distributors. *Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 61 FR 56515, 56517 (November 1, 1996). In this review, the record evidence presents no factual circumstances warranting a change from this prior analysis. Accordingly, we calculated the EP based on the price from Saha Thai/ SAF to unaffiliated parties in the United States where these sales were made prior to importation into the United States, in accordance with section 772(a) of the Act. Where appropriate, in accordance with section 772(c)(2) of the Act, we made deductions from the starting price for ocean freight to the U.S. port, foreign inland freight, foreign brokerage and handling, foreign inland insurance, and bill of lading charge. We also added duty drawback rebated to Saha Thai upon exportation of subject merchandise made from imported coil in accordance with section 771(c)(1) of the Act.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of Saha Thai's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that the aggregate volume of Saha Thai's home market sales of the foreign like product is greater than five percent of the aggregate volume of Saha Thai's U.S. sales. Thus, we determined that Saha Thai had a viable home market during the POR. Consequently, we based NV on home market sales.

As discussed above, we found Saha Thai and its three home market resellers affiliated under section 771(33)(F) of the Act. Based on this finding, we applied the standard arm's length test to Saha Thai's sales to these affiliated resellers. Because these sales were not made at arm's length prices, we required Saha Thai to report the downstream sales made in the home market by the affiliated resellers. These sales were included in our home market normal value calculation. *See* Memorandum to File from Dorothy Woster, March 31, 1998 ("Analysis Memorandum").

Pursuant to section 773(b) of the Act, there were reasonable grounds to believe or suspect that Saha Thai had made home market sales at prices below its COP in this review because the

Department had disregarded sales below the COP in the 1994–1995 administrative review (i.e., the most recently completed review at the time we issued our antidumping questionnaire). As a result, the Department initiated an investigation to determine whether Saha Thai made home market sales during the POR at prices below its COP. We calculated the COP based on the sum of respondent's cost of materials and fabrication for the foreign like product, plus amounts for SG&A and packing costs, in accordance with section 773(b)(3) of the Act.

We used respondent's reported COP amounts to compute weighted-average COPs during the POR. We compared the COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. On a product-specific basis, we compared the COP to home market prices, less any applicable movement charges, discounts and credit notes.

In determining whether to disregard home market sales made at prices below the COP, we examined (1) whether, within an extended period of time, such sales were made in substantial quantities, and (2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of the respondent's sales of a given product during the POR were at prices less than the COP, we determined such sales to have been made in substantial quantities within an extended period of time in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act. Therefore, we disregarded the below-cost sales.

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX* v. *United States*, 1998 WL 3626 (Fed Cir., 1998). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market when the Department finds home market sales to be outside the "ordinary course of trade." This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the "ordinary course of trade" to include sales disregarded as below cost. *See* Section 771(15) of the Act. Consequently, the Department has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the "ordinary course of trade." Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of Review" section of this notice, above, that were in the ordinary course of trade (i.e., sales that passed the cost test) for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales in the ordinary course of trade of the identical or the most similar merchandise in the home market that were otherwise suitable for comparison, we compared U.S. sales to sales of the next most similar foreign like product, based on the characteristics listed in Sections B and C of our antidumping questionnaire. We have implemented the Court's decision in this case, to the extent that the data on the record permitted.

Where appropriate, we adjusted Saha Thai's home market sales for discounts, credit expenses, inland freight, inland insurance, and warehousing. We also adjusted the home market sales made by reseller Company B for credit notes. In addition, in accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Saha Thai's cost of materials, fabrication, SG&A, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Saha Thai in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the average of the selling expenses reported for home market sales that survived the cost test, weighted by the total quantity of those sales. For actual profit, we first calculated the difference between the home market sales value and home market COP, and divided the difference by the home market COP. We then multiplied this percentage by the COP for each U.S. model to derive an actual profit.

Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act and in the SAA, to the extent practicable, we determine normal value (NV) based on sales in the comparison market at the same level of trade as the export price (EP) or the constructed export price (CEP). The NV level of trade is that of the starting-price sales in the comparison market or, when NV is based on constructed value (CV), that of the sales from which we derive selling, general and administrative expenses and profit. For EP, the U.S. level of trade is the level of the starting-price sale, which is usually from exporter to importer.

To determine whether NV sales are at a different level of trade than EP or CEP, 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. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

For the U.S. market, Saha Thai reported only one level of trade for its EP sales. This single level of trade represents large volume sales to unaffiliated trading companies/distributors in the U.S. In the home market, Saha Thai claimed that sales were made at two levels of trade: (1) large volume home market sales made to unaffiliated trading companies and distributors (made at the same level of trade as U.S. sales), and (2) sales made by its affiliated resellers to retailers and end-users. Saha Thai claimed that the resellers' home market sales are at a more advanced level of trade than Saha Thai/SAF's U.S. and home market sales because the reseller sales require keeping varied inventory on hand, higher warehouse staffing levels, and additional delivery services and selling expenses.

To determine whether sales in the home market occur at two different levels of trade, and therefore, whether a level of trade adjustment should be applied when U.S. sales are matched to sales by Saha Thai's resellers, we analyzed the selling expenses and functions performed by Saha Thai and its affiliated resellers. In comparing the two claimed home market levels of trade to each other, we note that both Saha Thai and the resellers performed the following selling functions: preparing merchandise for shipment, maintaining sales records, and pricing/ discounts/ rebates. The following selling functions are performed only by the resellers: maintaining inventory, collecting bills, extending credit, pre-sale warehousing, and providing delivery to the customer with its own fleet of trucks. The qualitative nature of these different selling functions is reflective of a more advanced marketing stage, viz-a-viz Saha Thai's sales to trading companies/ distributors. Consistent with this finding, we note significant quantifiable difference in selling expenses (indirect selling expenses and presale warehousing expenses) reported by the resellers and Saha Thai. Thus, we determine that resellers' sales were made at a more advanced level of trade than Saha Thai's sales in the home market. Accordingly, where possible, we matched EP sales to home market sales made at the same level of trade, i.e. to home market sales made by Saha Thai.

When we compare U.S. sales to home market sales at a different level of trade, we make a level-of-trade adjustment if the difference in levels of trade affects price comparability. We determine any effect on price comparability by examining sales at different levels of trade in a single market, the home market. Any price effect must be manifested in a pattern of consistent price differences between home market sales used for comparison and sales at the equivalent level of trade of the export transaction. To quantify the price differences, we calculate the difference in the average of the net prices of the same models sold at different levels of trade. We use the average difference in net prices to adjust NV when NV is based on a level of trade different from that of the export sale. If there is a pattern of no price differences, the difference in levels of trade does not have a price effect and, therefore, no adjustment is necessary. Because comparisons of home market net prices did not reveal a pattern of consistent price differences between Saha Thai's home market sales and the resellers' home market sales, no level of trade adjustment was granted.

Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. *See* Change in Policy Regarding Currency Conversions, 61 FR 9434 (March 8, 1996). Section 773A(a) 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. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice.

Preliminary Results of the Review

We preliminarily determine that the following weighted-average dumping margins exist:

Manufacturer/exporter	Period	Margin (percent)
Saha Thai/SAF	3/1/96–2/28/97	1.92

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs and/or other 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 those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days from the date of publication of these preliminary results.

Upon issuance of the final results of review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. We calculated importer-specific ad valorem duty assessment rates for the class or kind of merchandise 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 those duties. This rate will be assessed uniformly on all entries that particular importer made during the POR. (This is equivalent to dividing the total amount of the antidumping duties, which are calculated by taking the difference between statutory NV and statutory EP, by the total statutory EP value of the sales compared, and adjusting the result by the average difference between EP and customs value for all merchandise examined during the POR). Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon the publication of the final results of these administrative reviews for all shipments of circular welded carbon steel pipes and tubes from Thailand entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by Section 751(a)(2)(c) of the Act: (1) the cash deposit rate for the reviewed companies will be that established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 15.67 percent, the "All Others" rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 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.

These preliminary results of review are issued and published in accordance with section 751(a)(1) and 777(i)(1) of the Act and 19 CFR 353.22.

Dated: March 31, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–9091 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–810]

Certain Welded Stainless Steel Pipe From Korea; Final Results of Antidumping Duty Changed Circumstances Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty changed circumstances review.

SUMMARY: On February 6, 1998, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its antidumping duty changed circumstances review on certain welded stainless steel pipe from Korea (63 FR 6153) to examine whether SeAH Steel Corporation (SeAH) is the successor to Pusan Steel Pipe (PSP), the successor to Sammi Metal Products Co. (Sammi), or neither. We have now completed this review and determine that, for purposes of applying the antidumping duty law, SeAH is the successor to PSP, and as such, should be assigned the antidumping deposit rate applicable to PSP.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: Lesley Stagliano or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0648, (202) 482–3020.

SUPPLEMENTARY INFORMATION:

Background

On February 6, 1998, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its antidumping duty changed circumstances review on certain welded stainless steel pipe from Korea (63 FR 6153). We have now completed this changed circumstances review in accordance with section 751(b) of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by the review are shipments of welded austenitic stainless steel pipe (WSSP) that meets the standards and specifications of the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A–312. The merchandise covered by the scope of this order also includes WSSP made according to the standards of other nations which are comparable to 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 WSSP are currently classifiable under the following Harmonized Tariff Schedules of the United States (HTSUS) subheadings: 7306.40.5005, 7306.40.5015, 7306.40.5040, 7306.40.5065, and 7306.40.5085. Although these subheadings include both pipes and tubes, the scope of this review is limited to welded austenitic stainless steel pipes. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order is dispositive.

This changed circumstances administrative review covers SeAH and any parties affiliated with SeAH.

Successorship

According to SeAH, PSP legally changed its name to SeAH on December 28, 1995, which change became effective on January 1, 1996. SeAH claims that its name change from PSP was a change in name only, and that the legal structure of the company, its management, and ownership were not affected by the name change. SeAH also claims that it is a part of a larger group of related companies, certain members of which had SeAH in their names prior to January 1, 1996.

In its request for a changed circumstances review, SeAH indicated that PSP had acquired certain production assets formerly owned by Sammi Metal Products Co. (Sammi). SeAH asserts that the acquisition, which occurred more than a year before the name change and was effective January 3, 1995, is not related to the name change. SeAH claims that its acquisition of the products and facilities of Sammi is functionally no different from PSP expanding its existing facilities or contracting a new manufacturing facility.

Based on the information submitted by SeAH, petitioners have argued that SeAH is, at a minimum, a hybrid of PSP and Sammi.

In determining whether one company is the successor to another for purposes of applying the antidumping duty law, the Department examines a number of factors including, but not limited to, changes in (1) management, (2) production facilities, (3) suppliers, and (4) customer base. See, *e.g.*, Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review, (57 FR 20460, May 13, 1992); Steel Wire Strand for Prestressed Concrete from Japan; Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, (55 FR 7759, March 5, 1990); and Industrial Phosphoric Acid From Israel; Final Results of Antidumping Duty Changed Circumstances Review (59 FR 6944, February 14, 1994). While no one or several of these factors will necessarily provide a dispositive indication of succession, the Department will generally consider one company to be a successor to a second if its resulting operation is essentially the same as that of its predecessor. See Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review, (55 FR 20460, 20461, May 13, 1992). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity, the Department will assign the new company the cash deposit rate of its predecessor.

The record in this review, as demonstrated by the following factors, indicates that SeAH is the successor to PSP for the production of subject

merchandise, and is not a successor to Sammi, nor a new hybrid entity.

Analysis of Comments Received

Comment 1

Petitioners argue that it is not the change in name from PSP to SeAH that supports a finding of changed circumstances but rather the acquisition of the production operations for WSSP from Sammi in Changwon, and the closure of the PSP Seoul facility. Consequently, petitioners state that whether or not PSP ever changed its name, the fundamental changes in PSP that resulted from acquiring Sammi's WSSP Changwon facility justify a finding of changed circumstances in this review. Petitioners point out that the agency must recognize that although changes in names provide grounds for a changed-circumstances review, the law does not require that a name change occur in order to support a finding of changed circumstance. In support of this statement, petitioners cite Industrial Phosphoric Acid from Israel, (59 FR 6944, 6945, (1994)). Petitioners state that in its preliminary analysis, the Department erroneously focused on whether there was a change in factors such as production facilities, customers, suppliers and management following the name change, not following the acquisition. Thus, petitioners argue that the Department focused on the wrong time period with respect to this analysis. Instead of comparing PSP's operations in 1995 to SeAH's operations in 1996, petitioners argue that the Department should examine the operations of PSP in 1994 as contrasted with PSP's operations in 1995 and SeAH's operations in 1996.

Respondents maintain that the Department correctly applied the successorship test used in Brass Sheet and Strip from Canada, (57 FR 20460, 20461, May 13, 1992), Sugar and Syrups from Canada, (61 FR 51275, October 1, 1996), Large Power Transformers from Italy, (52 FR 46806, December 10, 1987), and Industrial Phosphoric Acid from Israel, (59 FR 6944, February 14, 1994), to the facts of this review in order to conclude that SeAH's business operation for production of the subject merchandise was that of its predecessor PSP. Furthermore, respondents argue that petitioners ignore that the administrative record includes multiple questionnaire responses which focused on PSP's acquisition of the Changwon plant and cover over three years of information regarding PSP and SeAH's (1) management, (2) production facilities, (3) suppliers, and (4) customer base. In addition, respondents assert that the Department's conclusion in the Preliminary Results does indeed address the effects of the plant acquisition.

Department's Position: The Department disagrees with petitioners' argument that the Department did not inquire about or consider the successorship factors following the acquisition of the Changwon plant. While our preliminary results may not have detailed the breadth of our inquiry, the Department did, in fact, consider the effects of the acquisition of the Changwon plant including: (1) The changes in production facilities at the Changwon plant after January 1, 1995. See August 27, 1997 Response; (2) all documentation pertaining to the acquisition of the Changwon plant (i.e., contracts, sales agreements, non-compete agreements, deeds of transfer, meeting notes, articles of incorporation, etc.); (3) whether Sammi's employees were transferred to PSP as a result of the acquisition of the Changwon plant. See October 3, 1997 Response; (4) the number of workers that are currently employed at the Changwon facility, (5) the percentage that the transferred employees make up of the total employees at the Changwon plant, (6) the functions that are performed by the ninety employees that were transferred from Seoul to work in the Changwon facility. See December 2, 1997 Response; (7) the process through which PSP acquired the Changwon plant, the negotiation process time-line, and all documents associated with the negotiation, (8) the factory layouts of the Seoul plant before and after the relocation, as well as the factory layouts of the Changwon plant before and after PSP acquired it, and (9) marketing practices and marketing changes after PSP acquired the Changwon plant. In addition, the Department analyzed information from 1994, 1995 and 1996 with respect to the customers and suppliers of PSP/SeAH. As a result of the Department's analysis of the effects of the acquisition of the Changwon plant, the Department stated in its preliminary results:

> We preliminarily find that SeAH is not the successor to Sammi as suggested by the petitioner. While the plant is a former Sammi facility, the plant was overhauled and redesigned. Further, none of Sammi's former managers work for SeAH, with the exception of two plant managers, who ceased working for Sammi long before the plant acquisition, and, therefore, were not hired as a result of that acquisition. PSP's suppliers did not change in a way that would be attributed to PSP's acquisition of the Changwon plant, and PSP did not acquire a significant number of new customers or substantial new business from such customers as a result of the Changwon acquisition.
>
> (63 FR 6155; February 6, 1998)

Thus, the record establishes that the Department thoroughly considered PSP's acquisition of the Sammi facility and the effect of that acquisition on PSP's operations.

Comment 2

Petitioners argue that the Department impermissibly shifted focus of the inquiry to a change in the corporation as a whole rather than a change solely with respect to production of subject merchandise by focusing on the change in the name rather than on the acquisition of Sammi's Changwon facility. Petitioners cite Industrial Phosphoric Acid from Israel, (59 FR 6945), when arguing that the successor company question must be resolved "in terms of the operations that produce the subject merchandise." Petitioners also cite Brass Sheet and Strip from Canada, (57 FR 20460, 20461, (1992)), which states that "the point of comparison is the type of business, not the legal entity itself." Moreover, petitioners argue that by focusing on the company name change, the Department has departed from its legal precedent requiring that successorship inquiries analyze changes at the level of production of subject merchandise, not based on an overall corporate entity.

Department's Position: The Department agrees with petitioners that the focus of the changed circumstances should be the production of subject merchandise. However, both the name change and the acquisition of the Sammi facility relate to the production of the subject merchandise. Thus, the Department correctly considered the name change as a changed circumstance giving rise to the issue of successorship. As stated in response to Comment 1, the Department considered both the name change and the effects of the acquisition of Changwon as they relate to the successorship factors.

Comment 3

Petitioners argue that the Department has failed to examine whether SeAH is a hybrid of PSP and Sammi. Petitioners contend that at a minimum, SeAH must be viewed as a combination of PSP and Sammi with respect to the production of WSSP and, thus, should be subject to the "all others" cash deposit rate. Petitioners assert that the additional information obtained at verification provides further support for the conclusion that SeAH is a hybrid of PSP

WSSP production and Sammi WSSP production.

Although petitioners acknowledge that overhauling of the Changwon facility may support the Department's conclusion that SeAH is not the successor to Sammi, petitioners argue that these facts do not support the conclusion that SeAH is the successor to PSP. Petitioners' arguments focus on the change in production facilities that since (1) PSP's WSSP operations were physically relocated from Seoul and integrated with Sammi production lines, in Sammi's pre-existing Changwon facility, and (2) SeAH shut down the Seoul facility, SeAH is not the successor to PSP with respect to WSSP production facilities. Petitioners argue that the acquisition of raw materials, supplies and inventory, and retention of certain production lines in addition to physical facilities at Changwon prove that the resulting WSSP production at the Changwon facility is now a combination of PSP and Sammi.

Petitioners argue that evidence on the record indicates that the production facilities of PSP are not the same as those of SeAH. Petitioners argue that instead of focusing on the March 26, 1996 shut down of the WSSP facility in Seoul, the agency focused on differences that exist at the Changwon facility today in comparison to the Changwon facility when it was run by Sammi.

Respondents argue that many companies frequently buy equipment, occasionally expand and/or move their facilities, and sometimes they increase production and grow. Thus, none of the changes that accompanied PSP's acquisition of Sammi's Changwon plant were extraordinary. Respondents note that the only difference between this case and the normal changes that most companies experience is that PSP purchased the physical assets of a company that also produced subject merchandise and had its own company-specific rate. Respondents argue that there is no difference with respect to equipment purchased from Sammi or any other source because no equipment nor a specific facility has an antidumping deposit rate inviolably attached to it. While SeAH's production facility at Changwon may be a combination of equipment from Sammi and PSP's Seoul plant, it does not logically follow that in purchasing the plant and equipment from Sammi that PSP became something other than itself.

Department's Position: The Department disagrees with petitioners. The Department considers the acquisition of the Changwon facility and the above mentioned materials as asset acquisitions and nothing more. Although the hybrid issue may not be detailed in the preliminary results, the Department addressed it in its analysis of the management, production facilities, customers and suppliers. We collected and analyzed PSP/SeAH information regarding these factors for 1994, 1995, and 1996. After reviewing these four factors, the Department determined that with the purchase of the Changwon plant, PSP remained PSP. Contrary to petitioners' argument, the Department's findings did resolve the hybrid issue. Specifically, we found that (1) PSP did not change into a new corporate entity, (2) the management team remained the same, and (3) even though PSP's production facility changed with the acquisition of the Changwon plant and the relocation of the Seoul facility, the new Changwon facility came under the PSP corporate structure. With the exception of the acquisition of the new facility, PSP (and hence SeAH) continued to operate essentially as it had prior to the acquisition. Subsumed in the Department's conclusion that SeAH operates essentially the same as PSP is the conclusion that it is not a hybrid operation.

Comment 4

Petitioners claim that although SeAH has attempted to focus on the fact that it did not "transfer" production workers from Sammi's Changwon facility as part of its contractual agreements, the agency didn't ask whether there was a contractual agreement to transfer workers. In addition, petitioners argue that the agency incorrectly focused on whether the number of people employed at the Changwon plant changed after PSP changed its name to SeAH and not whether the number of people in Changwon's facility changed after PSP acquired Changwon and shifted employees from Seoul to Changwon. Moreover, petitioners state that the agency fails to contrast the number of newly-hired workers with the number of transferred workers.

Respondents contend that the number of newly-hired employees and the proportion of total workers at Changwon that these employees represent are stated on the record.

Department's Position: At verification, the Department analyzed the original contract to buy the Changwon plant and found no evidence of an agreement to transfer workers from Sammi to PSP. Moreover, as mentioned in the preliminary determination, at verification the Department looked at personnel files of current SeAH employees at the Changwon plant and found only one new hire who had worked for Sammi prior to 1989, and for an unaffiliated entity between 1989 and 1996, before coming to Changwon. There was no evidence that any other employees had worked for Sammi. Thus, the Department finds no reason to suspect that any Changwon employees were transferred to PSP. As this issue contains proprietary information, refer to the Memorandum to the File from Lesley Stagliano, dated March 30, 1998 for further information.

Comment 5

Petitioners argue that facts on the record contradict the agency's conclusion that SeAH is the successor to PSP with respect to the domestic customer base. Petitioners cite SeAH as stating "that the majority of its customers are small customers" and "that it is likely that most of its (SeAH's) new smaller customers were customers of Sammi." Based on these two statements, petitioners assert that SeAH's operations in Changwon served not only the home market customer base of PSP but also the home market customer base of Sammi, thus, proving that SeAH is not the successor to PSP.

Respondents maintain that the Department's findings regarding the change in customers was correct. Respondents argue that with Sammi's disappearance from the market, the new small customers would be just as likely to seek material from any of the several other producers of subject merchandise in Korea.

Department's Position: At verification, the Department did not find any evidence of customer lists or contracts transferring customers from Sammi to PSP. We believe PSP's addition of customers who were former customers of Sammi is a normal consequence of Sammi's departure from the market. For further discussion of this issue, refer to the Memorandum to the File from Lesley Stagliano, dated March 30, 1998.

Comment 6

Petitioners state that SeAH has never submitted for the record either PSP's or SeAH's list of United States customers even though the Department asked SeAH to report data on "all" customers, see Request for Information from SeAH Steel Corp., dated July 24, 1997, question 12. Petitioners assert that because the focus of a changed-circumstances review is on whether the company (PSP) that was subject to the antidumping finding by the Department in its original order is the same as the company (SeAH) now requesting successorship status, it is critical that the Department examine the U.S. customer base, for it was on the basis of

U.S. sales to U.S. customers at particular prices that the dumping findings were made. Furthermore, petitioners state that the weighted-average margins resulting from the case reflect that Sammi accounted for the majority of U.S. sales of WSSP from Korea; therefore, petitioners argue that as the only other exporter of WSSP to the United States previously identified, SeAH is now supplying Sammi's former U.S. customer base. Thus, petitioners conclude that SeAH is not the successor to PSP.

Respondents state that PSP/SeAH sells the vast majority of its subject merchandise in the domestic market, and that petitioners have no basis for claiming that "SeAH is now supplying Sammi's former U.S. customer base." Moreover, respondents argue that Sammi did not, and could not, transfer its U.S. customers to PSP. In addition, respondents contend that it is unreasonable to assume that, among all of the potential suppliers to the U.S. customer, both domestic and foreign, that all of Sammi's former customers would choose PSP/SeAH.

Department's position: As noted above, PSP purchased only Sammi's production assets. PSP did not succeed to any rights or obligations Sammi had with its U.S. or domestic customers. With Sammi's absence from the market, it is natural that U.S. customers would seek business from other suppliers of subject merchandise in order to fill the void that was created. Further, as noted by respondents, PSP's/SeAH's U.S. sales consist of a small percentage of the total sales of WSSP, a fact admitted by petitioners as well.

Comment 7

Petitioners disagree with the agency's conclusion that the changes in suppliers were not "significant".

Department's Position: The Department maintains its position that the changes in suppliers were not significant. For further elaboration of the Department's position, as it contains proprietary information, refer to the Memorandum to the File from Lesley Stagliano, dated March 30, 1998.

Comment 8

Petitioners argue that the Department incorrectly focused on the change in management following the name change and not on the acquisition of Changwon. In addition, petitioners assert that respondents' statement that "management dictates and controls the production of subject merchandise, and, most important, sets prices" is an unfounded overemphasis of just one factor and that production facilities, suppliers, and customers are relevant factors as well.

Respondents argue that not only did the Department address the issue of management specifically with respect to the Changwon acquisition, but that it also analyzed management on a corporate-wide level. Consequently, respondents state that the Department verified all of the information pertaining to the period before and after the acquisition of Sammi's Changwon plant, and that such information is reflected in the verification report. Respondents quote the Department's verification report which states that there were "no significant organizational changes after the acquisition of the Changwon plant." See Verification Report at 5.

Department's Position: The Department agrees with respondents. The Department did address the relevant changes in management. In the Memorandum to Joseph Spetrini from Edward Yang, dated January 29, 1998, the Department states, "[a]ll of the managers of the Changwon plant were transferred from PSP plants after the January 1, 1995 acquisition of the Changwon plant." In addition, the Department states, "(t)he headquarters for the sales and marketing division remained at the head office in Seoul, and very little changed with respect to the individuals holding these management positions." See Preliminary Results, (63 FR 6154). In its analysis, the Department specifically looked at the period following the acquisition as well as the name change with respect to management. Thus, the Department maintains its original position in the preliminary results regarding this issue.

Comment 9

Petitioners argue that SeAH attempted to circumvent the antidumping duty laws by combining operations with another company (Sammi) subject to a higher dumping rate, but nonetheless continued to produce and export subject merchandise to the United States without divulging this information and relying instead on the lower (PSP's) rate.

Respondents argue that PSP could in no way improve its position vis-a-vis the applicable cash deposit rate by purchasing Sammi's Changwon plant, a company with a higher deposit rate than PSP. Furthermore, respondents argue that for PSP to try to circumvent the antidumping order by purchasing the production facilities of the company with the highest cash deposit rate, when PSP already had the lowest cash deposit rate of any company subject to the antidumping order, would defy logic.

Department's position: The Department disagrees with petitioners. Petitioners cite to no evidence on the record to support their contention. The Department has thoroughly reviewed the facts on the record and did not find that Respondent has intentionally attempted to mislead the Department.

Final Results of the Review

After reviewing the comments received, we determine that SeAH is the successor to PSP for antidumping duty cash deposit purposes.

SeAH will, therefore, be assigned the PSP antidumping deposit rate of 2.67 percent.

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2)(c) of the Act: The case deposit rate for the reviewed company will be as outlined above.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 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 subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with section 777(i)(1) of the Act and 19 CFR 353.22(f).

Dated: March 30, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–8973 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–815]

Certain Welded Stainless Steel Pipe From Taiwan; Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of changed circumstances antidumping duty administrative review.

SUMMARY: Pursuant to a request from Chang Mien Industries Co., Ltd. (Chang Mien), the Department of Commerce (the Department) initiated a changed circumstances administrative review of the antidumping duty order on certain welded stainless steel pipe from Taiwan, 62 FR 30567, (June 4, 1997). Chang Mien requested that the Department determine that Chang Mien is the successor firm to Chang Tieh Industry, Co., Ltd. (Chang Tieh), a respondent excluded from the order in the less-than-fair-value (LTFV) investigation. *See* Notice of Amended Final Determination and Antidumping Duty Order; Certain Welded Stainless Steel Pipes From Taiwan, 59 FR 6619, (February 11, 1994); see also Amended Final Determination and Antidumping Duty Order; Certain Welded Stainless Steel Pipe From Taiwan, 57 FR 62300 (December 30, 1992). Based on the information Chang Mien provided in its responses to the Department's questionnaires and on the data obtained at verification, we have preliminarily determined that Chang Mien is the successor-in-interest to Chang Tieh.

EFFECTIVE DATE: April 7, 1998.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips at (202) 482–0193, or Linda Ludwig at (202) 482–3383, AD/CVD Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

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 references to the Department's regulations are to 19 CFR Part 353 (April 1, 1997).

Verification

As provided in section 776(b) of the Act, we verified information provided by Chang Mien using standard verification procedures, including the examination of relevant sales and financial records, and the selection of original source documentation containing relevant information.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 1996, Chang Mien requested that the Department conduct a changed circumstances administrative review pursuant to section 751(b) of the Act to determine whether Chang Mien should properly be considered the successor firm to Chang Tieh. In the LTFV investigation, the Department excluded Chang Tieh from the antidumping duty order on certain welded stainless steel pipe from Taiwan after calculating a margin of zero for Chang Tieh. Chang Mien maintains that, as Chang Mien and Chang Tieh were related at the time of the LTFV investigation, Chang Mien is entitled to Chang Tieh's exclusion from the order *ab initio*. Chang Mien further states that, since publication of the antidumping duty order on this product, Chang Mien has absorbed Chang Tieh, and asks that the Department issue a determination that Chang Mien is the successor firm to Chang Tieh and as such is entitled to Chang Tieh's exclusion from the antidumping duty order. Pursuant to Chang Mien's request, the Department initiated a changed circumstance review on June 4, 1997. *See* Certain Welded Stainless Steel Pipe from Taiwan; Invitation of Changed Circumstances Antidumping Duty Administrative Review, 62 FR 30567.

Scope of the Review

The merchandise subject to this antidumping duty order is welded austenitic stainless steel pipe (WSSP) 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 merchandise covered by the scope of this order also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to 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 include, but are not limited to, digester brewery process and transport lines, general food processing lines, automotive paint lines and paper process machines. Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTS) subheadings: 7306.40.5005, 7306.40.5015, 7306.40.5040, 7306.40.5065 and 7306.40.5085. Although these subheadings include both pipes and tubes, the scope of this antidumping duty order is limited to welded austenitic stainless steel pipes. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order is dispositive.

Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

In accordance with section 751(b) of the Act, the Department initiated a changed circumstances administrative review on June 4, 1997, to determine whether Chang Mien is the successor company to Chang Tieh.

In determining whether a merged company is the successor to another for purposes of the antidumping duty law, the Department examines a number of factors including, but not limited to, changes in (1) management, (2) production facilities, (3) supplier relationships, and (4) customer base. *See e.g.*, Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review, 57 FR 20460 (May 13, 1992). While no one or several of these factors will necessarily provide a dispositive indication, the Department will generally consider the company that merged with another company to be a successor to the previous company if its resulting operation is substantially similar to that of the predecessor. *See e.g.*, Industrial Phosphoric Acid from Israel; Final Results of Changed Circumstances Review, 59 FR 6944 (February 14, 1994). Thus, if evidence demonstrates that, with respect to the production and sale of the subject merchandise, the successor company operates as the same business entity as the former company, the Department will treat the successor company the same as the predecessor for purposes of antidumping duty liability.

To determine whether Change Mien is the successor-in-interest to Chang Tieh, we examined Chang Mein's initial request for a changed circumstances review, and Chang Mien's responses to the Department's supplemental questionnaires of October 27, 1997, and December 5, 1997. In addition, from January 21 through January 23, 1997, we verified Chang Mien's responses at its facilities in Kaoshung, Taiwan.

Chang Mien, founded in 1972, began sales operations in 1977, originally as a carbon steel coil center. In early 1984, Chang Mien formed a subsidiary, Chang Tieh, to produce and market stainless steel pipe. In 1989 Chang Mien acquired land adjacent to its steel coil centers for construction of its stainless steel pipe mill. Chang Tieh began producing non-

annealed pipe in 1990; the following year, Chang Tieh purchased and installed an annealing furnace permitting it to produce ASTM A312 heat-treated pipe, the subject merchandise of the antidumping duty order. While the non-annealed pipe was intended almost exclusively for domestic consumption, the addition of the annealing furnace allowed Chang Tieh to target export markets.

In 1993 Chang Mien sought to merge Chang Tieh and another firm, Jumbo Stainless Steel Corporation (Jumbo), into a single entity bearing the Chang Mien name. The merger was prompted by Chang Mien's desire to become a publicly-traded company on Taiwain's stock exchange. The merger of the affiliated companies into one larger, consolidated entity would make Chang Mien more attractive to investors in the market. Chang Mien's 1991–1992 audited financial statements noted that a resolution to absorb Chang Tieh and Jumbo with Chang Mien was adopted by the stockholders on October 16, 1992. The Company (*i.e.* Chang Mien) would be the continuing company, while Chang Tieh and Jumbo would be the merged companies and cease to exist. The merger of Chang Tieh and Jumbo was approved by the Fair Trade Commission of the Executive Yuan on March 16, 1993.

Chang Mien maintains that it was related to or affiliated with respondent Chang Tieh, since both companies were owned by the same individual. As such, Chang Mien asserts in its request for review that it should have been excluded from the antidumping duty order *ab initio* (*see* Chang Mien's Request for § 751(b) Review, September 11, 1996, Public Version, p. 2). Therefore, Chang Mien maintains that when it absorbed Chang Tieh, it assumed Chang Tieh's exclusion from the antidumping duty order.

Basing our analysis on the four criteria cited above and evidence on the record, we have preliminarily determined that Chang Mien is the successor-in-interest to Chang Tieh. First, during the LTFV investigation, the Department established Chang Tieh's relationship with Chang Mien by virtue of common ownership by the same individual. In addition, the management and organizational structure of the former Chang Tieh, while undergoing some changes since the Department's 1991 period of investigation, remained essentially intact in the time following the March 1993 merger. The production facilities, although upgraded to some extent, are virtually the same, maintaining the same production capacity. Although Chang Mien has recently added new suppliers as the business environment changed, for the years immediately following the merger, Chang Mien continued to deal with essentially the same steel suppliers as those used by Chang Tieh prior to the merger. Chang Mien's customer base has changed considerably from the customers served by Chang Tieh, due to customer name changes, bankruptcy, new customers, etc. However, given that Chang Mien absorbed Chang Tieh more than four years ago we would expect change in the customer base. Moreover, changes in the U.S. customer base are understandable, given that Chang Tieh was a first-time entrant into the U.S. pipe market during the 1991 POI. Therefore, factors other than the merger of Chang Tieh with Chang Mien, contributed to the evolution to customer base.

As stated previously, we do not consider any one factor dispositive; our decision is based on the totality of the evidence. Our analysis of the evidence on the record leads us to preliminarily determine that Chang Mien is the successor-in-interest to Chang Tieh, since it essentially operates as the same entity as the former company, maintaining the same management, production facilities, and supplier relationships as did Chang Tieh prior to its merger with Chang Mien.

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results. Rebuttal briefs and rebuttals to written comments, limited to issues raise din such briefs or comments, may be filed no later than 37 days after the date of publication. The Department will publish the final results of this changed circumstances review which will include its analysis of any such written comments.

This notice is in accordance with section 751(b) of the Act, as amended (19 U.S.C. 1675(b)), and section 353.22(f) of the Department's regulations.

Dated: March 31, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–9099 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Case Western Reserve University, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 97–074. *Applicant:* Case Western Reserve University, Cleveland, OH 44106. *Instrument:* Stopped-Flow Spectrometer, Model SX.18MV. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* See notice at 62 FR 47645, September 10, 1997. *Reasons:* The foreign instrument provides: (1) Sub-millisecond dead time, (2) two photomultipliers at different angles to allow detection of both fluorescence and absorbance on immediately subsequent reactions and (3) superior performance on test specimens to be used in the planned research. *Advice received from:* National Institutes of Health, March 4, 1998.

Docket Number: 97–099. *Applicant:* Indiana/Purdue University, Indianapolis, IN 46202. *Instrument:* Xenon Flashlamp, Model JML–C2. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* See notice at 63 FR 5504, February 3, 1998. *Reasons:* The foreign instrument provides a liquid light guide to focus light directly on the specimen with a pulse power of 240 kW for a 1 ms duration. *Advice received from:* National Institutes of Health, January 5, 1998.

Docket Number: 97–100. *Applicant:* University of California, San Diego, La Jolla, CA 92093–0931. *Instrument:* Digital Sleep Recorder, Model VitaPort 2. *Manufacturer:* TEMEC Instruments BV, The Netherlands. *Intended Use:* See notice at 63 FR 5504, February 3, 1998. *Reasons:* The foreign instrument provides: (1) Electronic measurement of electrophysical (e.g. EEG and EOG) and cardio-respiratory (e.g. ECG and RIP–

THOR) parameters and (2) minimized weight, power consumption and physical dimensions appropriate for space flight. *Advice received from:* National Institutes of Health, January 5, 1998.

Docket Number: 97–104. *Applicant:* University of Colorado, Boulder, CO 80309–0008. *Instrument:* Experimental Set-ups (Frames & Trusses). *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* See notice at 63 FR 5364, February 2, 1998. *Reasons:* The foreign instrument provides a small mechanical apparatus with instrumentation which serves as a mock-up of structures, such as a truss, frame or bridge, which students can use to perform basic experiments in structural engineering. *Advice received from:* A university laboratory instructor, March 19, 1998.

Docket Number: 97–107. *Applicant:* University of Illinois at Urbana-Champaign, Urbana, IL 61801. *Instrument:* Near-Field Scanning Optical Microscope. *Manufacturer:* Witec GmbH, Germany. *Intended Use:* See notice at 63 FR 5504, February 3, 1998. *Reasons:* The foreign instrument provides: (1) operation in both transmission and reflection mode, (2) operation in liquids and (3) three separate piezo-drivers for X,Y,Z translation. *Advice received from:* National Institutes of Health, March 5, 1998.

Docket Number: 98–003. *Applicant:* University of Vermont, Burlington, VT 05405. *Instrument:* (40 each) HV Stopcock (Laboratory Glassware). *Manufacturer:* Louwers Hapert Glasstechnics BV, The Netherlands. *Intended Use:* See notice at 63 FR 8164, February 18, 1998. *Reasons:* The foreign instrument provides a unique remotely controlled high vacuum stopcock for use in automated processing systems for production of doubly labelled water. *Advice received from:* National Institutes of Health, March 5, 1998.

The National Institutes of Health and a university laboratory instructor advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each Instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–8972 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

TITLE: Emergency Beacon Registrations.

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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 8, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NOAA/NESDIS, James Bailey, Chief, Direct Services Division E/SP3, 4700 Silver Hill Road, Stop 9909, Washington, DC 20233–9909. Toll-free 1–888–212–7283.

SUPPLEMENTARY INFORMATION:

I. Abstract

Search and Rescue instruments on NOAA's weather satellites can detect distress signals from emergency beacons, which are often used on ships and aircraft. NOAA relays emergency signals to the Coast Guard and Air Force for rescue efforts. The Federal Communications Commission requires that emergency beacons be registered with NOAA. Registration information is provided to the Coast Guard with alert information to enable it to track down owners when false alarms take place and to provide vital descriptive characteristics to speed response in actual distress cases.

II. Method of Collection

The information is collected on a form enclosed in the packaging of new emergency beacons. The form is also available on the World-Wide-Web.

III. Data

OMB Number: 0648–0295.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Not-for-profit institutions; individuals; business or other for-profit; State, Local, or Tribal governments; and the Federal government.

Estimated Number of Respondents: 10,000.

Estimated Time Per Response: 15 minutes.

Estimated Total Annual Burden Hours: 2,500 hours.

Estimated Total Annual Cost: $0 (no capital expenditures are required for the registration).

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: April 1, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–9011 Filed 4–6–98; 8:45 am]

BILLING CODE 3512–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Intent To Prepare a Draft Environmental Impact Statement on the Proposed Minnesota Coastal Management Program

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement.

SUMMARY: Notice is hereby given of the intent to prepare a Draft Environmental Impact Statement (DEIS) on the proposed approval of the Minnesota Coastal Management Program (MCMP, or Program) under the provisions of Section 306 of the Federal Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1455, and distribute it in June, 1998.

Federal approval of the MCMP would make the State eligible for program administration grant funds and require that Federal actions be consistent with the Program.

The Program is the culmination of several years of development and consists of numerous State policies on diverse management issues which are prescribed by statute and made enforceable under State law. The Program should improve the decision making process for determining appropriate coastal land and water uses in light of resource considerations. The program should increase public awareness of coastal resources. Federal alternatives will include delaying or denying approval if certain requirements of the Coastal Zone Management Act have not been met. State alternatives include the possibility of modifying parts of the Program or withdrawal of the request for Federal approval.

In order to determine the scope and significance of issues to be addressed in the DEIS, the Office of Ocean and Coastal Resource Management (OCRM) hereby solicits comments on the proposed action, particularly with respect to the following issues:

(1) The adequacy of the scope and geographic coverage of the Program's laws and regulations to manage impacts on shorelands, water quality, wetlands, and other vulnerable natural resources;

(2) The adequacy of the mechanisms for State agency coordination and consultation in order to effectively implement the MCMP; and

(3) The adequacy of the mechanisms for ensuring State agency consistency with the policies of the MCMP and resolving conflicts between agencies.

The manner in which the State proposes to address the above requirements was presented in the State public review Draft Program Document of the MCMP, in February, 1997. The State has considered all comments submitted in response to that document in the preparation of the MCMP Draft Program Document to be released with the DEIS in June, 1998. Copies of the State draft document are available from OCRM.

DATES: Persons or organizations wishing to submit comments on these or other issues should do so by May 7, 1998. Any comments received after that time will be considered in the response to comments received on the DEIS.

ADDRESSES: Requests for the above described documents and all comments should be made to: Neil Christerson, Coastal Programs Division, Great Lakes Region, Office of Ocean and Coastal Resource Management, 1305 East-West Highway (N/ORM3), Silver Spring, Maryland 20910; tel. 301/713–3113, ext. 167, e-mail: neil.christerson@noaa.gov.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: April 2, 1998.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 98–9070 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 033198D]

Mid-Atlantic Fishery Management Council; Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Habitat Committee (meeting with the Coastal Migratory Committee, Demersal Committee, Dogfish Committee, Surfclam and Ocean Quahog Committee, Squid, Mackerel, and Butterfish Committee, Habitat Advisors, and Scientific and Statistical Committee), Atlantic Mackerel, Squid, and Butterfish Committee, Demersal Species Committee, Executive Committee, Committee Chairmen, Surfclam and Ocean Quahog Committee, Information and Education Committee, and Comprehensive Management Committee will hold public meetings.

DATES: The meetings will be held Tuesday, April 21, 1998 to Thursday, April 23, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: This meeting will be held at the Wilmington Hilton, I–95 and Naamans Road, Claymont, DE; telephone: 302–792–2700.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331.

SUPPLEMENTARY INFORMATION:

Meeting Dates

Tuesday, April 21, 1998, 10:00 a.m. until 5:00 p.m.—The Habitat Committee (meeting with the Coastal Migratory Committee, Demersal Committee, Dogfish Committee, Surfclam and Ocean Quahog Committee, Atlantic Squid, Mackerel, and Butterfish Committee, Habitat Advisors, and Scientific and Statistical Committee).

Tuesday, April 21, 1998, 1:00–4:00 p.m.—The Atlantic Mackerel, Squid, and Butterfish Committee will meet.

Tuesday, April 21, 1998, 4:00–5:00 p.m.—The Information and Education Committee will meet.

Tuesday, April 21, 1998, 5:00–6:00 p.m.—The Demersal Species Committee will meet.

Wednesday, April 22, 1998, 7:00–9:00 a.m.—The Executive Committee will meet.

Wednesday, April 22, 1998, 9:00–10:00 a.m.—The Committee Chairmen will meet.

Wednesday, April 22, 1998, 10:00 a.m. until noon—The Surfclam and Ocean Quahog Committee will meet.

Wednesday, April 22, 1998, 1:00–5:00 p.m.—Council will meet.

Thursday, April 23, 1998, 7:00–9:00 a.m.—The Comprehensive Management Committee will meet.

Thursday, April 23, 1998, 9:00 a.m. until 2:00 p.m.—Council will meet.

Agenda items include recommendations on bluefish essential fish habitat (EFH); recommendations on EFH for summer flounder, scup, and black sea bass; discussion on distribution and abundance of scup, black sea bass, dogfish, surfclams, ocean quahogs, squid, mackerel and butterfish; review and possible recommendations

on request from Gulf Council that NMFS impose a limited access program for highly migratory species vessels for hire in the Gulf of Mexico in conjunction with a similar action being taken by the Gulf Council for fisheries under its jurisdiction; description and analysis of current fleet of vessels holding permits in the Northeast Region fisheries; review of fleet analysis and economic analysis of the commercial Atlantic mackerel fishery; discuss and possibly adopt qualifying criteria for limited entry to the commercial Atlantic mackerel fishery; review and comment on proposed management measures for silver hake and winter flounder public hearing documents; review 1998 work schedule; review of potential Surfclam and Ocean Quahog Committee advisors; discussion of economic issues for Council's annual surfclam and ocean quahog quota setting; possible modification of the Council's surfclam and ocean quahog quota setting policy; review and possible recommendations on proposed Federal lobster regulations; review and possible adoption of Monkfish Fishery Management Plan; review and possible recommendations on sea scallops management measures; approval of additional Scientific & Statistical Committee member; review issue one of Council Newsletter; view demonstration of Council's website; discuss possible involvement in trade shows; and review comprehensive management matrix.

Although other issues not contained in this agenda may come before these Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: April 1, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–8991 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031898A]

Mid-Atlantic Fishery Management Council; Cancellation of Public Meeting

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

ACTION: Notice of cancellation of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) has cancelled the public meeting of the Coastal Migratory Committee and Atlantic States Marine Fisheries Commission's Bluefish Board that was scheduled for Wednesday, April 8, 1998. The meeting was announced in the **Federal Register** on March 24, 1998.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331.

SUPPLEMENTARY INFORMATION: The initial notice published on March 24, 1998 (63 FR 14068). The meeting is being cancelled because more time is required to develop specific recommendations on the status of the bluefish stock.

Dated: April 2, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–9073 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

April 1, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: April 8, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 64361, published on December 5, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 1, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 1, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period beginning on January 1, 1998 and extending through December 31, 1998.

Effective on April 8, 1998, you are directed to reduce the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
338/339	2,080,417 dozen.
347/348	1,889,626 dozen.
433	3,160 dozen.
443	38,664 numbers.
634	431,199 dozen.
638/639	2,196,928 dozen.
647/648	1,140,182 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–8993 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Qatar

April 1, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing a limit.

EFFECTIVE DATE: April 8, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 347/348 is being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 60828, published on November 13, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 1, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 6, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Qatar and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on April 8, 1998, you are directed to decrease the limit for Categories 347/348 to 473,546 dozen [1], as provided for under the Uruguay Round Agreement on Textiles and Clothing.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.98–8994 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Thursday, April 23, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–9144 Filed 4–2–98; 4:41 pm]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection; Comment Request—Recordkeeping Requirements Under the Safety Regulations for Full-Size Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed extension of approval through September 30, 2001, of information collection requirements in the safety regulations for full-size cribs codified at 16 CFR 1500.18(a)(13) and Part 1508. These regulations were issued to reduce hazards of strangulation, suffocation, pinching, bruising, laceration, and other injuries associated with full-size cribs. (A full-size crib is a crib having an interior length ranging from 49¾ inches to 55 inches and an interior width ranging from 25⅜ to 30⅝ inches.) The regulations prescribe performance, design, and labeling requirements for full-size cribs. They also require manufacturers and importers of those products to maintain sales records for a period of three years after the manufacture or importation of full-size cribs. If any full-size cribs subject to provisions of 16 CFR 1500.18(a)(13) and Part 1508 fail to comply in a manner severe enough to warrant a recall, the required records can be used by the manufacturer or importer and by the Commission to identify those persons and firms who should be notified of the recall. The Commission will consider all comments received in response to this notice before requesting approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than June 8, 1998.

ADDRESSES: Written comments should be captioned "Collection of Information—Requirements Under the Safety Regulations for Full-Size Cribs" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the proposed collection of information call or write Robert E. Frye, Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 504–0962, Ext. 2264.

SUPPLEMENTARY INFORMATION:

A. Estimated Burden

Based on information available at the time the Commission sought Office of Management and Budget approval of the collection of information in the safety regulations for full-size cribs in 1995, the Commission staff estimates that there are 40 firms required to annually maintain sales records of full-size cribs. The staff further estimates that the average number of hours per respondent

[1] The limit has not been adjusted to account for any imports exported after December 31, 1997.

is five per year, for a total of 200 hours of annual burden (40×5=200).

B. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
—Whether the estimated burden of the proposed collection of information is accurate;
—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: April 2, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 98–9079 Filed 4–6–98; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection; Comment Request; Recordkeeping Requirements Under the Safety Regulations for Non-Full-Size Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed extension of approval through September 30, 2001, of information collection requirements in the safety regulations for non-full-size cribs codified at 16 CFR 1500.18(a)(14) and Part 1509. These regulations were issued to reduce hazards of strangulation, suffocation, pinching, bruising, laceration, and other injuries associated with non-full-size cribs. (A non-full-size crib is a crib having an interior length greater than 55 inches or smaller than 49¾ inches; or an interior width greater than 30⅝ inches or smaller than 25⅜ inches; or both.) The regulations prescribe performance, design, and labeling requirements for non-full-size cribs. They also require manufacturers and importers of those products to maintain sales records for a period of three years after the manufacture or importation of non-full-size cribs. If any non-full-size cribs subject to provisions of 16 CFR 1500.18(a)(14) and Part 1509 fail to comply in a manner severe enough to warrant a recall, the required records can be used by the manufacturer or importer and by the Commission to identify those persons and firms who should be notified of the recall. The Commission will consider all comments received in response to this notice before requesting approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than June 8, 1998.

ADDRESSES: Written comments should be captioned "Collection of Information—Requirements Under the Safety Regulations for Non-Full-Size Cribs" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the proposed collection of information call or write Robert E. Frye, Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 504–0962, Ext. 2264.

SUPPLEMENTARY INFORMATION:

A. Estimated Burden

Based on information available at the time the Commission sought Office of Management and Budget approval of the collection of information in the safety regulations for non-full-size cribs in 1995, the Commission staff estimates that there are 40 firms required to annually maintain sales records of non-full-size cribs. The staff further estimates that the average number of hours per respondent is four per year, for a total of 160 hours of annual burden (40×4=160).

B. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
—Whether the estimated burden of the proposed collection of information is accurate;
—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: April 2, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 98–9080 Filed 4–6–98; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection; Comment Request—Testing and Recordkeeping Requirements Under the Standard for the Flammability of Mattresses and Mattress Pads

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed extension of approval through September 30, 2001, of information collection requirements in the Standard for the Flammability of Mattresses and Mattress Pads (16 CFR Part 1632). The standard is intended to reduce unreasonable risks of burn injuries and deaths from fires associated with mattresses and mattress pads. The standard prescribes a test to assure that a mattress or mattress pad will resist ignition from a smoldering cigarette. The standard requires manufacturers to perform prototype tests of each combination of materials and construction methods used to produce mattresses or mattress pads and to obtain acceptable results from such testing. Sale or distribution of mattresses without successful completion of the testing required by the standard violates section 3 of the Flammable Fabrics Act (15 USC 1192). An enforcement rule implementing the standard requires manufacturers to maintain records of testing performed in

accordance with the standard and other information about the mattress or mattress pads which they produce. The Commission will consider all comments received in response to this notice before requesting approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than June 8, 1998.

ADDRESSES: Written comments should be captioned "Collection of Information—Mattress Flammability Standard" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the proposed collection of information call or write Robert E. Frye, Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 504–0962, Ext. 2264.

SUPPLEMENTARY INFORMATION:

A. Estimated Burden

Based on information available at the time the Commission sought Office of Management and Budget approval of the collection of information in the Standard for the Flammability of Mattresses and Mattress Pads in 1995, the Commission staff estimates that there are 800 firms required to test mattresses and keep records. The staff further estimates that eight annual reports per firm requiring 3¼ hours each will be needed, for a total of 20,800 hours of annual burden (800×8×3.25=20,800).

B. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: April 2, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 98–9081 Filed 4–6–98; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection; Comment Request—Procedures for Export of Noncomplying Products

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed extension of approval through September 30, 2001, of information collection requirements in regulations codified at 16 CFR Part 1019, which establish procedures for export of noncomplying products. These regulations implement provisions of the Consumer Product Safety Act, the Federal Hazardous Substances Act, and the Flammable Fabrics Act that require persons and firms to notify the Commission before exporting any product that fails to comply with an applicable standard or regulation enforced under provisions of those laws. The Commission is required by law to transmit the information relating to the proposed exportation to the government of the country of intended destination. The Commission will consider all comments received in response to this notice before requesting approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than June 8, 1998.

ADDRESSES: Written comments should be captioned "Collection of Information—Procedures for Export of Noncomplying Products" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the proposed collection of information call or write Robert E. Frye, Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 504–0962, Ext. 2264.

SUPPLEMENTARY INFORMATION:

A. Estimated Burden

Based on information available at the time the Commission sought Office of Management and Budget approval of the collection of information in the Procedures for Export of Noncomplying Products in 1995, the Commission staff estimates that there are 160 firms required to annually submit information to the Commission on proposed exports of noncomplying products. The staff further estimates that the average number of responses per respondent is 1.125 with one hour for each response needed, for a total of 180 hours of annual burden (160 × 1.125 × 1 = 180).

B. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: April 2, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 98–9082 Filed 4–6–98; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and Applicable Form: Application for Annuity—Certain Military Surviving Spouses; DD Form 2769.

Type of Request: New collection; Emergency Processing requested with a shortened public comment period ending April 14, 1998. An approval date of April 23, 1998, is requested.

Number of Respondents 400.

Responses per Respondent: 1.

Annual Responses: 400.

Average Burden per Response: 1 hour.

Annual Burden Hours: 400 hours.

Needs and Uses: The Defense Authorization Act of Fiscal Year 1998, Public Law 105–85, Section 644, requires the Secretary of Defense to pay an annuity to qualified surviving spouses. The DD Form 2769, "Application for Annuity—Certain Military Surviving Spouses," used in this information collection, provides a vehicle for the surviving spouse to apply for the annuity benefit. The Department will use this information to determine if the applicant is eligible for the annuity benefit and make payment to the surviving spouse. The respondents of this information collection are surviving spouses of each member of the uniformed services who (1) died before March 21, 1974, and was entitled to retired or retainer pay on the date of death or (2) was a member of a reserve component of the Armed Forces during the period beginning on September 21, 1972, and ending on October 1, 1978, and at the time of member's death would have been entitled to retired pay.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, or via facsimile at (202) 395–5167.

DOD Clearance Officer: Mr. Robert Cushing.

Requests for copies of the information collection proposal should be sent to Mr. Cushing at OSD/WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302, or via facsimile at (703) 604–6270, or requested telephonically at (703) 604 4582.

Dated: April 1, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–9038 Filed 4–6–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy

AGENCY: United States Military Academy, West Point, New York.

ACTION: Notice of Open Meeting.

SUMMARY: In accordance with Section 10(a)(20) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following meeting:

Name of Committee: Board of Visitors, United States Military Academy.

Date of Meeting: 2 May 1998.

Place of Meeting: Superintendent's Conference Room, Taylor Hall, United States Military Academy, West Point, New York.

Start Time of Meeting: Approximately 8 a.m.

Proposed Agenda: Annual Review of the Academic, Military and Physical Programs at USMA. All proceedings are open.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Joseph A. Dubyel, United States Military Academy, West Point, NY 10996–5000, (914) 938–4200.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–9061 Filed 4–6–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Declare Action Defining Archiving of Occupational Health Exposure Data for Edgewood Area of Aberdeen Proving Ground and Placing of Copies Into Individual Employee Medical Folders

AGENCY: Kirk U.S. Army Health Clinic, MEDCOM.

ACTION: Notice of intent.

SUMMARY: This action pertains to documents from Kirk USA Health Clinic for chronic occupational exposures personally reported to health officials at the Edgewood Area of Aberdeen Proving Ground from 1947 to 1978. Copies of these documents are to be included in the medical folders of employees currently working at the Aberdeen Proving Ground. Original documents will be archived at the National Personnel Records Center, 111 Winnabago Street, St. Louis, MO 63118–4199.

FOR FURTHER INFORMATION CONTACT: Mr. M.C. Wayman, Chief, Correspondence Section, Reference Service Branch, National Personnel Records Center, (314) 425–5733.

SUPPLEMENTARY INFORMATION: This action places information resulting from patient visits to the Edgewood Toxic Exposure Aide Station into medical files. This information reflects medical care and treatment furnished to individuals by occupational health service dispensaries and preventive medicine organizations. Included are records and correspondence relating to the medical history, physical condition and treatment furnished.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–9062 Filed 4–6–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by May 1, 1998. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before June 8, 1998.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request

should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Written comments regarding the regular clearance and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address Pat—Sherrill@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506(c)(2)(A) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 1, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Application for New Grants—State Program Improvement Grants for Children with Disabilities.

Abstract: This information collection is necessary to make awards authorized by the Individuals with Disabilities Education Act, Part D, Subpart 1—State Program Improvement Grants. Eligible grantees are State Departments of Education. This program was newly authorized by the Individuals with Disabilities Education Act Amendments of 1997 (Pub. L. 105–17). The purpose of this program is to assist State educational agencies, and their partners in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities. Appropriations for the first awards under this program become available for obligation on July 1, 1998.

Additional Information: This application package is intended to be made available to potential applicants in May 1998, for submission of applications in August. The impact of not receiving clearance in less than 60 days will be to provide less time for State educational agencies to enter into partnerships with local agencies as required by the Act, and less time for them to collect the information on personnel needs and strategies to address those needs. It is important, in the first year of this program, to make awards on a timely basis, as soon after the availability of funds as possible.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 30.

Burden Hours: 2,700.

[FR Doc. 98–9024 Filed 4–6–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity; Meeting

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the proposed agenda of the National Advisory Committee on Institutional Quality and Integrity. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of its opportunity to attend this public meeting.

DATES AND TIMES: June 8–10, 1998, 8 a.m. until 6 p.m.

ADDRESSES: The Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

The meeting site is accessible to individuals with disabilities. An individual with a disability who will need an accommodation to participate in the meeting (e.g., interpreting service, assistance listening device, or materials in an alternate format) should notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after that date, the requested accommodations may not be available because of insufficient time to arrange them.

FOR FURTHER INFORMATION CONTACT: Ms. Bonnie LeBold, Executive Director, National Advisory Committee on Institutional Quality and Integrity, U.S. Department of Education, 7th and D Streets, SW., Room 3082, ROB–3, Washington, DC 20202–7592, telephone: (202) 260–3636. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Institutional Quality and Integrity is established under Section 1205 of the Higher Education Act of 1965 (HEA), as amended by Pub. L. 102–325 (20 U.S.C. 1145). The Committee advises the Secretary of Education with respect to the establishment and enforcement of the criteria for recognition of accrediting agencies or associations under subpart 2 of part H of Title IV, HEA, the recognition of specific accrediting agencies or associations, the preparation and publication of the list of nationally

recognized accrediting agencies and associations, and the eligibility and certification process for institutions of higher education under Title IV, HEA. The Committee also develops and recommends to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish eligibility for such institutions on an interim basis for participation in federally funded programs.

AGENDA: The meeting on June 8–10, 1998 is open to the public. The following agencies will be reviewed during the June 1998 meeting of the Advisory Committee:

Nationally Recognized Accrediting Agencies

Petition for Initial Recognition

1. Council on Integrative Medical Education (requested scope of recognition: the accreditation of colleges and programs leading to the Doctor of Integrative Medicine (IMD) degree and Doctor of Physiatric Medicine (PMD).

Petitions for Renewal of Recognition

1. Association for Clinical Pastoral Education, Inc., Accreditation Commission (requested scope of recognition: the accreditation and preaccreditation ("Candidacy for Accredited Membership") of clinical pastoral education centers, as well as clinical pastoral education and supervisory clinical pastoral education programs).

2. Commission on Accreditation of Allied Health Education Programs, Board of Directors (requested scope of recognition: the accreditation and preaccreditation ("Candidate for Accreditation") of educational programs for the allied health occupations of cytotechnologist and electroneurodiagnostic technologist).

3. Commission on Opticianry Accreditation (requested scope of recognition: the accreditation of two-year programs for the ophthalmic dispenser and one-year programs for the ophthalmic laboratory technician).

4. Middle States Association of Colleges and Schools, Commission on Secondary Schools (requested scope of recognition: the accreditation and preaccreditation ("Candidate for Accreditation") of public vocational/technical schools offering non-degree, postsecondary education in the Middle States region (Delaware, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, and the Virgin Islands).

5. National Association of Nurse Practioners in Reproductive Health, Council on Accreditation (requested scope of recognition: the accreditation of women's health nurse practitioner programs).

6. North Central Association of Colleges and Schools, Commission on Schools (requested scope of recognition: the accreditation and preaccreditation ("Candidate for Accreditation") of schools offering non-degree, postsecondary education in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin, and Wyoming, and the Navajo Nation).

7. New York State Board of Regents (requested scope of recognition: the accreditation (registration) of collegiate degree-granting programs or curricula offered by institutions of higher education in the state of New York and of credit-bearing certificate and diploma programs offered by degree-granting institutions of higher education in the state of New York).

Interim Reports

(An interim report is a follow-up report on an accrediting agency's compliance with specific criteria for recognition that was requested by the Secretary when the Secretary granted initial or renewed recognition to the agency).

1. Accrediting Association of Bible Colleges, Commission on Accreditation
2. American Association of Nurse Anesthetists, Council on Accreditation of Nurse Anesthesia Educational Programs
3. American Bar Association, Council of the Section of Legal Education and Admissions to the Bar
4. Accreditation Commission for Acupuncture and Oriental Medicine
5. Accrediting Council on Education in Journalism and Mass Communication
6. The American Dietetic Association, Commission on Accreditation/Approval for Dietetics Education
7. American Osteopathic Association, Bureau of Professional Education
8. American Physical therapy Association, Commission on Accreditation in Physical Therapy Education
9. Distance Education and Training Council, Accrediting Commission
10. Joint Review Committee on Education in Radiologic Technology
11. National Accrediting Agency for Clinical Laboratory Sciences
12. National Council for Accreditation of Teacher Education
13. National League for Nursing Accrediting Commission
14. Southern Association of Colleges and Schools, Commission on Colleges
15. Transnational Association of Christian Colleges and Schools, Accrediting Commission

State Agencies Recognized for the Approval of Public Postsecondary Vocational Education

Petitions for Renewal of Recognition

1. Kansas Board of Education
2. New York State Board of Regents, Vocational Education

Interim Report

1. Oklahoma State Regents for Higher Education

State Agency Recognized for the Approval of Nurse Education

Petition for Renewal of Recognition

1. New York State Board of Regents, Nursing Education Unit

Federal Agency Seeking Degree-Granting Authority

In accordance with the Federal policy governing the granting of academic degrees by Federal agencies (approved by a letter from the Director, Bureau of the Budget, to the Secretary, Health, Education, and Welfare, dated December 23, 1954), the Secretary is required to establish a review committee to advise the Secretary concerning any legislation that may be proposed that would authorize the granting of degrees by a Federal agency. The review committee forwards its recommendation concerning a Federal agency's proposed degree-granting authority to the Secretary, who then forwards the committee's recommendation and the Secretary's recommendation to the Office of Management and Budget for review and transmittal to the Congress. The Secretary uses the Advisory Committee as the review committee required for this purpose. Accordingly, the Advisory Committee will review the following institution at this meeting:

Proposed Master's Degree-Granting Authority

1. U.S. Army War College, Carlisle, PA (request to award the master's degree in Strategic Studies to students who complete its non-resident track).

A request for comments on agencies that are being reviewed during this meeting was published in **Federal Register** on December 29, 1997, and on February 10, 1998.

This notice invites third-party oral presentations before the Advisory Committee. It does not constitute

another call for written comment. Requests for oral presentation before the Advisory Committee should be submitted in writing to Ms. LeBold at the address above by May 8, 1998. Requests should include the names of all persons seeking an appearance, the organization they represent, and a brief summary of the principal points to be made during the oral presentation. Presenters are requested not to distribute written materials at the meeting or send them directly to members of the Advisory Committee. Presenters who wish to provide the Advisory Committee with brief documents (no more than 6 pages maximum) illustrating the main points of their oral testimony may submit them to Ms. LeBold by May 8, 1998 (one original and 25 copies). Documents submitted after that date will not be distributed to the Committee. Presenters are reminded that this call for third-party oral testimony does not constitute a call for additional written comment.

At the conclusion of the meeting, attendees may, at the discretion of the Committee chair, be invited to address the Committee briefly on issues pertaining to the functions of the Committee, as identified in the section above on Supplementary Information. Attendees interested in making such comments should inform Ms. LeBold before or during the meeting.

A record will be made of the proceedings of the meeting and will be available for public inspection at the Office of Postsecondary Education, U.S. Department of Education, 7th and D Streets, SW., room 3082, ROB 3, Washington, DC, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Authority: 5 U.S.C. Appendix 2.

Dated: April 2, 1998.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 98–9074 Filed 4–6–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–32–000]

Equitrans, L.P.; Notice of Proposed Change in FERC Gas Tariff

April 1, 1998.

Take notice that on March 17, 1998, Equitrans, L.P. (Equitrans), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective January 1, 1998.

Eighth Revised Sheet No. 400
Tenth Revised Sheet No. 401

Equitrans states that this filing is made to update Equitrans' index of customers. In Order No. 581 the Commission established a revised format for the Index of Customers to be included in the tariffs of interstate pipelines and required the pipelines to update the index on a quarterly basis to reflect changes in contract activity. Equitrans requests a waiver of the Commission's notice requirements to permit the tariff sheets to take effect on April 1, 1998, the first calendar quarter, in accordance with Order No. 581.

Equitrans states that a copy of its filing has been served upon its customers and interested State commissions.

Any person desiring to be heard or to protest this 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 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9001 Filed 4–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–346–015]

Equitrans, L.P.; Notice of Proposed Change in FERC Gas Tariff

April 1, 1998.

Take notice that on March 30, 1998, Equitrans, L.P. (Equitrans), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with an effective date of September 1, 1997:

4th Sub Second Revised Sheet No. 262
4th Sub Second Revised Sheet No. 263

Equitrans states that these revised tariff sheets are submitted in compliance the Commission's March 13, 1998 Letter Order on Equitrans' negotiated rates tariff filing. The Commission held that the revised tariff sheets generally complied with its prior orders and requirements for negotiated rates. However, the Commission required Equitrans to additionally modify Section 30.3 of its General Terms and Conditions to provide that when evaluating competing recourse and negotiated rate proposals for allocating firm capacity, only the reservation charge or other form of guaranteed revenue will be the evaluating factor. Also, the work "and" was deleted in Section 30.2 of the General Terms and Conditions after the designation of Rate Schedule 10SS.

Equitrans states that a copy of its filing has been served upon its 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 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9005 Filed 4–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1253–000]

Illinois Power Company; Notice of Filing

April 1, 1998.

Take notice that on February 9, 1998 Illinois Power Company tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 8, 1998. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–8997 Filed 4–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–166–000

Kansas Municipal Gas Agency v. Williams Gas Pipeline Central Inc. (Formerly Williams Natural Gas Company); Notice of Complaint

April 1, 1998.

Take notice that on March 25, 1998, pursuant to Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, the Kansas Municipal Gas Agency (KMGA) tendered for filing its complaint against Williams Gas Pipeline Central, Inc. (Formerly Williams Natural Gas Company) (Williams).

KMGA argues that Williams has improperly assessed penalties against KMGA for alleged overruns during a period of daily balancing allegedly in violation of Section 9.5 of the General Terms and Conditions (GT&C) contained in Williams' FERC Gas Tariff. KMGA states that Williams claims KMGA owes Williams penalties of $164,130.000 plus interest for depleting storage gas supplies during a "period of daily balancing," which existed on William's system from January 31 through February 5, 1996.

KMGA requests the Commission to order Williams to cease billing KMGA for the penalties and declare the alleged penalties improper under Section 9 of the GT&C of Williams' FERC Gas Tariff. In the alternative, KMGA requests that the Commission establish a hearing to determine whether the penalties asserted by Williams are improper under previous Commission decisions, as well as Williams' FERC Gas Tariff and are otherwise unjust and unreasonable.

Any person desiring to be heard or to protest said complaint 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 Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before May 1, 1998. 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. Answers to this complaint shall be due on or before May 1, 1998.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9007 Filed 4–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–31–000]

Kentucky West Virginia Gas Company, L.L.C.; Notice of Proposed Change In FERC Gas Tariff

April 1, 1998.

Take notice on March 27, 1998, that Kentucky West Virginia Gas Company, L.L.C. (Kentucky West), tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, to become effective April 1, 1998:

Third Revised Sheet No. 320

Kentucky West states that this filing is made to update Kentucky West's index of customers. In Order No. 581 the Commission established a revised format for the Index of Customers to be included in the tariffs of interstate pipelines and required the pipelines to update the index on a quarterly basis to reflect changes in contract activity. Kentucky West requests a waiver of the Commission's notice requirements to permit the tariff sheet to take effect on April 1, 1998, the first calendar quarter, in accordance with Order No. 581.

Kentucky West states that a copy of its filing has been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest this 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 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9000 Filed 4–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–131–000]

KO Transmission Company; Notice of Tariff Filing

April 1, 1998.

Take notice that on March 27, 1998, KO Transmission Company (KO Transmission) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet bearing a proposed effective date of May 1, 1998:

Fourth Revised Sheet No. 10

KO Transmission states that the purpose of the filing is to revise its fuel retainage percentage consistent with Section 24 of the General Terms and Conditions of its Tariff. According to KO Transmission, Columbia Gas Transmission Corporation (Columbia) operates and maintains the KO Transmission facilities pursuant to the Operating Agreement referenced in its Tariff at Original Sheet No. 7. Pursuant to that Operating Agreement, Columbia retains certain volumes associated with gas transported on behalf of KO Transmission. On March 9, 1998, Columbia notified KO Transmission that under terms of the Operating Agreement KO Transmission will be subject to a 0.54% retainage. Accordingly, KO Transmission states that the instant filing tracks this fuel percentage.

Any person desiring to be heard or to protest this 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 and 385.211 of the Commission's Rules and Regulations.

All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9008 Filed 4–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–31–020]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

April 1, 1998.

Take notice that on March 25, 1998, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, First Revised Sheet No. 439, to be effective April 1, 1998.

National Fuel states that the purpose of this filing is to implement a provision in the settlement approved by Letter Order issued by the Commission on February 16, 1996, in Docket No. RP95–31–000 et al. (Settlement). National Fuel states that pursuant to Article I, Section 3, of the approved Settlement, National Fuel is required to flow back seventy-five (75) percent or its revenues from the services performed under the IR–1, IR–2, P–1, P–2, W–1, and W–2 Rate Schedules (referred to in the Settlement as "Hub Services") between April 1, 1998 and March 31, 2000.

National Fuel states that it is serving copies of this filing with its firm customers, interested state commissions and each party designated on the official service list compiled by the Secretary. Copies are also being served on all interruptible customers as of the date of the filing.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9002 Filed 4–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–163–001]

Nora Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 1, 1998.

Take notice that on March 30, 1998, Nora Transmission Company, (Nora) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet to become effective April 1, 1998:

Substitute Second Revised Sheet No. 141

On March 20, 1998, Nora submitted a tariff filing in the above-referenced proceeding. After the filing was made, Nora discovered that the redline version was included on Second Revised Sheet No. 141 under Section 24.5 of its General Terms and Conditions. This revised filing is made to remove the redline text of ")" and minor typographical changes were made on Sheet No. 141, Section 24.4 of the General Terms and Conditions to correct the misspelling of "communications"

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9006 Filed 4–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–275–012 and TM97–2–59–008]

Northern Natural Gas Company; Notice of Compliance Filing

April 1, 1998.

Take notice on March 26, 1998, that 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:

Sheet No.	Effective date
Second Substitute Sixth Revised Sheet No. 54	12/01/97
Seventh Revised Sheet No. 54	06/01/98
Original Sheet No. 54A	12/01/97
Fourth Revised Sheet No. 140	06/01/98
Second Substitute First Revised Sheet No. 300	04/04/97
Second Substitute First Revised Sheet No. 301	04/04/97
Second Revised Sheet No. 301	06/01/98
Second Substitute Original Sheet No. 301A	04/04/97
Original Sheet No. 301B	04/04/97
Original Sheet No. 301C	04/04/97

Northern states that the above-listed tariff sheets are filed in compliance with the Commission's Order Approving Settlement issued March 16, 1998 in the above-referenced dockets addressing Northern's fuel and unaccounted-for

Periodic Rate Adjustment (PRA) mechanism.

Northern states that copies of the filing were served upon Northern's 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 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9003 Filed 4–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–280–001]

Petal Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

April 1, 1998.

Take notice that on March 27, 1998, Petal Gas Storage Company (Petal) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, a number of revised tariff sheets (Sheet Nos. 3, 4, 7, 8, 10, 11, 12, 52, 100–103, 112, 115, 115A, 116, 116A, 122, 123, 124, 127 and 129) with proposed effective dates of June 1, 1998.

Petal states that this filing is made in compliance with both the Commission's April 16, 1997 Order in this docket and Order No. 587–C, issued March 4, 1997.

Petal states that these tariff sheets reflect the provisions of those orders regarding the implementation of standards of the Gas Industry Standards Board. They also reflect the correction of several errors present in the pro forma tariff sheets filed earlier in this docket.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9004 Filed 4–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–452–002]

Rochester Gas & Electric Corporation; Notice of Filing

April 1, 1998.

Take notice that on March 16, 1998, Rochester Gas & Electric Corporation (RG&E), submitted organizational charts and job descriptions in response to the Commission's February 12, 1998, order on standards of conduct.[1] RG&E also certified, pursuant to 18 CFR 385.2005, that it posted the organizational charts and job descriptions on its OASIS.

RG&E states that it served copies of the March 16, filing on the Public Service Commission of the State of New York and on each person listed on the official service list.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before April 10, 1998. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–8998 Filed 4–6–98; 8:45 am]

BILLING CODE 6717–01–M

[1] Arizona Public Service Company, *et al.*, 82 FERC ¶61,132 (1998). On February 23, 1998, RG&E submitted revised standards of conduct in response to the February 12 order. The Commission noticed RG&E's February 23 filing, in Docket No. OA97–457–001, on March 20, 1998.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–296–000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

April 1, 1998.

Take notice that on March 23, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP98–296–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to utilize the existing taps in Wyoming and Montana, under Williston Basin's blanket certificate issued in Docket No. CP82–487–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Williston Basin states that it received a request from Montana-Dakota Utilities Co. (Montana-Dakota) to add additional end-use customers to the Odorizer and Vine Taps. The Odorizer is located at Station 270+44 in Section 34, T56N, R98W, Park County, Wyoming, and the Vine Tap is at Station 5659+92 in Section 35, T25N, R49E, McCone County, Montana. Estimated additional volume to be delivered at the Odorizer Tap is 100 Dkt per year and 110 Dkt per year at the Vine Tap. Williston Basin states it will be using the existing taps to effectuate additional natural gas transportation deliveries to Montana-Dakota for other than right-of-way grantor use.

Williston Basin states that the proposed action will have no significant effect on its peak day or annual requirements, that total volumes delivered will not exceed total volumes authorized prior to this request, that the existing tariff does not prohibit the addition of new delivery points and that there is sufficient capacity to accomplish deliveries without detriment or disadvantage to other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is

filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–8999 Filed 4–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–2350–011, et al.]

CMS Marketing, Services and Trading, et al. Electric Rate and Corporate Regulation Filings

March 31, 1998.

Take notice that the following filings have been made with the Commission:

1. CMS Marketing, Services and Trading

[Docket No. ER96–2350–011]

Take notice that on March 26, 1998, CMS Marketing, Services and Trading (CMS MST), tendered for filing a Notification of Change in Status. This filing provides notification of CMS MST's acquisition of a 50% ownership interest in Enline Energy Solutions, L.L.C.

Comment date: April 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Utah Associated Municipal Power Systems v. PacifiCorp

[Docket No. EL98–32–000]

Take notice that on March 13, 1998, Utah Associated Municipal Power Systems (UAMPS) tendered for filing a complaint against PacifiCorp. UAMPS states in its complaint that PacifiCorp has refused to provide firm transmission service from resources needed to serve UAMPs' loads on reasonable terms and conditions comparable to similar services it provides to itself and others, and (2) PacifiCorp has failed to maintain functional separation between its Merchant and Transmission Functions and has favored its own generation in providing transmission services.

Comment date: April 30, 1998, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall be due on or before April 30, 1998.

3. West Texas Utilities Company, Central Power & Light Company, Public Service Company of Oklahoma

[Docket No. EL98–33–000]

Take notice that on March 13, 1998, Central and South West Services, on behalf of West Texas Utilities Company, Central Power & Light Company and the Public Service Company of Oklahoma tendered for filing a petition requesting waiver of the Commission's fuel adjustment clause.

Comment date: April 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Pennsylvania-New Jersey-Maryland Interconnection

[Docket No. ER97–3189–014]

Take notice that on March 25, 1998, the PJM Interconnection, LLC tendered for filing its compliance filing in the above-referenced docket pursuant to the ordering Paragraph (G) of Commission's New Jersey-Maryland Interconnection, 81 FERC ¶ 61,257 (1997).

Comment date: April 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Company

[Docket No. ER98–1232–000]

Take notice that on March 26, 1998, New England Power Company (NEP), filed supplemental information and corrected data in the above-referenced docket.

Comment date: April 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–1631–001]

Take notice that on March 26, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing revised tariff sheets in compliance with the Order Accepting Filing As Revised, which issued on March 12, 1998 in this proceeding (82 FERC ¶ 61,244). The revised tariff sheets constitute service agreements which pertain to retail transmission and which are Attachments K and L to Con Edison's open access transmission tariff, FERC Electric Tariff, Original Volume No. 1.

Con Edison states that a copy of this filing has been served by mail upon the New York State Public Service Commission (PSCNY) and the parties to this proceeding.

Comment date: April 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Illinois Power Company

[Docket No. ER98–2269–000]

Take notice that on March 20, 1998, Illinois Power Company (IP), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a summary of its activity for the fourth quarter of 1997, under its Market Based Power Sales Tariff, FERC Electric Tariff, Original Volume No. 7.

Comment date: April 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. California Independent System Operator Corporation

[Docket No. ER98–2295–000]

Take notice that on March 24, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities the ISO and Ocean Vista Power Generation, L.L.C., for acceptance by the Commission.

The ISO states that this filing has been served on all parties listed on the official service list in Docket Nos. EC96-19–003 and ER96–1663–003, including the California Public Service Commission.

Comment date: April 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. PG&E Energy Services

[Docket No. ER98–2297–000]

Take notice that on March 25, 1998, PG&E Energy Services tendered for filing a Revised Market-Based Rate Tariff. PG&E Energy Services does not currently have jurisdictional customers who must be served with this Filing.

Comment date: April 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Southern California Edison Company

[Docket No. ER98–2302–000]

Take notice that on March 26, 1998, Southern California Edison Company (Edison), tendered for filing the Edison-Riverside Restructuring Agreement (Restructuring Agreement), between Edison and the City of Riverside, California (Riverside), and a Notice of Cancellation of various agreements and rate schedules applicable to Riverside. Included in the Restructuring Agreement as Appendices B, C, D, E, F, G, H, I, J, K, L, and M are: the Wholesale Distribution Access Tariff Service Agreement, Amendment No. 2 to the Edison-Riverside San Onofre Nuclear Generating Station Firm Transmission Service Agreement, Amendment No. 1 to the Edison-Riverside Hoover Firm Transmission Service Agreement,

Amendment No. 2 to the Edison-Riverside Intermountain Power Project Firm Transmission Service Agreement, Amendment No. 1 to the Edison-Riverside Palo Verde Nuclear Generating Station Firm Transmission Service Agreement, Amendment No. 1 to the Edison-Riverside Washington Water Power Firm Transmission Service Agreement, Amendment No. 1 to the Edison-Riverside Deseret 1992 Firm Transmission Service Agreement, Amendment No. 1 to the Edison-Riverside 1996 BPA Firm Transmission Service Agreement, Amendment No. 1 to the Edison-Riverside DWR II Firm Transmission Service Agreement, Amendment No. 1 to the Edison-Riverside DWR III Firm Transmission Service Agreement, Amendment No. 1 to the Edison-Riverside DWR IV Firm Transmission Service Agreement, and Amendment No. 1 to the Edison-Riverside DWR V Firm Transmission Service Agreement.

The Restructuring Agreement is the result of negotiations between Edison and Riverside to modify existing contracts to accommodate the emerging Independent System Operator (ISO)/ Power Exchange market structure. The Restructuring Agreement significantly simplifies the existing operational arrangements between Edison and Riverside. In addition, the Restructuring Agreement provides for cancellation of existing bundled service arrangements and obligations between Edison and Riverside. Edison is requesting that the Restructuring Agreement become effective on the date the ISO assumes operational control of Edison's transmission facilities.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. PECO Energy Company

[Docket No. ER98–2317–000]

Take notice that on March 26, 1998, PECO Energy Company (PECO), filed under Section 205 of the Federal Power Act, 16 U.S.C. 792 *et seq.*, an Agreement dated February 23, 1998, with Tampa Electric Company (TECO), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of March 1, 1998, for the Agreement.

PECO states that copies of this filing have been supplied to TECO and to the Pennsylvania Public Utility Commission.

Comment date: April 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Consumers Energy Company

[Docket No. ER98–2320–000]

Take notice that on March 26, 1998, Consumers Energy Company (Consumers), tendered for filing an executed service agreement with Consumers Energy Company—Electric Sourcing & Trading for Network Integration Transmission Service pursuant to Consumers' Open Access Transmission Service Tariff, with an effective date of March 1, 1998.

Copies of the filed agreement were served upon the Michigan Public Service Commission and the transmission customer.

Comment date: April 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. FirstEnergy System

[Docket No. ER98–2321–000]

Take notice that on March 26, 1998, FirstEnergy System, tendered for filing Service Agreements to provide Firm Point-to-Point Transmission Service for Cargill-Alliant, LLC and Enron Power Marketing, the Transmission Customers. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000. The proposed effective date under the Service Agreements is March 1, 1998.

Comment date: April 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Northern States Power Company (Minnesota Company) and Northern States Power Company (Wisconsin Company)

[Docket No. ER98–2323–000]

Take notice that on March 26, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing an Electric Service Agreement between NSP and The Electric System of the Board of Municipal Utilities, Sikeston, Missouri (Customer). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Tariff Original Volume No. 4. NSP requests that this Electric Service Agreement be made effective on February 28, 1998.

Comment date: April 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Southern Company Services, Inc.

[Docket No. ER98–2324–000]

Take notice that on March 26, 1998, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Company), filed one (1) umbrella service agreement for short-term firm point-to-point transmission service between SCS, as agent for Southern Company, and Duke Energy Corporation, and three (3) service agreements for non-firm point-to-point transmission service executed between SCS, as agent for Southern Company, and (i) Avista Energy, Inc., (ii) OGE Energy Resources, and iii) Engage Energy US, L.P., under the Open Access Transmission Tariff of Southern Company.

Comment date: April 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Niagara Mohawk Power Corporation

[Docket No. ER98–2328–000]

Take notice that on March 26, 1998, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and the New York Power Authority to serve 0.2 MW of New York Power Authority power to Air Products and Chemicals, Inc. This Transmission Service Agreement specifies that the New York Power Authority has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and the New York Power Authority to enter into separately scheduled transactions under which NMPC will provide transmission service for the New York Power Authority as the parties may mutually agree.

NMPC requests an effective date of April 1, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and the New York Power Authority.

Comment date: April 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–2342–000]

Take notice that on March 26, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing revised tariff sheets to revise Attachments K and L to Con Edison's open access transmission tariff, FERC Electric Tariff, Original Volume No. 1. The tariff filing proposes certain amendments to the terms and conditions for retail transmission. The amendments have been reviewed and approved by the New York State Public Service Commission (PSCNY) in conjunction with Con Edison's retail access program.

Con Edison states that a copy of this filing has been served by mail upon the PSCNY and parties to this proceeding.

Comment date: April 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Montaup Electric Company

[Docket No. ER98–2343–000]

Take notice that on March 26, 1998, Montaup Electric Company (Montaup), filed a revision to Schedule 13, Local Network Service for Retail Connected Load (Retail Transmission Service), of its open access transmission tariff to provide for the collection of Rhode Island Gross Receipts Tax. Montaup requests that the tariff revision be allowed to become effective, retroactively, on January 1, 1998, or, alternatively, sixty days from the date of the filing.

Comment date: April 15, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Salt River Project Agricultural Improvement and Power District

[Docket No. NJ98–3–000]

Take notice that on March 13, 1998, Salt River Project Agricultural Improvement and Power District, a non-public utility, submitted for filing a request for an order declaring that Salt river's voluntary Open Access Transmission Tariff, and related Rates for Transmission and Ancillary Services, together with its Standards of Conduct and Code of Conduct meets the Commission's comparability (non-discrimination) standards and the requirements of Order Nos. 888 and 889, III FERC Stats.& Regs. ¶ 32,035 (1996), Orders Nos. 886–A and 889–A, III FERC Stats & Regs, ¶ 31,048 and 31,049 (1997), and Order Nos. 888–B and 889–B, 81 FERC § 61,253 (1997). Salt River also requests exemption from the payment of any fees associated with its Request pursuant to 18 CFR 381.108.

Comment date: April 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9047 Filed 4–6–98; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5992–1]

Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held on April 22–23, 1998, in Alexandria, VA. The CHPAC was created to advise the Environmental Protection Agency in the development of regulations, guidance and policies to address children's environmental health.

DATES: Wednesday, April 22, 1998, Work Group meetings only; Thursday, April 23, 1998, Plenary session.

ADDRESSES: Ramada Plaza Hotel Pentagon, 4641 Kenmore Avenue, Alexandria, VA 22304.

AGENDA ITEMS: The meetings of the CHPAC are open to the public. The Regulatory Re-evaluation Work Group, the Outreach and Communications Work Group, and the Economics and Assessment Work Group will meet from 10:00 a.m. to 5:00 p.m. on Wednesday, April 22, 1998. The Science/Research Work Group will meet from 2:00–5:00 p.m. on Wednesday, April 22, 1998. The plenary session will be on Thursday, April 23, 1998, from 10:00 a.m. to 5:30 p.m. The plenary session will open with introductions, a review of the agenda and objectives for the meeting. Some tentative agenda items include reports from the Work Groups and discussion of the recommendations of the five standards for reevaluation with regards to children's environmental health. There will be a public comment period on Thursday, April 23, 1998.

FOR FURTHER INFORMATION CONTACT: Contact Paula R. Goode, Office of Children's Health Protection, USEPA, MC 1107, 401 M Street, SW, Washington, D.C. 20460, (202) 260-7778, goode.paula@epamail.epa.gov.

Dated: March 31, 1998.

Paula R. Goode,

Acting Director, Office of Children's Health Protection.

[FR Doc. 98–9066 Filed 4–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5992–2]

Science Advisory Board; Notification of Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notification is hereby given that several committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time. All meetings are open to the public, however, due to limited space, seating at meetings will be on a first-come basis. For further information concerning specific meetings, please contact the individuals listed below. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are *not* available from the SAB Office.

1. Quality Management Subcommittee of the Environmental Engineering Committee (EEC)—Public Meeting April 27–29, 1998

The Quality Management Subcommittee of the Science Advisory Board's (SAB) Environmental Engineering Committee, will meet Monday through Wednesday April 27-29, 1998 in the SAB Conference Room,

Room 3709 (third floor of the Mall), U.S. Environmental Protection Agency Headquarters Building, 401 M Street SW, Washington, DC 20460. The meeting will begin at 8:30 am on April 27 and adjourn no later than 3:30 pm on April 29. For further information, please contact the individuals listed below.

Purpose

The purpose of this meeting is to begin the SAB's review of the Agency-Wide Quality Management Program. This review was requested by the National Center for Environmental Research and Quality Assurance (NCERQA) in EPA's Office of Research and Development.

In 1984, EPA established a mandatory Agency-wide quality assurance (QA) program. EPA requires that organizations implement a quality management system to assure that the environmental data the Agency uses for decision making is the type, quality, and quantity needed. This quality management system includes the planning, implementation, and assessment of data collection activities. NCERQA's Quality Assurance's Quality Assurance Division (QAD) serves as the central management authority for the Agency's Quality System and develops QA procedures and policies for implementation Agency-wide

The tentative charge for this review is to review the fundamental elements of the QA program for completeness, rationality, and relevance to environmental measurement and decision-making programs. To meet this charge, the Subcommittee will review quality management program definition, documents, and implementation. The Subcommittee anticipates 2 or 3 three-day meetings will be required to complete this review. At the April 27–29 meeting, the Subcommittee expects to hear briefings on the Agency's quality management program, draft a letter report on program definition, begin review of selected program documents, and schedule subsequent meetings.

For Further Information

Copies of the review documents and background materials for the review are *not available* from the SAB. The review documents are available on the Internet on the home page for NCERQA's QAD, under the heading: QAD Requirements and Guidance Documents. The address for the home page is: http://es.epa.gov/ncerqa/qa/index.html. Single copies of the documents can also be obtained from QAD's Ms. Betty Waldron who can be reached at (202) 564–6830.

Copies of the agenda are available from Mrs. Dorothy Clark, Committee Operations Staff, Science Advisory Board (1400), U.S. EPA, 401 M Street SW., Washington DC 20460, telephone (202) 260–4126, fax (202) 260–7118, or via Email at clark.dorothy@epa.gov.

Any member of the public wishing to submit comments must contact Mrs. Kathleen White Conway, Designated Federal Officer (DFO) for the Environmental Engineering Committee, *in writing* no later than noon Thursday April 23rd at Science Advisory Board (1400), Room 3702L, U.S. Environmental Protection Agency, Washington DC 20460; FAX (202) 260–7118; or Email at conway.kathleen@epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to the DFO no later than the time of the presentation; these will be distributed to the Subcommittee and the interested public. To discuss technical aspects of the meeting, please contact Mrs. Conway by telephone at (202) 260–2558.

2. Environmental Health Committee (EHC)—Public Meeting April 30—May 1, 1998

The Environmental Health Committee (EHC) of the Science Advisory Board (SAB) will meet on Thursday April 30 and Friday May 1, 1998, beginning no earlier than 8:30 am and ending no later than 5:00 pm on each day. The meeting will be held in North Conference Room 3 at US Environmental Protection Agency Headquarters, Waterside Mall (street level), 401 M. Street, SW, Washington, DC. For convenient access, members of the public should use the main entrance to the Waterside Mall commercial area on the M Street side of the complex. Once inside the Mall, make a right in the center of the mall and proceed toward the Washington Information Center sign. Then follow the sign to the North Conference Center on the left.

Purpose

The purpose of the meeting is to review the draft Health Risk Assessment of 1,3-Butadiene which was developed by the U.S. EPA, Office of Research and Development (ORD), National Center for Environmental Assessment (NCEA). During the afternoon of May 1, the Committee expects to begin preparation of its draft report on the 1,3-Butadiene review. This session is also open to the public.

The EHC has been asked to respond to the following Charge questions: a) Review the health risk assessment for technical quality, comprehensiveness and clarity; b) Is the classification of "known" human carcinogen adequately supported by science?; c) Are the approaches taken to characterize plausible cancer risks reasonable given the science?; and d) Are the conclusions and quantitative estimations for reproductive/developmental effects adequately supported?

Background

ORD published its first risk assessment of 1,3-Butadiene in 1985. The first document covered cancer and mutagenicity and was prepared in response to a request from the Office of Air Quality Planning and Standards to support the classification of 1,3-Butadiene as a Hazardous Air Pollutant. The recently published 1,3-Butadiene draft document was written in response to a request from the Agency's Office of Mobile Sources. The final document will be used to support a future Air Toxics Rule. This document focuses on mutagenicity, carcinogenicity, and reproductive/developmental effects. The 1,3-Butadiene document which will be reviewed at this meeting presents the Agency's first benchmark dose analysis for reproductive/developmental factors. The review document includes many new studies which have been published since 1985. This new information has changed the weight of evidence for cancer. In addition, there are exposure data available in an occupational study which is used to derive the cancer slope factor. The review document is not intended to be a comprehensive health assessment. It contains an overview of the ambient exposure and exposure to populations adjacent to emissions sources, without any actual exposure assessment as such.

For Further Information

Copies of the review document and any background materials for the review are not available from the SAB. The draft 1,3-Butadiene document is available on the NCEA home page at the following address: http://www.epa.gov/ncea. The document also is available for inspection at the EPA's Information Resource Center, Room M2904, 401 M Street, SW, Washington, DC 20460. The Center is open between 8:00 am and 5:00 pm, Monday through Friday, except for Federal holidays. Requests for individual copies of the 1,3-Butadiene review document may also be directed to the Technical Information Staff by telephone (202) 564–3261, by fax (202) 565–0050 or via Email at: koppikar.aparna@epa.gov.

For general information about the 1,3-Butadiene document, contact the NCEA

Technical Information Staff (8623D), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone: (202) 564–3261. Technical questions should be directed to Dr. Aparna M. Koppikar, National Center for Environmental Assessment (8623D), U.S. EPA, 401 M St.,SW, Washington, DC 20460. Dr. Koppikar may be contacted by telephone (202) 564–3242; by fax (202) 565–0078; or via E-mail at: koppikar.aparna@epa.gov.

Members of the public desiring additional information about the meeting, including an agenda, should contact Ms. Mary Winston, Committee Operations Staff, Science Advisory Board (1400), US EPA, 401 M Street, SW, Washington DC 20460, by telephone (202) 260–4126; fax (202) 260–7118; or via Email at: winston.mary@epa.gov.

Anyone wishing to make an oral presentation at the meeting must contact Ms. Roslyn Edson, Acting Designated Federal Officer for the EHC, *in writing*, no later than 12:00 noon Eastern Time on April 17, 1998, by fax (202) 260–7118, or via Email at: edson.roslyn@epa.gov The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Ms. Edson no later than the time of the presentation for distribution to the Committee and the interested public. For questions concerning the review, Ms. Edson can be contacted at (202) 260–3823.

3. Environmental Modeling Subcommittee (EMS)—Public Meeting May 5–6, 1998

The Environmental Modeling Subcommittee of the Science Advisory Board's (SAB) Executive Committee, will meet Tuesday and Wednesday May 5–6, 1998 in the SAB Conference Room (Room 3709—Mall level) at the U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The meeting will begin at 8:30 am on May 5th and adjourn no later than 3:00 pm on May 6th.

Purpose

The purpose of this meeting is to: a) hold a consultation with EPA's Models-2000 Steering/Implementation Team (S/IT) on the Agency-Wide Modeling Program; and b) conduct an Advisory on the Total Risk Integrated Methodology (TRIM) for the Office of Air and Radiation (OAR).

SAB Consultation on the Modeling Program

The Agency develops, evaluates, and applies a wide variety of highly complex environmental models. These models are used to coordinate and/or predict the environmental consequences of a wide range of activities. Frequently, they become the basis for environmental cleanup, protection, or regulation. In order to ensure the adequacy of these models in their development, evaluation and application, it is imperative that the Agency adopt some basic principles that will guide the Environmental Protection Agency (EPA) modeling community. The SAB has been asked to work with EPA to help them define and implement improvements to the way in which the Agency develops and uses modeling.

The tentative charge for the SAB Consultation is to work with the newly created (December 1997) Models-2000 Steering/ Implementation Team (S/IT), Dr. Gary Foley, Team Leader, to provide advice on the development, application, characterization, "validation", and peer review, etc. of models at EPA. (Please note that it is anticipated the S/IT Team will become a standing Agency Committee to be named "Committee on Regulatory Modeling" or CREM.) The EMS will begin this process with by working with two of the ten Action Teams established by the Models-2000 S/IT on what are currently the issues of highest priority to the S/IT: (a) Models QA, Peer Review, and Acceptability Criteria (Linda Kirkland, Action Team Leader); and (b) Multimedia Multipathway Modeling Systems (Stephen Kroner, Action Team Leader). It is anticipated that in a series of meetings over time there will be presentations by and discussions with the other eight Action Teams, as well as follow-on discussions with these two Action Teams. During the consultation the EMS will consider the goals and objectives of the two Action Teams in their designated topic areas, and provide comments and suggestions on: the Action Team draft charter; the planned approach for implementation (gaps, likelihood of success, simplification, etc.); perceived barriers and suggestions for overcoming them; how have other researchers/agencies dealt with similar issues; and any other discussion items germane to the topic. The Subcommittee expects to meet 3 or 4 times over the next one to two years.

SAB Advisory on TRIM

The TRIM Advisory was requested by the Office of Air Quality Planning and Standards within the Office of Air and Radiation. In this Advisory the EMS has been charged to address:

(a) Is the overall conceptual TRIM approach appropriate, given the underlying science, EPA policy, and regulatory needs (i.e., what are the strengths and the weaknesses)?

(b) The TRIM approach is designed for the explicit treatment of uncertainty and variability, including both model uncertainty and parameter uncertainty. Is the spatial compartmental mass-balance approach commensurate with quantifying uncertainty and variability in a scientifically defensible manner?

(c) The TRIM.FaTE Module is the environmental fate, transport, and exposure component of TRIM. Is the overall conceptual approach represented in the TRIM.FaTE Module appropriate, given the underlying science, EPA policy, and regulatory needs (i.e., what are the strengths and weaknesses of the approach)?

(d) The TRIM approach is designed to be flexible and to allow for a tiered approach, to function as a hierarchy of models, from simple to complex, as needed.

(1) As implemented at this time, is the TRIM.FaTE Module, with its 3-dimensional, spatial compartmental mass-conserving approach to predicting the movement of pollutant mass over time, appropriate from a scientific perspective?

(2) Is the TRIM.FaTE Module, as designed, an appropriate tool, when run either at a screening level or for a more refined analysis, for use in providing information for regulatory decision making? Given the modular design (i.e., the potentially large number of parameters and associated uncertainty and variability), is TRIM.FaTE suitable to support regulatory decisions?

(e) Does the TRIM.FaTE Module, as it has been conceptualized, address some of the limitations associated with other models (e.g., non-conservation of mass, steady state approach, inability to quantify uncertainty and variability, limited range of receptors and processes considered)? Are there other limitations that the TRIM.FaTE model should address?

(f) Does the TRIM.FaTE Module, as it has been conceptualized and demonstrated to date, facilitate future integration with appropriate data sources (e.g., GIS) and applications (e.g., multi-pathway exposure assessment for humans)?

For Further Information

Copies of the review documents and any background materials for the review are *not available* from the SAB. The review documents are available from the

respective program offices. For material related to the consultation on the Modeling Program, please contact Mr. Johnny Pearson at (919) 541–0572; by fax at (919) 541–0445; or by Email at pearson.johnnie@epa.gov. For material related to the TRIM Advisory, please contact Ms. Amy Vasu at (919) 541–0107; by fax at (919) 541–0840; or by Email at vasu.amy@epa.gov.

Any member of the public wishing further information concerning the meeting should contact Dr. Jack Fowle, Designated Federal Officer for the Environmental Models Subcommittee, Science Advisory Board (1400), Room 3702F, U.S. Environmental Protection Agency, Washington DC 20460 at (202) 260–8325; by fax (202) 260–7118; or by Email at fowle.jack@epa.gov.

Anyone wishing to make an oral presentation at the meeting must contact Dr. Fowle, *in writing* no later than 4:00 pm, April 29th, at the above address, fax or Email. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Dr. Fowle no later than the time of the presentation for distribution to the Committee and the interested public. Copies of the draft meeting agenda are available from Ms. Priscilla Tillery-Gadson, Committee Operations Staff at (202) 260–4126; by fax at (202) 260–7118; or by Email at tillery.priscilla@epa.gov.

4. Clean Air Scientific Advisory Committee (CASAC)—Public Meeting May 5, 1998

The Clean Air Scientific Advisory Committee (CASAC) of the Science Advisory Board (SAB) will meet on Tuesday, May 5, 1998 at the Radisson Governor's Inn, 1919 East Highway 54 (Intersection of Hwy 54 and Interstate-40—Exit #280/Davis Drive), Research Triangle Park, NC, 27709. The hotel phone number is (919) 549–8631. The meeting will begin at 9:00 am and end no later than 12:00 pm. At this meeting, the Committee will be briefed by staff from the Agency's National Center for Environmental Assessment (NCEA) concerning the PM Development Plan for preparation of the Air Quality Criteria Document for Particulate Matter (PM), which will serve as the scientific basis for the next periodic review of the PM National Ambient Air Quality Standards (NAAQS). This briefing will help set the stage for subsequent meetings of the Committee as it begins its review responsibilities for the PM NAAQS. The review schedule for the PM NAAQS is contained in 62 **Federal Register** 55201, dated October 23, 1997.

Availability of the PM Development Plan and Solicitation of Public Comments by the Agency on the PM Development Plan

Interested parties may obtain a copy of the PM Development Plan by writing to the PM Project Manager, USEPA, Office of Research and Development, NCEA, Research Triangle Park, NC 27711 or by sending a request via fax (919–541–1818) or e-mail (ray.diane@epa.gov). Please be sure to include your name and return address and state that you are requesting a copy of the PM Development Plan. Public comments will not be solicited by separate FR notice but notice is hereby given that comments on the PM Development Plan will be accepted for 30 days beginning with the date of this FR Notice. Comments should be sent to the PM Project Manager at the address, fax or Email address given above.

For information about this meeting (including obtaining information on presenting comments), please contact the Designated Federal Officer (DFO) for CASAC, Mr. Robert Flaak, at the address given below under the meeting information for the CASAC Diesel Review Panel.

5. Clean Air Scientific Advisory Committee (CASAC) Diesel Review Panel—Public Meeting May 5–6, 1998

The CASAC Diesel Review Panel will meet on Tuesday and Wednesday, May 5–6, 1998 at the Radisson Governor's Inn, 1919 East Highway 54 (Intersection of Hwy 54 and Interstate-40—Exit #280/Davis Drive), Research Triangle Park, NC, 27709. The hotel phone number is (919) 549–8631. The meeting will be conducted from 1:00 pm to 5:00 pm on May 5th and from 8:30 am to 4:30 pm on May 6th.

The purpose of the meeting is to conduct a review of the Agency's revised draft Health Assessment Document for Diesel Engine Emissions prepared by the Agency's National Center for Environmental Assessment (NCEA)—Washington, DC Office. The Committee previously reviewed an earlier draft of this document in 1995.

Availability of the Draft Diesel Document and Solicitation of Public Comments by the Agency on the Draft Diesel Document

EPA's distribution of the draft "Health Assessment Document for Diesel Engine Emissions" (February 1998, EPA/600/8–90/057C) will be accomplished in two ways: a) via NCEA's (National Center for Environmental Assessment) Internet Homepage (www.epa.gov/ncea) under "What's New"; and b) via NTIS (National Technical Information Service—US Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161; (703) 487–4650). As of March 30, 1998 the Assessment was available from these two sources. The NTIS (document #PB98–124308) has the complete document, while the NCEA Homepage version has everything except 13 figures from Appendix C: Models for Calculating Lung Burden. Those wishing the figures may obtain them by getting the NTIS document or contacting EPA as described below. Public comments will not be solicited by separate FR notice but notice is hereby given that comments on the draft Assessment will be accepted over a 70-day period beginning with the date of this FR Notice. Four copies of any comments should be sent to: Dr. William Pepelko, US EPA; NCEA (8623–D); Washington, DC 20460. For general information or to obtain copies of the 13 figures for Appendix C, please telephone NCEA @ (202) 564–3261.

For Further Information on the Meeting

Members of the public desiring additional information about either the CASAC meeting or the CASAC Diesel Review Panel meeting should contact Mr. Robert Flaak, Designated Federal Officer, Clean Air Scientific Advisory Committee (CASAC), Science Advisory Board (1400), Room 3702G, U.S. EPA, 401 M Street, SW, Washington, DC 20460; telephone/voice mail at (202) 260–5133; fax at (202) 260–7118; or via Email at flaak.robert@epa.gov. Those individuals requiring a copy of the draft Agenda for either meeting should contact Ms. Dorothy Clark, Committee Operations Staff, at (202) 260–4126 or by FAX at (202) 260–7118 or via Email at clark.dorothy@epa.gov. Members of the public who wish to make a brief oral presentation to CASAC at either meeting must contact Mr. Flaak *in writing* (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Tuesday, April 28, 1998 in order to be included on the respective meeting Agenda. Public comments will be limited to five minutes per speaker or organization. The request should identify the name of the individual who will make the presentation, the organization (if any) they will represent, the name of the committee (CASAC or the CASAC Diesel Review Panel) they wish to address, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or the presentation itself. Public comments

should focus on scientific or technical aspects of the matters before the respective Committee at its meeting. There will be time allocated for public comment at subsequent meetings when the CASAC begins its formal review of the documents that are used in support of the PM NAAQS.

6. Radiation Advisory Committee (RAC) Federal Guidance Report Review Subcommittee (FGRRS)—Public Meeting May 7–8, 1998

The Science Advisory Board's (SAB's) Radiation Advisory Committee (RAC's) Federal Guidance Report Review Subcommittee (FGRRS) will conduct a public meeting on Thursday, May 7 and Friday, May 8, 1998. The meeting will convene at 9:00 am in the Administrator's Conference Room 1103 West Tower, U.S. EPA Headquarters, 401 M Street, SW, Washington, DC 20460 and adjourn no later than 5:30 pm each day. At this meeting, the RAC's FGRRS will review the Interim Version of Federal Guidance Report Number 13, Part I, Health Risks From Low-Level Environmental Exposure to Radionuclides. The RAC received a briefing on Federal Guidance Report 13 Part I, at its January 24, 1997 and March 3, 1998 meetings (see FR Vol. 63, N. 28, Wednesday, February 11, 1998, pp. 6927–6929). Other initiatives of the RAC, such as a proposed self-initiated commentary on the Agency's Radiation Quality Assurance Program (RADQA) may be discussed as time permits.

Charge to the Committee

The Subcommittee has been asked to review and comment on the Agency's Interim Version of Federal Guidance Report (FGR) Number 13, Part I, Health Risks From Low-Level Environmental Exposure to Radionuclides. This report provides cancer mortality and morbidity risk coefficients for internal and external exposures to about 100 radionuclides. The methodology combines the radiogenic cancer risk models previously reviewed by the SAB (EPA–SAB–RAC–LTR–93–004) with dose rates from radionuclide intakes or external exposures to calculate health risks to the public. The dose rates for inhaled and ingested radionuclides are calculated using age-specific biokinetic and dosimetric models published by the International Commission on Radiological Protection (ICRP). The dose rates for external exposures to radionuclides are the same as those calculated for FGR–12, External Exposure to Radionuclides in Air, Water, and Soil.

The Subcommittee is being asked to focus on the following charge questions: a) Is the methodology employed for calculating health risks from radionuclide intakes and external exposure acceptable? b) In light of available scientific information, have the major uncertainties been identified and put into proper perspective? c) Is the proposed method for extending the list of radionuclides to include all those tabulated in Federal Guidance Reports 11 and 12 reasonable?

For information about this meeting, please contact the Designated Federal Officer (DFO) for the RAC, Dr. Jack Kooyoomjian, at the address given below under the meeting information for the Federal Guidance Report Review Subcommittee (FGRRS), Public Teleconference, June 2, 1998

7. Radiation Advisory Committee (RAC) Federal Guidance Report Review Subcommittee (FGRRS)—Public Teleconference, June 2, 1998

On Tuesday, June 2, 1998 from 11:00 am to 1:00 pm Eastern time, the Federal Guidance Report Review Subcommittee (FGRRS) of the Science Advisory Board's (SAB) Radiation Advisory Committee (RAC) plans to conduct a closure teleconference on its draft report, which is anticipated to be prepared following the FGRRS meeting of May 7 & 8, 1998. For those individuals wishing to be physically present, the SAB staff has arranged to conduct the teleconference at the U.S. EPA Headquarters, 401 M Street, SW, Washington, DC 20460 from the SAB's Conference Room (Room 3709) in Waterside Mall. The FGRRS plans to prepare a draft report, and anticipates that the draft report will be made available to the interested Agency and the public sometime prior to the teleconference, if it reaches consensus on this topic in this time frame. It is not certain that the Subcommittee will, in fact, reach consensus in this time frame. Should consensus not be achieved, then the teleconference will be utilized for this purpose, and the draft report prepared following the teleconference would be shared with the interested Agency and the public when consensus has been achieved.

For Further Information

Members of the public desiring additional information about the meeting should contact Dr. K. Jack Kooyoomjian, Designated Federal Officer, Radiation Advisory Committee (RAC), Federal Guidance Report Review Subcommittee (FGRRS), Science Advisory Board (1400), Room 3702J, U.S. EPA, 401 M Street, SW, Washington, DC 20460; telephone/voice mail at (202) 260–2560; fax at (202) 260–7118; or via Email at kooyoomjian.jack@epa.gov. For a copy of the draft meeting agenda or a copy of the SAB/FGRRS draft consensus report, please contact Ms. Diana Pozun, Committee Operations Staff at (202) 260–4126 or by FAX at (202) 260–7118 or via Email at pozun.diana@epa.gov. Materials from the Office of Radiation and Indoor Air (ORIA) that are the subject of this review are available from Mr. Brian Littleton of ORIA. Mr. Littleton can be reached on (202) 564–9216 or via Email at littleton.brian@epa.gov.

Members of the public who wish to make a brief oral presentation to the Subcommittee at its May 7 & 8, 1998 public meeting must contact Dr. K. Jack Kooyoomjian or Mrs. Diana L. Pozun in writing (by letter or by fax—see previously stated information) no later than 12 noon, Thursday, April 30, 1998 in order to be included on the Agenda. For the June 2, 1998 public teleconference meeting, members of the public who wish to make a brief oral presentation must contact Dr. K. Jack Kooyoomjian or Mrs. Diana L. Pozun in writing (by letter or by fax—see previously stated information) no later than 12 noon, Wednesday, May 27, 1998. Public comments will generally be limited to five minutes per speaker or organization for the May 7 & 8, 1998 public meeting and to three minutes per speaker or organization for the June 2, 1998 public teleconference. The request should identify the name of the individual who will make the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc) for the May 7& 8, 1998 meeting, and at least 35 copies of an outline of the issues to be addressed or the presentation itself.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not repeat previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. This time may be reduced at the discretion of the SAB, depending on meeting circumstances. Oral presentations at teleconferences will normally be limited to three minutes per speaker or organization. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting;

comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments, which may of any length, may be provided to the relevant committee or subcommittee up until the time of the meeting.

Copies of SAB prepared reports mentioned in this FR Notice may be obtained from the SAB's Committee Evaluation and Support Staff at (202) 260–4126, or via fax at (202) 260–1889. Please provide the SAB report number when making a request.

Individuals requiring special accommodation at SAB meetings, including wheelchair access, should contact the appropriate DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: April 1, 1998.

Donald G. Barnes, Ph D,

Staff Director, Science Advisory Board.

[FR Doc. 98–9065 Filed 4–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5991–9]

Notice of Meeting, Board of Scientific Counselors (BOSC) Executive Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. 2), notice is hereby given that the Environmental Protection Agency (EPA), Office of Research and Development (ORD), Board of Scientific Counselors (BOSC) will hold its Executive Committee Meeting, April 30–May 1, 1998, at the DoubleTree Guest Suites, 100 South Reynolds Street, Alexandria, Virginia 22304. On Thursday, April 30, the meeting will begin at 9:00 am and will recess at 4:30 pm, and on Friday, the meeting will begin at 9:00 am and will adjourn at 12 Noon. All times noted are Eastern Time.

Agenda items include discussion of the BOSC subcommittee review reports on ORD laboratories and centers, and overview of ORD. The meeting is open to the public. Any member of the public wishing to make comments at the meeting should contact Shirley Hamilton, Designated Federal Officer, Office of Research and Development (8701R), 401 M Street, SW., Washington, DC. 20460; by telephone at (202) 564–6853. In general, each individual making an oral presentation will be limited to three minutes. Anyone desiring a draft BOSC agenda may fax their request to Shirley R. Hamilton, (202) 565–2444.

FOR FURTHER INFORMATION CONTACT: Shirley R. Hamilton, Designated Federal Officer, U.S. Environmental Protection Agency, Office of Research and Development, NCERQA (MC8701R), 401 M Street, SW Washington, DC 20460, (202) 564–6853.

Dated: April 1, 1998.

Henry L. Longest II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 98–9063 Filed 4–6–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5991–8]

Sixty-One Industrial Park Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: The environmental Protection Agency (EPA) is proposing to settle claims for the reimbursement of $20,000 of past costs under sections 122(h) and (i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9622(h) and (I). These costs related to removal actions overseen by EPA at the Sixty-One Industrial Park Site, located between Highway 61 South and Lake Robco, in Memphis, Shelby County, Tennessee. UT Automotive, Inc., has agreed to pay $20,000 of the $40,308.27 spent by EPA, including, but not limited, to direct and indirect costs and interest, that the United States incurred and paid with regard to the Site prior to January 17, 1996. The United States retains all rights to pursue UT Automotive, Inc., and any other potentially responsible parties (PRPs) for all unreimbursed costs related to the removal actions at the Site.

Pursuant to section 122(i)(1) of CERCLA, 42 U.S.C. 9622(i)(1), EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Bachelor, Waste Management Division, U.S. EPA, Region 4, 61 Forsyth Street, S.W., Atlanta, Georgia 30303–3104, 404/562–8887.

Written comments may be submitted to Ms. Bachelor on or before May 7, 1998.

Dated: March 23, 1998.

Franklin E. Hill,

Chief, Program Services Branch, Waste Management Division.

[FR Doc. 98–9064 Filed 4–6–98; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by FCC For Extension Under Delegated Authority, Comments Requested

March 30, 1998.

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 proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 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 Commissions burden estimates; (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.

The FCC is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320, authority delegated to the Commission by the Office of Management and Budget (OMB).

DATES: Written comments should be submitted on or before June 8, 1998. 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 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0022.

Title: Application for Permit of an Alien Amateur Radio Licensee to Operate in the United States.

Form No.: FCC 610A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals and households.

Number of Respondents: 2,000.

Estimated Time Per Response: 5 minutes.

Total Annual Burden: 168 hours.

Frequency of Response: On occasion reporting requirement.

Needs and Uses: Commission rules require the use of FCC Form 610A when aliens who hold an Amateur Operator and Station License issued by his/her government, wish to apply for a permit to operate an amateur radio station in the United States.

Licensing Division personnel will use the data to determine eligibility for radio station authorization and to issue a radio station/operator permit. Data is also used by Compliance personnel in conjunction with Field Engineers for enforcement and interference resolution purposes.

This form is required by the Communications Act of 1934, as amended; International Treaties and FCC Rules - 47 CFR Parts 1.922 and 97.17.

The burden hours associated with this collection are being adjusted to reflect a decrease in the number of respondents as the result of re-evaluating our receipts. We estimate a decrease in the number of respondents from 3,000 to 2,000.

OMB Approval Number: 3060–0024.

Title: Section 76.29, Special Temporary Authority.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1.

Estimated Time Per Response: 3 hours.

Total Annual Burden: 3 hours. We estimate that one request for special temporary authority may be filed in the next year, with an estimated burden of three hours needed to complete the requests.

Frequency of Response: On occasion reporting requirement.

Total Annual Cost to Respondents: Postage and photocopying expenses for special temporary authority request filings are estimated at $2 per filing (1 x $2 - $2.00).

Needs and Uses: Section 76.12 states that a system community unit shall be authorized to commence operation only after filing a registration statement with the Commission. Section 76.29 states that in circumstances requiring the temporary use of community units for operations not authorized by the Commission's rules, a cable television system may request special temporary authority to operate. The Commission may grant special temporary authority, upon finding that the public interest would be served. Requests for special temporary authority may be submitted informally by letter. Data collected in the requested filings are used by Commission staff to assure that a grant of special temporary authority will not cause interference to other stations.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–9019 Filed 4–6–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission

March 30, 1998.

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: Persons wishing to comment on this information collection should submit comments June 8, 1998.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commissions, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0072.

Title: Airborne Mobile Radio Telephone License Application.

Form No.: FCC 409.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals and households.

Number of Respondents: 3,000.

Estimated Time Per Response: 5 minutes.

Total Annual Burden: 252 hours.

Frequency of Response: On occasion reporting requirement.

Needs and Uses: The FCC 409 is used in applying for authority to operate an airborne mobile radio telephone by individual users who intend to become subscribers to a common carrier service. The form is subsequently used for modification and renewal of such licenses.

FCC 409 is required by 47 CFR Part 22. The applicant may be subject to requirements in addition to those specified on the form.

The form has been redesigned to remove the fee filing data. FCC Form 159, Fee Remittance Advice, is required to be submitted with any payment to the FCC. Thus we are removing the duplicative data collection from the FCC Form 409. This change will not affect the average estimated completion time of the form.

OMB Control No.: 3060–0823.

Title: Pay Telephone Reclassification Memorandum Opinion and Order, CC Docket No. 96–128.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 400.

Estimated Time Per Response: 112 hours per response (avg.)

Total Annual Burden: 44,700 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion, monthly, quarterly, annually, one-time reporting requirements.

Needs and Uses: In the Payphone Orders, the Commission adopted new rules and policies governing the payphone industry to implement Section 276 of the Telecommunications Act of 1996. Those rules and policies in part establish a plan to ensure fair compensation for "each and every completed intrastate and interstate call using [a] payphone." Specifically, the Commission established a plan to ensure that payphone service providers (PSPs) were compensated for certain noncoin calls originated from their payphones. As part of this plan, the Commission required that by October 7, 1997, LECs provide payphone-specific coding digits to PSPs, and that PSPs provide those digits from their payphones to IXCs. The provision of payphone-specific coding digits is a prerequisite to payphone per-call compensation payments by IXCs to PSPs for subscriber 800 and access code calls. The Common Carrier Bureau, on its own motion, subsequently provided a waiver until March 9, 1998, for those payphones for which the necessary coding digits were not provided to identify calls. In a Memorandum Opinion and Order (MO&O) (released March 9, 1998), we clarify the requirements established in the Payphone Orders for the provision for payphone-specific coding digits and for tariffs that LECs must file pursuant to the Payphone Orders. We also grant a waiver of Part 69 of the Commission's rules so that LECs can establish rate elements to recover the costs of implementing FLEX-ANI to provide payphone-specific coding digits for per-call compensation. The Commission in the Memorandum Opinion and Order, therefore, is effecting the following collections of information made in regard to information disclosures required in the Payphone Orders to implement Section 276 of the Act. The collection requirements are as follows: (a). LEC Tariff to provide FLEX ANI to IXCs: The MO&O requires that local exchange carriers (LECs) implement FLEX ANI to comply with the requirements set forth in the Payphone Orders. LECs must provide to IXCs through their interstate tariffs, FLEX ANI service so that IXCs can identify which calls come from a payphone. LECs (and PSPs) must provide FLEX ANI to IXCs without charge for the limited purpose of per-call compensation, and accordingly, LECs providing FLEX ANI must revise their interstate tariffs to reflect FLEX ANI as a nonchargeable option to IXCs no later than March 30, 1998, to be effective no later than April 15, 1998, in those areas that it is available. (No. of respondents: 400; hours per response: 35 hours; total annual burden: 14,000 hours). (b). LEC Tariff to recover costs: LECs must file a tariff to establish a rate element in their interstate tariffs to recover their costs from PSPs for providing payphone-specific coding digits to IXCs. This tariff must reflect the costs of implementing FLEX ANI to provide payphone-specific coding digits for payphone compensation, and provide for recovery of such costs over a reasonable time period through a monthly recurring flat-rate charge. LECs must provide cost support information for the rate elements they propose. The Bureau will review these LEC rate element tariff filings, the reasonableness of the costs, and the recovery period. LECs will recover their costs over an amortization period of no more than ten years. The rate element charges will discontinue when the LEC has recovered its cost. (No. of respondents: 400; hours per response: 35 hours; total annual burden 14,000 hours). (c). LECs must provide IXCs information on payphones that provide payphone-specific coding digits for smart and dumb payphones: LECs must provide IXCs information on the number and location of smart and dumb payphones providing payphone-specific coding digits, as well as the number of those that are not. (No. of respondents: 400; hours per response: 24 hours; total annual burden: 9600 hours). (d). LECs must provide IXCs and PSPs information on where FLEX ANI is available now and when it is to be scheduled in the future: Within 30 days of the release of the MO&O, LECs should be prepared to provide IXCs, upon request, information regarding their plans to implement FLEX ANI by end office. LECs must provide IXCs and PSPs information on payphones that provide payphone-specific coding digits on end offices where FLEX ANI is available, and where it is not, on a monthly basis. Pursuant to the waivers in this order, LECs must also inform IXCs and PSPs proposed dates for its availability. (No. of respondents: 400; hours per response: 16 hours; total annual burden: 6400 hours). (e). For a waiver granted to small or midsize LECs, a cost analysis must be provided, upon request: In the MO&O, the Bureau grants a waiver to midsize and small LECs that will be unable to recover the costs of implementing FLEX ANI in a reasonable time period. LECs must make this evaluation within 30 days of the release of the MO&O. The LEC must then notify IXCs that they will not be implementing FLEX ANI pursuant to this waiver, and provide the number of dumb payphones providing the "27" coding digit and the number of smart phones for which payphone-specific coding digits are unavailable. A LEC delaying the implementation of FLEX ANI pursuant to this waiver provision, must be prepared to provide its analysis, if requested by the Commission. (No. of respondents: 20; hours per response: 35 hours; total annual burden: 700 hours). The information disclosure rules and policies governing the payphone industry to implement Section 276 of the Act will ensure the payment of per-call compensation by implementing a method for LECs to provide information to IXCs to identify calls, for each and every call made from a payphone.

OMB Control No.: 3060–0512.

Title: The ARMIS Annual Summary Report.

Report No.: FCC Report 43–01.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for profit entities.

Number of Respondents: 150.

Estimated Time Per Response: 220 hours per response (avg.)

Total Annual Burden: 33,000 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annual reporting requirement.

Needs and Uses: The ARMIS Annual Summary Report contains financial and operating data and is used to monitor the local exchange carrier industry and to perform routine analyses of costs and revenues on behalf of the Commission.

OMB Control No.: 3060–0395.

Title: Automated Reporting and Management Information Systems (ARMIS)—Sections 43.21 and 43.22.

Report No.: FCC Reports 43–02, 43–03, 43–05.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents: 50.

Estimated Time Per Response: 1,253 hours per response (avg.)

Total Annual Burden: 62,637 hours.

Estimated Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annual reporting requirement.

Needs and Uses: FCC Report 43–02 contains company-wide data for each account specified in the Uniform

System of Accounts (USOA). It provides the annual operating results of the carriers' activities for every account in the USOA. (No. of respondents: 50; hours per response: 960 hours; total annual burden: 48,000 hours). FCC Report 43–05 collects data at the study area level and holding company level and is designed to capture trends in service quality under price cap regulation. It provides service quality information in the areas of interexchange access service installation and repair intervals, local service installation and repair intervals, trunk blockage and total switch downtime for price cap companies. (No. of respondents: 12 hours per response: 849 hours; total annual burden: 10,197.4 hours). FCC Report 43–07 is designed to capture trends in telephone industry infrastructure development under price cap regulation. It provides switch deployment and capabilities data. (No. of respondents: 8; hours per response: 550 hours; total annual burden: 4400 hours).

OMB Control No.: 3060–0513.

Title: ARMIS Joint Cost Report.

Report No.: FCC Report 43–03.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents: 150.

Estimated Time Per Response: 200 hours per response (avg.)

Total Annual Burden: 30,000 hours.

Estimated Annual Reporting and Recordkeeping: $0.

Frequency of Response: Annual reporting requirement.

Needs and Uses: The Joint Cost Report is needed to administer our joint cost rules (Part 64) and to analyze the regulated and nonregulated cost and revenue allocations by study area in order to prevent cross-subsidization of nonregulated operations by the regulated operations.

OMB Control No.: 3060–0511.

Title: ARMIS Access Report.

Report No.: FCC Report 43–04.

Type of Review: Extension of a currently approved collection.

Number of Respondents: 150.

Estimated Time Per Response: 1,150 hours per response (avg.)

Total Annual Burden: 172,500 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annual reporting requirement.

Needs and Uses: The Access Report is needed to administer the results of the FCC's jurisdictional separations and access charge procedures in order to analyze revenue requirements, joint cost allocations, jurisdictional separations and access charges.

OMB Control No.: 3060–0763.

Title: The ARMIS Customer Satisfaction Report.

Report No.: FCC Report 43–06.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for profit entities.

Number of Respondents: 8.

Estimated Time Per response: 720 hours per response (avg.)

Total Annual Burden: 5,760 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annual reporting requirement.

Needs and Uses: The Customer Satisfaction Report collects data from carrier surveys designed to capture trends in service quality.

OMB Control No.: 3060–0496.

Title: The ARMIS Operating Data Report.

Report No.: FCC Report 43–08.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for profit entities.

Number of Respondents: 50.

Estimated Time Per Response: 160 hours per response (avg.)

Total Annual Burden: 8,000 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annual reporting requirement.

Needs and Uses: The ARMIS Operating Data Report consists of statistical schedules which are needed by the Commission to monitor network growth, usage, and reliability.

ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements and rate of return, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy. The information contained in the reports provides the necessary detail to enable the Commission to fulfill its regulatory responsibilities. Automated reporting of these data greatly enhances the Commission's ability to process and analyze the extensive amounts of data it needs to administer its rules.

OMB Control No.: 3060–0824.

Title: Service Provider Information Form.

Form No.: FCC Form 498.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for profit.

Number of Respondents: 10,000.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 10,000 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion reporting requirement.

Needs and Uses: Pursuant to 47 CFR Section 54.515 and 54.611, the Administrator must obtain information relating to: service provider name and address, telephone number, Federal Employee identification number, contact names and telephone numbers, and billing and collection information. FCC Form 498 has been designed to collect this information from carriers and service providers participating in the universal service program. The information will be used in the reimbursement of universal service support payments.

OMB Approval Number: 3060–0332.

Title: Section 76.614, Cable Television System Regular Monitoring.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 9,300.

Estimated Time Per Response: .5 hours - 1 hour.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden to Respondents: 9,300 hours. The paperwork burden for maintaining logs is estimated as follows: we estimate that there are approximately 9,300 cable television systems currently operating on aeronautical frequencies, of which approximately 50% do not use computerized equipment that detect and automatically log cable signal leaks. 9,300 x 50% = 4,650 systems. We estimate that there will be an average of five leaks per system per month (60 annually) and that the average burden of logging leaks is one minute per leak. 4,650 systems x 1 hour (60 leaks x 1 minute per leak) = 4,650 hours.

In addition, system operators undergo a recordkeeping burden for keeping the signal leakage log on file for two years and making the file available to authorized representatives of the Commission upon request. We estimate the average annual recordkeeping burden to respondents to be .5 hours. 9,300 systems x .5 hours = 4,650 hours.

Total estimated annual burden to respondents = 4,650 + 4,650 = 9,300 hours.

Total Annual Cost to Respondents: $32,550 calculated as follows: The costs associated with stationery and photocopying for complying with the logging requirement is estimated to be $5 per respondent. 4,650 respondents x $5 = $23,250. The costs associated with the recordkeeping requirement is estimated to be $1 per respondent. 9,300 respondents x $1 = $9,300. Total

estimated annual cost to respondents = $23,250 + $9,300 = $32,550.

Needs and Uses: Section 76.614 requires that cable television operators transmitting carriers in the frequency bands 108–137 and 225–400 MHz shall provide for a program of regular monitoring for signal leakage by substantially covering the plant every three months. This collection (3060–0332) accounts for the paperwork and recordkeeping burden associated with maintaining logs that show the date and location of each leakage source identified, the date on which the leakage was repaired and the probable cause of the leakage. This data is used by cable television systems and the Commission to prevent, locate and eliminate harmful interference as it occurs, to help assure safe operation of aeronautical and marine radio services and to minimize the possibility of interference to these safety-of-life services. If this collection of information is not conducted, there would be a greater likelihood of harmful interference to aeronautical and safety radio services, Commission efforts to locate and eliminate such interference would be impaired, and there would be a potentially greater risk to safety-of-life and property.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–9020 Filed 4–6–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

April 2, 1998.

Deletion of Agenda Items From April 2nd Open Meeting

The following items have been deleted from the list of agenda items scheduled for consideration at the April 2, 1998, Open Meeting (63 FR 15415 March 31, 1998). This was previously listed in the Commission's Notice released March 26, 1998.

Item No.	Bureau	Subject
3	Common Carrier	Title: Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance (RM–9101). Summary: The Commission will consider action concerning performance measurements and reporting requirements with respect to operations support systems, interconnection, and operator services and directory assistance.
6	Office of Engineering and Technology.	Title: 1998 Biennial Regulatory Review—Amendment of Part 18 of the Commission's Rules to Update Regulations for RF Lighting Devices. Summary: The Commission will consider reviewing existing regulations for RF lighting devices.
7	Mass Media	Title: Applications of WCCB–TV, Inc., for Renewal of Licenses for Stations WPET(AM)/WKSI–FM, Greensboro, North Carolina. Summary: The Commission will consider (1) a Response to Notice of Apparent Liability filed by WCCB–TV, Inc., licensee of WPET(AM)/WKSI–FM, Greensboro, North Carolina, and (2) a Petition for Reconsideration filed by the Rainbow-PUSH Coalition, regarding a Memorandum Opinion and Order and Notice of Apparent Liability which granted the license renewal applications of WPET(AM)/WKSI–FM subject to reporting conditions and a Notice of Apparent Liability for a $12,000 forfeiture for violations of the Broadcast Equal Employment Opportunity Rule.
8	Mass Media	Title: Applications of Sea-Comm, Inc., for Renewal of Licenses for Stations WSFM(FM) and WKXB–FM Southport and Burgaw, North Carolina Summary: The Commission will determine (1) whether Sea-Comm, Inc., violated the Commission's Equal Employment Opportunity Rule in connection with the operation of Stations WSFM(FM) and WKXB(FM); (2) whether it violated Section 73.1015 of the Rules by willfully omitting material facts; and (3) whether, in light of the foregoing, the renewal applications should be granted

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–9190 Filed 4–3–98; 12:33 pm]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 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.: 202–009648A–091.

Title: Inter-American Freight Conference.

Parties:

A.P. Moller-Maesrsk Line
CSAV/Braztrans Joint Service
Crowley American Transport, Inc.
Ivaran Rederi ASA
Companhia Maritima Nacional
Companhia de Navegacao Lloyd Brasileiro
Empresa Lineas Maritimas Argentinas
Empresa de Navegacao Alianca S.A.
Frota Amazonica S.A.
Columbus Line
Hanjin Shipping Company, Ltd.
Transportacion Martitima Mexicana
Sea-Land Service, Inc.
APL Co. Pte. Ltd.
Transroll Navieras Express
Compagnie Generale Maritime, S.A.
TNX Transportes Ltda.
Euroatlantic Container Line S.A.

Synopsis: The proposed amendment would provide that a line not responding to a request to take action in writing shall be deemed to have voted "majority" rather than being deemed to have assented to the proposed actions.

Agreement No.: 202–009648A–092.

Title: Inter-American Freight Conference Agreement.

Parties:

A.P. Moller-Maersk Line
CSAV/Braztrans Joint Service
Crowley American Transport, Inc.
Ivaran Rederi ASA

Companhia Maritima Nacional
Companhia de Navegacao Alianca S.A.
Frota Amazonica S.A.
Columbus Line
Hanjin Shipping Company, Ltd.
Transportacion Maritima Mexicana
Sea-Land Service, Inc.
APL Co. Pte. Ltd.
Transroll Navieras Express
Compagnie Generale Maritime, S.A.
TNX Transportes Ltda.
Euroatlantic Container Line S.A.

Synopsis: The proposed modification revises Article 4 of the Agreement to add inland and coastal points in Argentina and Brazil to the geographic scope. Corresponding changes to reflect the above have been made in Article 5.04, as well as, correcting the number of sections from four to five.

Agreement No.: 203–011517–003.
Title: APL/Crowley Space Charter and Sailing Agreement.
Parties:
American President Lines, Ltd.
Crowley American Transport, Inc.

Synopsis: The proposed amendment would expand the geographic scope of the Agreement to include service between the Atlantic and Gulf Coasts of the United States, and inland U.S. points via such ports, and ports on the Pacific Coast of South America, ports on the North Coast of Colombia, and Jamaica, and inland points via such ports as well as points in Panama. The amendment also specifies the number of vessels to be utilized in that service and adds APL Co. Pte Ltd. as a party to the Agreement.

Dated: April 1, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–8982 Filed 4–6–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Thomas G. Madden, Inc., 100 Inwood Court, Greer, SC 29650, Officers: Thomas G. Madden, President, Mildred D. Madden, Vice President.

Dated: April 1, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–9032 Filed 4–6–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 22, 1998

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. James Wade Emison Trust, Eden Prairie, Minnesota; to acquire voting shares of Community Bank Group, Inc., Eden Prairie, Minnesota, and thereby indirectly acquire Community Bank Jordan, Jordan, Minnesota; Community Bank New Ulm, New Ulm, Minnesota; Community Bank St. Peter, St. Peter, Minnesota, and Community Bank Winsted, Winsted, Minnesota.

Board of Governors of the Federal Reserve System, April 2, 1998.

William W. Wiles,

Secretary of the Board.

[FR Doc. 98–9071 Filed 4–6–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otnerwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 1, 1998.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Mid Penn Bancorp, Inc., Millersburg, Pennsylvania; to acquire 100 percent of the voting shares of Miners Bank of Lykens, Lykens, Pennsylvania.

B. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Peoples Holding Company, Inc., Coldwater, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples Bank Co., Coldwater, Ohio, and thereby indirectly acquire The PBC Interim Bank, Coldwater, Ohio. Peoples Bank will merge with Interim Bank, the survivor; thereupon, Interim Bank, as successor, will commence business as The Peoples Bank Co.

2. United Bancorp, Inc., Martins Ferry, Ohio; to merge with Southern Ohio Community Bancorporation, Inc., Glouster, Ohio, and thereby indirectly acquire The Glouster Community Bank, Glouster, Ohio.

Board of Governors of the Federal Reserve System, April 2, 1998.

William W. Wiles,

Secretary of the Board.

[FR Doc. 98–9072 Filed 4–6–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, April 13, 1998.

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 items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, 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 Wed site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: April 3, 1998.

William W. Wiles,

Secretary of the Board.

[FR Doc. 98–9268 Filed 4–3–98; 3:48 pm]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0182]

Bulk Drug Substances To Be Used in Pharmacy Compounding; Request for Nominations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for nominations.

SUMMARY: The Food and Drug Administration (FDA) is preparing to develop a list of bulk drug substances (bulk drugs) that may be used in pharmacy compounding that do not have a United States Pharmacopeia (USP) or National Formulary (NF) monograph and are not components of approved drugs. FDA is taking this action in accordance with provisions in the Food and Drug Administration Modernization Act of 1997 (FDAMA). To identify candidates for this bulk drugs list, FDA is encouraging interested groups and individuals to nominate specific bulk drug substances and is describing the information that should be provided to the agency in support of each nomination.

DATES: Nominations must be received by June 8, 1998, to receive consideration for inclusion on the bulk drugs list. Nominations received after this date will receive consideration for subsequent amendments to the list.

ADDRESSES: Send nominations to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Tonelli, Center for Drug Evaluation and Research (HFD–332), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0101.

SUPPLEMENTARY INFORMATION: President Clinton signed FDAMA (Pub. L. 105–115) into law on November 21, 1997. One of the issues addressed in this new legislation is the applicability of the Federal Food, Drug, and Cosmetic Act (the act) to the practice of pharmacy compounding. Compounding involves a process whereby a pharmacist or physician combines, mixes, or alters ingredients to create a customized medication for an individual patient. Section 127 of FDAMA, which adds section 503A to the act (21 U.S.C. 353a), describes the circumstances under which compounded drugs qualify for exemptions from certain adulteration, misbranding, and new drug provisions of the act. Section 127 becomes effective 1 year from the date of the FDAMA's enactment (section 503A(b) of the act).

Section 127 contains several restrictions regarding the bulk drug substances[1] that may be used as ingredients in compounding and still qualify for the applicable exemptions. It provides, among other things, that such substances must comply with the standards of an applicable USP or NF monograph, if one exists, and the USP chapter on pharmacy compounding; if a monograph does not exist, they must be components of drugs approved by FDA; and if neither of those criteria are satisfied, they must appear on a list that FDA develops and issues through regulations (section 503A(b)(1)(A)(i)(I) through (b)(1)(A)(i)(III) of the act).

In accordance with the bulk drug provisions in section 127, FDA is preparing to develop a list of bulk drug substances that may be used in compounding that do not have a USP or NF monograph and are not components of approved drugs. To identify candidates for this list, FDA is seeking public input in the form of specific bulk drug nominations. All interested groups and individuals are encouraged to nominate specific bulk drug substances for inclusion on the list. FDA intends for this nomination process to serve as its principal means of identifying list candidates. After evaluating the nominations and, as required by Congress, consulting with the United States Pharmacopeial Convention, Inc., and an advisory committee on compounding (section 503A(d) of the act), FDA will issue the list as a regulation under notice-and-comment rulemaking procedures.

Nominations should include the following information about the bulk drug substance being nominated and the product(s) that will be compounded using such substance. If the information requested is unknown or unavailable, that fact should be noted accordingly.

Bulk Drug Substance

- Ingredient name;
- Chemical name;
- Common name(s);
- Chemical grade or description of the strength, quality, and purity of the ingredient;
- Information about how the ingredient is supplied (e.g., powder, liquid);
- Information about recognition of the substance in foreign pharmacopeias and the status of its registration(s) in other countries, including whether information has been submitted to USP for consideration of monograph development; and
- A bibliography of available safety and efficacy data[2], including any

[1] The term "bulk drug substance" is defined in FDA's regulations at 21 CFR 207.3(a)(4) and incorporated in section 127 of FDAMA to mean "any substance that is represented for use in a drug and that, when used in the manufacturing, processing, or packaging of a drug, becomes an active ingredient or finished dosage form of the drug, but the term does not include intermediates used in the synthesis of such substances."

[2] FDA recognizes that the available safety and efficacy data is unlikely to be of the same type, amount, or quality as would be required to support a new drug application, but this fact will not preclude a bulk drug substance from consideration for inclusion on the list.

relevant peer reviewed medical literature.

Compounded Product

- Information about the dosage form(s) into which the drug substance will be compounded (including formulations);
- Information about the strength(s) of the compounded product(s);
- Information about the anticipated route(s) of administration of the compounded product(s);
- Information about the past and proposed use(s) of the compounded product(s), including the rationale for its use or why the compounded product(s), as opposed to a commercially available product, is necessary;
- Available stability data for the compounded product(s); and
- Additional relevant information.

FDA cannot guarantee that all drugs nominated during the comment period will be considered for inclusion on the first published bulk drugs list. Nominations received during the comment period that are supported by the most complete and relevant information, as set forth previously, will likely be evaluated first. Nominations that are not evaluated during this first phase will receive consideration for list amendments, as the development and issuance of this list will be an ongoing process. Individuals and organizations also will be able to petition FDA to make additional list amendments after the list is published.

Interested groups and individuals should submit their bulk drug substance nominations to the Dockets Management Branch (address above). Two copies of the nominations are to be submitted, except that individuals may submit one copy. However, individuals are encouraged to consolidate their submissions through professional organizations. Nominations are to be identified with the docket number found in brackets in the heading of this document. Received nominations and supporting information will be treated as public information and will be available for inspection at the above address between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 1, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–9037 Filed 4–6–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Grassroots Regulatory Partnership Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA), (Office of Regulatory Affairs, Dallas District Office, Kansas District Office, Atlanta District Office, Nashville District Office, and New Orleans District Office) is announcing the following workshop: Grassroots Regulatory Partnership Workshop. The topic to be discussed is FDA regulatory requirements for the food-producing aquaculture industry. The purpose of the workshop is to promote open dialogue between FDA, the aquaculture industry, related trade associations, other government agencies, academia, and any other interested stakeholders on drug use, good manufacturing practices (GMP's) in processing systems, the seafood hazard analysis critical control point (HACCP) regulations, and any related topics.

Date and Time: The workshop will be held on Tuesday, May 12, 1998, 8:30 a.m. to 5 p.m. Registration will close on April 28, 1998.

Location: The workshop will be held at the Crowne Plaza—Downtown Jackson, 200 Amite St., Jackson, MS 39201, 601–969–5100, or 800–227–6963.

Contact: Richard D. Debo, Food and Drug Administration, New Orleans District Office (HFR–SE440), 4298 Elysian Fields Ave., New Orleans, LA 70122, 504–589–7166, FAX 504–589–4657.

Registration: Send registration information (including name, title, firm name, address, telephone, and fax number) to the contact person by April 28, 1998. There is no registration fee for this workshop. Space is limited; therefore, interested parties are encouraged to register early.

If you need special accommodations due to a disability, please contact Richard D. Debo at least 7 days in advance.

SUPPLEMENTARY INFORMATION: In 1995 President Clinton directed the heads of all Federal regulatory agencies to carry out a four step regulatory reinvention initiative. The basic idea of the President's initiative was to replace adversarial approaches with a partnership approach based on clear goals and cooperation. The President specifically directed top management from regulatory agencies to hold "grassroots" workshops with regulated industry, and this workshop is designed to meet that requirement.

Priority will be given to those businesses located in the Dallas, Kansas, Atlanta, Nashville, and New Orleans Districts, which include the States of: Oklahoma, Texas, Arkansas, Iowa, Nebraska, Missouri, Kansas, Georgia, North Carolina, South Carolina, Tennessee, Alabama, Louisiana, and Mississippi. Companies located outside these States may register to attend the workshop and will be accepted if space is available.

Dated: March 20, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–8970 Filed 4–6–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Marais des Cygnes Comprehensive Conservation Plan; Notice of Availability

SUMMARY: Pursuant to the Refuge Improvement Act of 1997, the U.S. Fish and Wildlife Service has published the Marais des Cygnes Comprehensive Conservation Plan. This plan describes how the FWS intends to manage the Marais des Cygnes NWR for the next 10–15 years.

ADDRESSES: A summary of the plan or the complete plan may be obtained by writing to U.S. Fish and Wildlife Service, Attn: Barbara Shupe, P.O. Box 25486 DFC, Denver, CO 80225 or U.S. Fish and Wildlife Service, Flint Hills NWR, P.O. Box 128, Hartford, KS 66854. Unless the full plan is specifically requested, the summary will be sent.

FOR FURTHER INFORMATION CONTACT: Adam Misztal, U.S. Fish and Wildlife Service, P.O. Box 25486 DFC, Denver, CO 80225, 303/236–8145 extension 607; fax 303/236–8680.

SUPPLEMENTARY INFORMATION: The plan calls for the restoration of native bottomland forest, prairie, and savannah. Wetlands would also be created and maintained on the Refuge. In addition, up to 1,500 acres would be farmed on the Refuge to reduce crop depredation on private lands and as a tool for native vegetation restoration. Various forms of wildlife-dependent recreation would also be provided for.

Dated: March 31, 1998.
Terry Grosz,
Regional Director, Denver, Colorado.
[FR Doc. 98–9030 Filed 4–6–98; 8:45 am]
BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of tribal consultation meetings.

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct consultation meetings to obtain oral and written comments concerning potential issues in Indian education. The potential issues which will be set forth in tribal consultation booklet to be issued prior to the meetings are:

1. Facilities Management Reorganization
2. Facilities Data Base Redesign
3. Reorganization of OIEP
4. Other Consultation Items
5. ISEP Funds Transfer
6. Exceptional Education ISEP Distribution

DATES: April 22, 23, 24, 29, 30 and May 12 and 14, 1998, for all locations listed. Several dates and locations were scheduled to coincide with meetings of various Indian education organizations. All meetings will begin at 9:00 a.m. and continue until 3:00 p.m. (local time) or until all meeting participants have an opportunity to make comments.

MEETING SCHEDULE

Date	Location	Local contacts	Phone No.
April 22, 1998	Aberdeen, SD	Cherie Farlee	(605) 964–8722
April 22, 1998	Sacramento, CA	Fayetta Babby	(916) 979–2560
April 22, 1998	Gallup, NM	Beverly Crawford	(520) 674–5131
April 23, 1998	Tampa, FL	LaVonna Weller	(703) 235–3233
April 23, 1998	Oklahoma City, OK	Joy Martin	(405) 945–6051
April 24, 1998	Billings, MT	Larry Parker	(406) 247–7953
April 29, 1998	Green Bay, WI	Terry Portra	(612) 373–1000
April 30, 1998	Phoenix, AZ	Ray Interpreter	(520) 338–5441
May 12, 1998	Fairbanks, AK	Robert Pringle	(907) 271–4115
May 12, 1998	Warm Springs, OR	John Reimer	(503) 872–2745
May 14, 1998	Anchorage, AK	Robert Pringle	(907) 271–4115
May 14, 1998	Sante Fe, NM	Ben Atencio	(505) 766–3034

Written comments should be mailed, to be received, on or before June 30, 1998, to the Bureau of Indian Affairs, Office of Indian Education Programs, MS–3512–MIB, OIE–32, 1849 C Street, NW, Washington, D.C. 20240, Attn: Joann Sebastian Morris: OR, may be hand delivered to Room 3512 at the same address. Comments may also be faxed to (202) 273–0030 or email to OIEPCONS@IOS.DOI.GOV

FOR FURTHER INFORMATION CONTACT: Dr. James Martin or Goodwin K. Cobb III at the above address or call (202) 208–3550.

SUPPLEMENTARY INFORMATION: The meetings are a follow-up to similar meetings conducted by the OIEP/BIA since 1990. The purpose of the consultation, as required by 25 U.S.C. 2010(b), is to provide Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on potential issues raised during previous consultation meetings or being considered by the BIA regarding Indian education programs. A consultation booklet for the April meetings is being distributed to Federally-recognized Indian tribes, Bureau area and Agency offices, and Bureau-funded schools. The booklets will also be available from local contact persons and at each meeting.

Dated: March 31, 1998.
Kevin Gover,
Assistant Secretary—Indian Affairs.
[FR Doc. 98–9046 Filed 4–6–98; 8:45 am]
BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–01–24–1A]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0160

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval for the collection of information from those persons who submit a Geothermal Leasing Report. BLM will use the information collected to determine if a lessee qualifies for a lease extension.

DATES: Comments on the proposed information collection must be received by June 8, 1998, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401 LS Bldg., Washington, D.C. 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include "Attn: 1004–0160" and your name and return address in your Internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401 L Street, NW, Washington, D.C.

Comments will be available for public review at the L Street address during regular business hours (7:45 A.M. to 4:15 P.M., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Fluids Minerals Group, (202) 452–0340.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), the BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in published current rules to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the

information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025) authorized the Secretary of the Interior to issue leases for geothermal development. The Geothermal Steam Act Amendments of 1988 (PL 100–443) supplemented and amended the Geothermal Steam Act of 1970 by requiring that the BLM receive additional information from Federal geothermal lessees. The legislation allowed for lease extensions when the Secretary of the Interior determines that a lessee has made a substantial investment. It also allowed leases to continue beyond their primary terms if there are wells capable of producing but not actually producing geothermal resources. The BLM issues geothermal leases both competitively and noncompetitively. The regulations in Group 3200 of Title 43 of the Code of Federal Regulations contain procedures for obtaining a lease to explore for, develop, produce, and utilize geothermal resources located on Federal lands. The regulations at 43 CFR part 3203 specifically address extended terms of a lease.

Respondents for this information collection supply information in a diligent efforts report, bona fide efforts report, and/or a significant expenditures report for the authorized officer to determine if a lessee qualifies for a lease extension.

Respectively, some of the information required will be used by the authorized officer to determine if lessees are making "diligent efforts" toward commencing utilization of producible geothermal wells. By submitting this information, a lessee could have a lease continue beyond its primary term. Other information will be used by the authorized officer to determine if a different group of lessees (those not having producible wells) have made "bona fide efforts" to produce or utilize geothermal resources. By submitting the required information (by report), those lessees may be granted a 5-year lease extension. A second extension can be obtained at the end of the first, but another bona fide effort is required. If lease extensions are granted, the lessee would be required to submit additional information on an annual basis that would indicate that "significant expenditures" were being made on the leases. In all cases, the information is submitted in person or by mail to the proper BLM office.

It is estimated that approximately 75 reports will be filed annually with an estimated completion time of 2 hours each, for a total annual burden of 150 hours. Respondents are individuals, small businesses, and large corporations.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: March 27, 1998.

Carole Smith,

Bureau Clearance Officer.

[FR Doc. 98–9089 Filed 4–6–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–01; COC 28245]

Public Land Order No. 7323; Partial Revocation of Secretarial Order dated September 14, 1937; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order insofar as it affects 27.73 acres of National Forest System land withdrawn for the Bureau of Reclamation's Green Mountain Reservoir, Colorado-Big Thompsom Project. The land is no longer needed for this purpose and the revocation would permit disposal of the land under the General Exchange Act of 1922. This action will open the land to such forms of disposition as may by law be made of National Forest System land. The land is temporarily closed to mining by a Forest Service exchange proposal. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: May 7, 1998.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Order dated September 14, 1937, which withdrew National Forest System land for the Bureau of Reclamation's Green Mountain Reservoir, Colorado-Big Thompsom Project, is hereby revoked insofar as it affects the following described land:

Sixth Principal Meridian

T. 2 S., R. 80 W.,
Sec. 13, lots 12 and 13.

The area described contains 27.73 acres in Summit County.

2. At 9 a.m. on May 7, 1998, the land described above shall be opened to such forms of disposition as may by law be made of National Forest System land subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: March 13, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–9088 Filed 4–6–98; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–00; IDI–21007 et al.]

Public Land Order No. 7324; Revocation of 19 Executive Orders and 5 Secretarial Orders; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes 19 Executive orders and 5 Secretarial orders insofar as they affect 95,716.41 acres of lands withdrawn for certain Bureau of Land Management Powersite Classifications and Reserves in the State of Idaho. Of the lands being revoked, 52,886.56 acres will be opened to surface entry. The remaining 42,829.85 acres will remain closed to surface entry and mining due to overlapping withdrawals or having been conveyed out of Federal ownership. All of the lands containing Federally owned minerals have been and will remain open to mineral leasing. The lands still in Federal ownership and not overlapped by other withdrawals, have been and will remain open to mining.

EFFECTIVE DATE: May 7, 1998.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208–373–3864.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The following 19 Executive orders and 5 Secretarial orders are hereby revoked insofar as they affect the lands

described in the orders referenced below:

(a) Executive Order dated April 16, 1912, Powersite Reserve No. 259 (IDI–21007);

(b) Executive Order dated October 22, 1912, Powersite Reserve No. 305 (IDI–19424);

(c) Executive Order dated February 18, 1913, Powersite Reserve No. 341 (IDI–15616);

(d) Executive Order dated October 22, 1913, Powersite Reserve No. 226 (IDI–15640);

(e) Executive Order dated January 13, 1914, Powersite Reserve No. 410 (IDI–15608);

(f) Executive Orders dated July 1, 1913, April 21, 1914, Secretarial Order dated February 21, 1941, Powersite Reserve No. 223 (IDI–15641);

(g) Secretarial Order dated December 9, 1926, Powersite Classification No. 155 (IDI–15699);

(h) Executive Order dated January 29, 1913, Powersite Reserve No. 338 (IDI–15617);

(i) Executive Orders dated April 21, 1914, July 1, 1913, December 17, 1912, July 2, 1910, February 25, 1914, September 10, 1918, Secretarial Orders dated April 5, 1921, November 18, 1938, January 13, 1936, Powersite Reserve No. 8 (IDI–15652);

(j) Executive Order dated February 23, 1915, Powersite Reserve No. 483 (IDI–15600);

(k) Executive Order dated July 10, 1913, Powersite Reserve No. 385 (IDI–15609);

(l) Executive Order dated July 2, 1910, Powersite Reserve No. 140 (IDI–16030).

The areas described within the above Secretarial orders and Executive orders aggregate 95,716.41 acres in Gem, Idaho, Boundary, Adams, Shoshone, Custer, Valley, Lewis, Nez Perce, Lemhi, Caribou and Clearwater Counties.

2. At 9 a.m. on May 7, 1998, the lands referenced in paragraph 1, except those lands overlapped by other withdrawals or conveyed out of Federal ownership, will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on May 7, 1998, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: March 13, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–9087 Filed 4–6–98; 8:45 am]

BILLING CODE 4310–GG–P

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 MARCH 28, 1998. Pursuant to § 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, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by April 22, 1998.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Monroe County

Lair House, Jct. of Stone and Elm Sts., Holly Grove vicinity, 98000371

COLORADO

Denver County

Burlington Hotel, 2205 Larimer St., Denver, 98000373

CONNECTICUT

Windham County

Pomfret Street Historic District, Roughly along Pomfret St. and CT 169, from Bradley Rd. to Woodstock Rd., Pomfret, 98000372

FLORIDA

Nassau County

Ervin's Rest, 5448 Gregg St., American Beach, 98000376

IOWA

Cedar County

Hall, Hannah Morse Fowler, House, Address Restricted, Buchanan vicinity, 98000378

Dubuque County

St. Luke's Methodist Episcopal Church, 1199 Main St., Dubuque, 98000387

Lee County

Curtis, Gen. Samuel R., House, 206 High St., Keokuk, 98000384

Linn County

Brewer, Luther A. and Elinore T., House, 847 4th Ave. SE, Cedar Rapids, 98000383

Witwer Grocery Company Building (Commercial & Industrial Development of Cedar Rapids MPS), 905 3rd St. SE., Cedar Rapids, 98000386

Lucas County

Williamson School, 301 Williamson Ave., Williamson, 98000374

Muscatine County

Fay, Pliny and Adelia, House, 112 Locust St., Muscatine, 98000382

Polk County

Carpenter, James Sansom, House, 3320 Kinsey Ave., Des Moines, 98000379

College Corner Commercial Historic Business District, Euclid Ave., between Second and Third Aves., Des Moines, 98000385

Hatton, Dr. John B. and Anna M., House (Towards a Greater Des Moines MPS) 1730 7th St., Des Moines, 98000408

Prospect Park Second Plat Historic District (Towards a Greater Des Moines MPS) Roughly along the Des Moines R. S to Franklin Ave., between 6th Ave. and 9th St., Des Moines, 98000375

Trinity Methodist Episcopal Church (Towards a Greater Des Moines MPS) 1548 8th St., Des Moines, 98000380

West Ninth Streetcar Line Historic District (Towards A Greater Des Moines MPS) W. Ninth St. from University Ave. to Hickman Rd., Des Moines, 98000377

Woodbury County

Holy Trinity Greek Orthodox Church, 900 6th St., Sioux City, 98000381

LOUISIANA

West Baton Rouge Parish

Cinclare Sugar Mill Historic District, Jct. of LA 1 and Terrell Dr., Brusly vicinity, 98000394

MONTANA

Deer Lodge County

West Side Historic District (Historic and Architectural Properties of Anaconda MPS) Roughly bounded by Main St., W. Eighth St., W. Park Ave., and Maple St., Anaconda, 98000396

NEBRASKA

Douglas County

Immaculate Conception Church and School, 1024 S. 24th St., Omaha, 98000390

NEW YORK

Albany County

USS Slater (Destroyer), Port of Albany, Albany, 98000393

Herkimer County

Balloon Farm, 128 Cemetery Rd., Frankfort, 98000391

Jefferson County

Rogers Brothers Farmstead, Dablon Point Rd., Cape Vincent, 98000392

Monroe County

Greece Memorial Hall, 2595 Ridge Rd. W, Rochester vicinity, 98000395

NORTH CAROLINA

Orange County

Cedar Grove Rural Crossroads Historic District, Roughly along Carr Store Rd. and Efland-Cedar Grove Rd., Cedar Grove, 98000389

PENNSYLVANIA

Allegheny County

Logans Ferry Powder Works Historic District (Aluminum Industry Resources of

Southwestern Pennsylvania MPS) Barking Rd., Plum Borough, 98000399

Chester County

West Vincent Highlands Historic District, Birchrun Rd., PA 401, Fellowship Rd., Horshoe Tr., Hollow Rd., Davis, Jaine, Green, Bartlett, and Mill Lns., West Vincent Township vicinity, 98000400

Mercer County

Waugh, Alexander P. and James S., House, 23 W. Main St., Greenville, 98000402

Philadelphia County

Carl Mackley Houses, 4301 W. Bristol St., Philadelphia, 98000401

Westmoreland County

Mount St. Peter Roman Catholic Church (Aluminum Industry Resources of Southwestern Pennslyvania MPS) 100 Freeport Rd., New Kensington, 98000398

New Kensington Production Works Historic District (Aluminum Industry Resources of Southwestern Pennslyvania MPS) Roughly along the Allegheny R., from Sixteenth St. to Seventh St., New Kensington, 98000397

TEXAS

Gregg County

Nuggett Hill Historic District, Roughly bounded by W. Marshall, N. 6th, Padon, and Teague Sts., Longview, 98000403

Harris County

San Felipe Courts Historic District (Boundary Decrease), 1600 Allen Pkwy, Houston, 98000407

Travis County

Scottish Rite Dormitory, 210 W. 27th St., Austin, 98000404

UTAH

Salt Lake County

Highland Park Historic District, Roughly bounded by Parkway Ave, 1500 East, 2700 South, and Elizabeth St., Salt Lake City, 98000405

WISCONSIN

Dane County

Oregon High School, 220 N. Main St., Village of Oregon, 98000406

Request for Delisting

A request for delisting has been made for:

IOWA

Davis County

Russell Octagon House, S 63, SW of Bloomfield Bloomfield vicinity, 76000757

Tarrence Round Barn, (Iowa Round Barns: The Sixty Year Experiment TR) IA 2 Bloomfield vicinity, 86001424

Guthrie County

Panora-Linden High School, Main St. Panora, 74000786

Marshall County

First Church of Christ, Scientist, 12 W. Main St. Marshalltown, 79000915

Plymouth County

Thoren Hall, 10th St. SW, Le Mars, 78001248

Tama County

Brooks and Moore Bank Building, 423 Second St., Traer, 74000813

Woodbury County

Knapp-Spencer Warehouse, Jct. of Third and Nebraska Sts., Sioux City, 82002648

Lexington Block, 815 Fourth St., Sioux City, 86000706

[FR Doc. 98–9034 Filed 4–6–98; 8:45 am]

BILLING CODE 4510–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Information Collection Activities Under OMB Review

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of data collection submission.

SUMMARY: In compliance with the Paperwork Reduction Act (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 review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before May 7, 1998.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Interior, 725 17th Street, NW., Washington, DC 20503. A copy of your comments should also be directed to the Bureau of Reclamation, D–7924, P.O. Box 25007, Denver, Colorado 80225–0007.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed collection of information, contact Gene Munson, Customer Satisfaction Survey Coordinator, D–5200, Denver Federal Center, P.O. Box 25007, Building 67, Denver CO 80225–0007, or at: (303) 445–2898.

SUPPLEMENTARY INFORMATION: Reclamation is prepared to collect Reclamation-wide customer satisfaction information in support of Executive Order (E.O.) 12862, and the Government Performance and Results Act of 1993 (GPRA) requirements, and in pursuit of Reclamation's mission: To manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American people. Collection of Reclamation-wide customer satisfaction information furthers our bureau's ability to accomplish 3 essential mission objectives, which are driven by 16 strategies identified in our multi-year GPRA based strategic plan. As part of the Business Practices and Productivity Mission Objective, the Improve Customer Service strategy ensures that the highest quality services are delivered and met through systematically obtaining feedback from our customers.

The fiscal year 1998 data collection is the first assessment and will establish a baseline of capabilities. The baseline data will be used by Reclamation and its region and area offices to increase service to customers. The initial assessment is the beginning of a process in which other assessments will occur in support of required GPRA cycles, identifying improvements over time. The data will enable Reclamation to gauge its business practices in the areas of Reclamation administration and management of its natural resources; contractual arrangements, overhead cost containment, and revenues management; and maintain a standard of quality for service delivery systems.

Collection of Information

Title: Reclamation-wide Customer Satisfaction Survey.

Type of Review: New.

Abstract: Reclamation is prepared to collect Reclamation-wide customer service information in support of E.O. 12862 and the GPRA requirements, and in pursuit of Reclamation's mission. Collection of this information will further Reclamation's ability to establish baseline data for use by Reclamation and its region and area offices to ensure compliance with GPRA and its strategic planning goals as applied to our customers. Additionally, Reclamation will benchmark the collected data against best business practices in future years, to further reengineer Reclamation's service delivery systems.

Affected Public: Individuals or households, businesses or other for-profit, not for profit institutions, farms, Federal, state, local, and tribal governments in the 17 Western United States who receive Reclamation services.

Frequency: 3 years.

Average Time per Response: 15 minutes.

Estimated Number of Respondents: 2,841.

Estimated Burden Hours: 710.

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. Reclamation will display a valid OMB control number on the survey form. The Federal Register notice with a 60-day comment period soliciting comments on this collection of information was published on August 22, 1997 (62 FR 44720).

OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comment should be submitted to OMB within 30 days in order to assure maximum consideration.

Wayne O. Deason,

Deputy Director, Program Analysis Office.

[FR Doc. 98–9028 Filed 4–6–98; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Extension of a Currently Approved Collection; Comment Request

ACTION: Application for individual manufacturing quota for a basic class of controlled substance.

The information collection is published to obtained comments from the public and affected agencies. Comments are encouraged and will be accepted until June 8, 1998.

We are requesting written comments and suggestions from the public and affected agencies concerning the collection of information. Your comments should address one or more of the following four points:

1. Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to Mr. Frank Sapienza, 202–307–7183, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537. If you have additional comments, suggestions, or need a copy of the information collection instrument with instructions, or additional information, please contact Mr. Frank Sapienza.

Additionally, comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530. Additional comments may be submitted to DOJ via facsimile at 202–514–1590.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* Application for Individual Manufacturing Quota for A Basic Class of Controlled Substance.

3. *Agency form number:* DEA Form 189; Applicable component of the Department of Justice sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. Other: None.

Title 21, CFR, 1303.22 requires that any person who is registered to manufacture any basic class of controlled substance listed in Schedule I or II and who desires to manufacture a quantity of such class shall apply on DEA Form 189 for a manufacturing quota for such quantity of such class.

5. *An estimate of the total estimated number of respondents and the amount of time estimated for an average respondent to respond:* 27 respondents at approximately 10 responses per year at .5 hour per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* 135 annual burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: March 27, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–8598 Filed 4–6–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 21, 1997, Celegene Corporation, 7 Powder Horn Drive, Warren, New Jersey 07059, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
2,5-Dimethoxyamphetamine (7396).	I
4-Methoxyamphetamine (7411)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II

The firm plans to manufacture amphetamine for distribution of the bulk active substances to its customers, 4-methoxyamphetamine as an intermediate in the manufacture of a non-controlled substance, methylphenidate for product research and development and 2,5-dimethoxyamphetamine to develop, manufacture and sell compounds to pharmaceutical and agrochemical industries.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed on or before June 8, 1998.

Dated: January 27, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–8983 Filed 4–6–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95), 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension to the collection of information on the Attestation by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before June 8, 1998.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed information collection 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 collections techniques or other forms of information, e.g., permitting electronic submissions of responses.

ADDRESSES: Comments and questions regarding the collection of information on Form ETA 9033, Attestation by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports, should be directed to James Norris, Chief, Division of Foreign Labor Certifications, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4456, Washington, D.C. 20210 ((202) 219–5263 (this is not a toll-free number)).

SUPPLEMENTARY INFORMATION:

I. Background

The information collection is required due to amendments to section 258 of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) (INA). The amendments created a prevailing practice exception to the general prohibition on the performance of longshore work by alien crewmembers in U.S. ports. Under the prevailing practice exception, before any employer may use alien crewmembers to perform longshore activities in U.S. ports, it must submit an attestation to ETA containing the elements prescribed by the INA.

The INA further requires that the Department make available for public examination in Washington, DC, a list of employers which have filed attestations, and for each such employer, a copy of the employer's attestation and accompanying documentation it has received.

II. Current Actions

In order for the Department to meet its statutory responsibilities under the INA there is a need for an extension of an existing collection of information pertaining to employers' seeking to use alien crewmembers to perform longshore activities in U.S. ports.

Type of Review: Extension of a currently approved collection without change.

Agency: Employment and Training Administration, Labor.

Title: Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports.

OMB Number: 1205–0309.

Affected Public: Businesses or other for-profit.

Form: Form ETA 9033.

Total Respondents: 1.

Frequency of Response: Annually.

Total Responses: 1.

Average Burden Hours per Response: 4.

Estimate Total Annual Burden Hours: 1.

Because the prevailing practice exception remains in the Statute, ETA is requesting a one-hour marker as a place holder for this collection of information. ETA has not received any attestations under the prevailing practice exception within the last two years. An information collection request will be submitted to increase the burden should activities recommence.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Signed at Washington D.C. this 30th day of March, 1998.

John R. Beverly III,

Director, U.S. Employment Service.

[FR Doc. 98–9054 Filed 4–6–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Benefits, Timeliness and Quality Data Collection System; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the Benefits, Timeliness and Quality (BTQ) data collection system (formerly known as Performance Measurement Review) for Unemployment Insurance (UI). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before June 8, 1998.

The Department of Labor is particularly interested in comments which:

- 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 submissions of responses.

ADDRESSES: Leslie Thompson, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–4522, Washington, D.C. 20210, (202) 219–5215, ext. 131. (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of Labor has a legal responsibility under the Social Security Act (SSA) Title III, Section 303(a)(1), for reimbursing to State Employment Security Agencies (SESAs) the necessary cost of proper and efficient administration of State UI laws. The BTQ program collects information and analyses data to do this. The BTQ measures have been implemented which look at timeliness and quality of States' performance, various administrative actions and administrative decisions concerning UI benefit operations.

II. Current Actions

Continued collection of data under the BTQ system will provide for a comprehensive evaluation of the overall UI program. The BTQ program has been and will continue to be one of the primary means used by UI Regional and National Office staff to assess performance levels of individual States and as a basis for oversight to discharge the Secretary of Labor's responsibility for determining proper and efficient administration. The SESAs also use the BTQ measures for their internal program assessment.

Type of Review: Extension.
Agency: Employment and Training Administration.
Title: Benefits, Timeliness and Quality Review.
OMB Number: 1205–0359.
Affected Public: State Government.
Total Respondents: 53.
Frequency: Monthly and Quarterly.
Total Responses: 54,908.
Average Time per Response: 726 hours.
Estimated Total Burden Hours: 38,486 hours.
Total Burden Cost (capital/startup): 0.
Total Burden Cost (operating/maintaining): 0.

Dated: March 31, 1998.

Grace A. Kilbane,

Director, Unemployment Insurance Service.

[FR Doc. 98–9055 Filed 4–6–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

ETA–9000 Report on Internal Fraud Activities; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension collection of the ETA–9000 Report on Internal Fraud Activities. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before June 8, 1998. The Department of Labor is particularly interested in comments which:

- 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 submissions of responses.

ADDRESSES: Harry B. Minor, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room S4522, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone number (202) 219–5211, ext. 108 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The ETA–9000 is the only data source available on instances of internal fraud activities within the Unemployment Insurance (UI) program and on the results of safeguards that have been implemented to deter and detect instances of internal fraud. The report categorizes the major areas susceptible to internal (employee) fraud and provides actual and "estimated" (predictability or cost avoidance measures) workload. The information from this report has been used and will be used to review Internal Security (IS) operations and obtain information on composite shifting patterns of nationwide activity, and effectiveness in the area of internal fraud identification and prevention. Employment and Training Administration has used this report to assess the overall adequacy of internal security procedures in State Employment Security Agency (SESA) UI program administration.

II. Current Actions

Continued collection of the ETA–9000 data will provide for a comprehensive evaluation of the UI IS program. The data is collected annually, and an analysis of the data received is formulated into a report summarizing the internal fraud cases uncovered by the 53 SESAs.

Type of Review: Extension.
Agency: Employment and Training Administration.
Title: Report on Internal Fraud Activities.
OMB Number: 1205–0187.
Agency Number: ETA 9000.
Affected Public: State and Local Governments.
Total Respondents: 53.
Frequency: Annually.
Total Responses: 53.
Average Time per Response: 3 hours.
Estimated Total Burden Hours: 159 hours.
Total Burden Cost (capital/startup): 0.
Total Burden Cost (operating/maintaining): 0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 31, 1998.

Grace A. Kilbane,

Director, Unemployment Insurance Service.

[FR Doc. 98–9056 Filed 4–6–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act. NACOSH will hold a meeting on May 8, 1998, in Room N3437 A–D of the Department of Labor Building located at 200 Constitution Avenue NW, Washington, DC. The meeting is open to the public and will begin at 9:00 a.m. lasting until approximately 4:30 p.m.

Agenda items will include: a brief overview of current activities of the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH), a presentation on occupational injury and illness statistics, an update on OSHA's ergonomic activity, a report on the 11(c) task force, a discussion on the co-ordination of federal agencies to address the problem of latex allergies, an update on the OSHA Performance Plan and possible reports from NACOSH's workgroups.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Frank Frodyma at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Because of the need to cover a wide variety of subjects in a short period of time, there is usually insufficient time on the agenda for members of the public to address the committee orally. However, any such request will be considered by the Chair who will determine whether or not time permits. Any request to make a presentation should state the amount of time desired, the capacity in which the person would appear, and a brief outline of the content of the presentation.

Individuals with disabilities who need special accommodations should contact Theresa Berry (phone: 202–219–8615, extension 106; fax: 202–219–5986) one week before the meeting.

An official record of the meeting will be available for public inspection in the OSHA Technical Data Center (TDC) located in Room N2625 of the Department of Labor Building (202–219–7500). For additional information contact: Frank Frodyma, Acting Director of Policy, Occupational Safety and Health Administration (OSHA); Room N–3641, 200 Constitution Avenue NW, Washington, DC., 20210 (phone 202–219–8021, extension 102; fax: 202–219–4384; e-mail frank.frodyma@osha.no.osha.gov).

Signed at Washington, DC., this 31st day of March 1998.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 98–9057 Filed 4–6–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Prohibited Transaction Exemption 98–13; Exemption Application No. D–10304, et al.]

Grant of Individual Exemptions; MBNA America Bank, National Association

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

MBNA America Bank, National Association (MBNA)

Located in Wilmington, Delaware

[Prohibited Transaction Exemption No. 98–13; Application No. D–10304]

Exemption

Section I—Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the trust, the sponsor or an underwriter and an employee benefit plan subject to the Act or section 4975 of the Code (a plan) when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to Section I.A.(1) or (2).

Notwithstanding the foregoing, Section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan, as defined in Section III.K. below, by any person who has discretionary authority or renders investment advice with respect to the assets of the Excluded Plan that are invested in certificates.[1]

B. The restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the trust, the sponsor or an underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to receivables contained in the trust constituting 0.5 percent or less of the fair market value of the aggregate undivided interest in the trust allocated to the certificates of the relevant series, or (b) an affiliate of a person described in (a); if

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group, as defined in Section III.L., and at least 50 percent of the aggregate undivided interest in the trust allocated to the certificates of a series is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates of a series does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition;

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice is invested in certificates representing the aggregate undivided interest in a trust allocated to the certificates of a series and containing receivables sold or serviced by the same entity;[2] and

(v) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice is invested in certificates representing an interest in the trust, or trusts containing receivables sold or serviced by the same entity. For purposes of paragraphs B.(1)(iv) and B.(1)(v) only, an entity shall not be considered to service receivables contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that conditions set forth in Section I.B.(1)(i) and (iii) through (v) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to Section I.B. (1) or (2).

C. The restrictions of sections 406(a), 406(b) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, including reassigning receivables to the sponsor, removing from the trust receivables in accounts previously designated to the trust, changing the underlying terms of accounts designated to the trust, adding new receivables to the trust, designating new accounts to the trust, the retention of a retained interest by the sponsor in the receivables, the exercise of the right to cause the commencement of amortization of the principal amount of the certificates, or the use of any eligible swap transactions, provided that:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing agreement;

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust;[3]

(3) The addition of new receivables or designation of new accounts, or the removal of receivables in previously-designated accounts, meets the terms and conditions for such additions, designations or removals as are described in the prospectus or private placement memorandum for such certificates, which terms and conditions have been approved by Standard & Poor's Ratings Services, Moody's Investors Service, Inc., Duff & Phelps Credit Rating Co., or Fitch IBCA, Inc., or their successors (collectively, the Rating Agencies), and does not result in the certificates receiving a lower credit rating from the Rating Agencies than the then current rating of the certificates; and

(4) The series of which the certificates are a part will be subject to an "Economic Pay Out Event" (as defined in Section III.BB.), which is set forth in the pooling and servicing agreement and described in the prospectus or private placement memorandum associated with the series, the occurrence of which will cause any revolving period, scheduled amortization period or scheduled accumulation period applicable to the certificates to end, and principal collections to be applied to

[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions. For purposes of this exemption, all references to "prospectus" include any related supplement thereto, and any documents incorporated by reference therein, pursuant to which certificates are offered to investors.

monthly payments of principal to, or the accumulation of principal for the benefit of, the certificateholders of such series until the earlier of payment in full of the outstanding principal amount of the certificates of such series or the series termination date specified in the prospectus or private placement memorandum.

Notwithstanding the foregoing, Section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act, or from the taxes imposed under section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) (E) or (F) of the Code, for the receipt of a fee by the servicer of the trust, in connection with the servicing of the receivables and the operation of the trust, from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in Section III.U. below.

D. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by sections 4975 (a) and (b) of the Code, by reason of sections 4975(c)(1) (A) through (D) of the Code, shall not apply to any transaction to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider as described in section 3(14) (F), (G), (H) or (I) of the Act or section 4975(e)(2) (F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

Section II—General Conditions

A. The relief provided under Section I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as such terms would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is either: (i) In one of the two highest generic rating categories from any one of the Rating Agencies; or (ii) for certificates with a duration of one year or less, the highest short-term generic rating category from any one of the Rating Agencies; provided that, notwithstanding such ratings, this exemption shall apply to a particular class of certificates only if such class (an Exempt Class) is at the time of such acquisition part of a series in which credit support is provided to the Exempt Class through a senior-subordinated series structure or other form of third-party credit support which, at a minimum, represents five (5) percent of the outstanding principal balance of certificates issued for the Exempt Class, so that an investor in the Exempt Class will not bear the initial risk of loss;

(4) The trustee is not an affiliate of any other member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the consideration received by the sponsor as a consequence of the assignment of receivables (or interests therein) to the trust, to the extent allocable to the class of certificates purchased by a plan, represents not more than the fair market value of such receivables (or interests); and the sum of all payments made to and retained by the servicer, to the extent allocable to the class of certificates purchased by a plan, represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith;

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission (SEC) under the Securities Act of 1933;

(7) The trustee of the trust is a substantial financial institution or trust company experienced in trust activities and is familiar with its duties, responsibilities, and liabilities as a fiduciary under the Act (i.e. ERISA). The trustee, as the legal owner of, or holder of a perfected security interest in, the receivables in the trust, enforces all the rights created in favor of certificateholders of such trust, including plans;

(8) Prior to the issuance by the trust of any new series, confirmation is received from the Rating Agencies that such issuance will not result in the reduction or withdrawal of the then current rating of the certificates held by any plan pursuant to this exemption;

(9) To protect against fraud, chargebacks or other dilution of the receivables in the trust, the pooling and servicing agreement and the Rating Agencies require the sponsor to maintain a seller interest of not less than 2 percent of the principal balance of the receivables contained in the trust;

(10) Each receivable added to a trust is an eligible receivable, based on criteria of the relevant Rating Agency(ies) and as specified in the pooling and servicing agreement. The pooling and servicing agreement requires that any change in the terms of the cardholder agreements must be made applicable to the comparable segment of accounts owned or serviced by the sponsor which are part of the same program or have the same or substantially similar characteristics;

(11) The pooling and servicing agreement limits the number of the sponsor's newly originated accounts to be designated to the trust, unless the Rating Agencies otherwise consent in writing, to the following: (i) With respect to any three-month period, 15 percent of the number of existing accounts designated to the trust as of the first day of such period, and (ii) with respect to any twelve-month period, 20 percent of the number of existing accounts designated to the trust as of the first day of such twelve-month period;

(12) The pooling and servicing agreement requires the sponsor to deliver an opinion of counsel semi-annually confirming the validity and perfection of each transfer of receivables in newly originated accounts to the trust if such opinion is not delivered with respect to each interim addition;

(13) The pooling and servicing agreement requires the sponsor and the trustee to receive confirmation from a Rating Agency that no Ratings Effect (i) will result from a proposed transfer of receivables in newly originated accounts to the trust, or (ii) will have resulted from the transfer of receivables in all newly originated accounts added to the trust during the preceding three-month period (beginning at quarterly intervals specified in the pooling and servicing agreement and ending in the calendar month prior to the date such confirmation is issued), provided that a Rating Agency confirmation shall not be required under clause (ii) for any three-month period in which any additions of newly originated accounts occurred only after receipt of prior Rating Agency confirmation pursuant to clause (i);

(14) If a particular class of certificates held by any plan involves a Ratings

Dependent or Non-Ratings Dependent Swap entered into by the trust, then each particular swap transaction relating to such certificates:

(a) shall be an Eligible Swap;

(b) shall be with an Eligible Swap Counterparty;

(c) in the case of a Ratings Dependent Swap, shall include as an early payout event, as specified in the pooling and servicing agreement, the withdrawal or reduction by any Rating Agency of the swap counterparty's credit rating below a level specified by the Rating Agency where the servicer (as agent for the trustee) has failed, for a specified period after such rating withdrawal or reduction, to meet its obligation under the pooling and servicing agreement to:

(i) obtain a replacement swap agreement with an Eligible Swap Counterparty which is acceptable to the Rating Agency and the terms of which are substantially the same as the current swap agreement (at which time the earlier swap agreement shall terminate); or

(ii) cause the swap counterparty to establish any collateralization or other arrangement satisfactory to the Rating Agency such that the then current rating by the Rating Agency of the particular class of certificates will not be withdrawn or reduced;

(d) in the case of a Non-Ratings Dependent Swap, shall provide that, if the credit rating of the swap counterparty is withdrawn or reduced below the lowest level specified in Section III.II. hereof, the servicer, as agent for the trustee, shall within a specified period after such rating withdrawal or reduction:

(i) obtain a replacement swap agreement with an Eligible Swap Counterparty, the terms of which are substantially the same as the current swap agreement (at which time the earlier swap agreement shall terminate); or

(ii) cause the swap counterparty to post collateral with the trustee of the trust in an amount equal to all payments owed by the counterparty if the swap transaction were terminated; or

(iii) terminate the swap agreement in accordance with its terms; and

(e) shall not require the trust to make any termination payments to the swap counterparty (other than a currently scheduled payment under the swap agreement) except from "Excess Finance Charge Collections" (as defined below in Section III.LL.) or other amounts that would otherwise be payable to the servicer or the seller; and

(15) Any class of certificates, to which one or more swap agreements entered into by the trust applies, may be acquired or held in reliance upon this exemption only by Qualified Plan Investors.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, nor any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Section I, if the provision in Section II.A.(6) above is not satisfied for the acquisition or holding by a plan of such certificates, provided that:

(1) Such condition is disclosed in the prospectus or private placement memorandum; and

(2) In the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees shall be required to make a written representation regarding compliance with the condition set forth in Section II.A.(6).

Section III—Definitions

For purposes of this exemption:

A. Certificate means a certificate:

(1) That (i) represents a beneficial ownership interest in the assets of a trust and entitles the holder to payments denominated as principal, interest and/or other payments made as described in the applicable prospectus or private placement memorandum and in accordance with the pooling and servicing agreement in connection with the assets of such trust, to the extent allocable to the series of certificates purchased by a plan, either currently or after a revolving period during which principal payments on assets of the trust are reinvested in new assets, or (ii) is denominated as a debt instrument that represents a regular interest in a financial asset securitization investment trust (FASIT), within the meaning of section 860L(a) of the Code, and is issued by and is an obligation of the trust.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust; and

(2) With respect to which (a) MBNA or any of its affiliates is the sponsor, and (b) MBNA, any of its affiliates, or an "underwriter" (as defined in Section III.C.) is the sole underwriter or the manager or co-manager of the underwriting syndicate or a selling or placement agent.

B. Trust means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either

(a) Receivables (as defined in Section III.V.); or

(b) Participations in a pool of receivables (as defined in Section III.V.) where such beneficial ownership interests are not subordinated to any other interest in the same pool of receivables; [4]

(2) Property which has secured any of the assets described in Section III.B.(1); [5]

(3) Undistributed cash or permitted investments made therewith maturing no later than the next date on which distributions are to be made to certificateholders, except during a Revolving Period (as defined herein) when permitted investments are made until such cash can be reinvested in additional receivables described in paragraph (a) of this Section III.B.(1);

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any cash collateral accounts, insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements for any certificates, swap transactions, or under any yield supplement agreements,[6] yield maintenance agreements or similar arrangements; and

(5) Rights to receive interchange fees received by the sponsor as partial compensation for the sponsor's taking credit risk, absorbing fraud losses and funding receivables for a limited period prior to initial billing with respect to accounts designated to the trust.

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) the investment pool consists only of receivables of the type which have been included in other investment pools; (ii) certificates evidencing interests in such other investment pools have been rated in one of the two highest generic rating

[4] The Department notes that no relief would be available under the exemption if the participation interests held by the trust were subordinated to the rights and interests evidenced by other participation interests in the same pool of receivables.

[5] MBNA states that it is possible for credit card receivables to be secured by bank account balances or security interests in merchandise purchased with credit cards. Thus, the exemption should permit foreclosed property to be an eligible trust asset.

[6] In a series involving an accumulation period (as defined in Section III.Z.), a yield supplement agreement may be used by the Trust to make up the difference between (i) the reinvestment yield on permitted investments, and (ii) the interest rate on the certificates of that series.

categories by at least one of the Rating Agencies for at least one year prior to the plan's acquisition of certificates pursuant to this exemption; and (iii) certificates evidencing an interest in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. *Underwriter* means an entity which has received from the Department an individual prohibited transaction exemption which provides relief for the operation of asset pool investment trusts that issue asset-backed pass-through securities to plans that is similar in format and substance to this exemption (each, an Underwriter Exemption);[7] any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such entity; and any member of an underwriting syndicate or selling group of which such firm or affiliated person described above is a manager or co-manager with respect to the certificates.

D. *Sponsor* means MBNA, or an affiliate of MBNA that organizes a trust by transferring credit card receivables or interests therein to the trust in exchange for certificates.

E. *Master Servicer* means MBNA or an affiliate that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the receivables in the trust pursuant to the pooling and servicing agreement.

F. *Subservicer* means MBNA or an affiliate of MBNA, or an entity unaffiliated with MBNA which, under the supervision of and on behalf of the master servicer, services receivables contained in the trust, but is not a party to the pooling and servicing agreement.

G. *Servicer* means MBNA or an affiliate which services receivables contained in the trust, including the master servicer and any subservicer or their successors pursuant to the pooling and servicing agreement.

H. *Trustee* means an entity which is independent of MBNA and its affiliates and is the trustee of the trust. In the case of certificates which are denominated as debt instruments, "trustee" also means the trustee of the indenture trust.

I. *Insurer* means the insurer or guarantor of, provider of other credit support for, or other contractual counterparty of, a trust. Notwithstanding the foregoing, a swap counterparty is not an insurer, and a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. *Obligor* means any person, other than the insurer, that is obligated to make payments with respect to any receivable included in the trust.

K. *Excluded Plan* means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. *Restricted Group* with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Each swap counterparty;

(7) Any obligor with respect to receivables contained in the trust constituting more than 0.5 percent of the fair market value of the aggregate undivided interest in the trust allocated to the certificates of a series, determined on the date of the initial issuance of such series of certificates by the trust; or

(8) Any affiliate of a person described in Section III.L.(1)–(7).

M. *Affiliate* of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. Control means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will *be independent* of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. Sale includes the entrance into a forward delivery commitment (as defined in Section III.Q. below), provided that:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. Forward Delivery Commitment means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. Reasonable Compensation has the same meaning as that term is defined in 29 CFR section 2550.408c–2.

S. Pooling and Servicing Agreement means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust and any supplement thereto pertaining to a particular series of certificates. In the case of certificates which are denominated as debt instruments, "pooling and servicing agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

T. Series means an issuance of a class or various classes of certificates by the trust all on the same date pursuant to the same pooling and servicing agreement, and any supplement thereto and restrictions therein.

U. Qualified Administrative Fee means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing with respect to the receivables;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement or described in all material respects in the prospectus or private placement memorandum provided to the plan before it purchases certificates issued by the trust; and

(4) The amount paid to investors in the trust is not reduced by the amount of any such fee waived by the servicer.

V. Receivables means secured or unsecured obligations of credit card holders which have arisen or arise in

[7] For a listing of Underwriter Exemptions, see the description provided in the text of the operative language of Prohibited Transaction Exemption (PTE) 97–34 (62 FR 39021, July 21, 1997).

Accounts designated to a trust. Such obligations represent amounts charged by cardholders for merchandise and services and amounts advanced as cash advances, as well as periodic finance charges, annual membership fees, cash advance fees, late charges on amounts charged for merchandise and services and certain other fees (such as bad check fees, cash advance fees, and other fees specified in the cardholder agreements) designated by card issuers (other than a qualified administrative fee as defined in Section III.U.).

W. Accounts are revolving credit card accounts serviced by MBNA or an affiliate, which were originated or purchased by MBNA or an affiliate, and are designated to a trust such that receivables arising in such accounts become assets of the trust.

X. Revolving Period means a period of time, as specified in the pooling and servicing agreement, during which principal collections allocated to a series are reinvested in newly generated receivables arising in the accounts.

Y. Amortization Period means a period of time specified in the pooling and servicing agreement during which a portion of the principal collections allocated to a series will commence to be paid to the certificateholders of such series in installments.

Z. Accumulation Period means a period of time specified in the pooling and servicing agreement during which a portion of the principal collections allocated to a series will be deposited in an account to be distributed to certificateholders in a lump sum on the expected maturity date.

AA. Pay Out Event means any of the events specified in the pooling and servicing agreement or supplement thereto that results (in some instances without further affirmative action by any party) in the early commencement of either an amortization period or an accumulation period, including (1) the failure of the sponsor or the servicer, whichever is subject to the relevant obligation under the pooling and servicing agreement, (i) to make any payment or deposit required under the pooling and servicing agreement within five (5) business days after such payment or deposit was required to be made, or (ii) to observe or perform any of its other covenants or agreements set forth in the pooling and servicing agreement, which failure has a material adverse effect on holders of investor certificates of the relevant series and continues unremedied for 60 days; (2) a breach of any representation or warranty made by the sponsor or the servicer in the pooling and servicing agreement that continues to be incorrect in any material respect for 60 days; (3) the occurrence of certain bankruptcy events relating to the sponsor or the servicer; (4) the failure by the sponsor to convey to the trust additional receivables to maintain the minimum seller interest that is required by the pooling and servicing agreement and the Rating Agencies; (5) the failure to pay in full amounts owing to investors on the expected maturity date; and (6) the Economic Pay Out Event.

BB. An Economic Pay Out Event occurs automatically when the portfolio yield for any series of certificates, averaged over three consecutive months (or such other period approved by one of the Rating Agencies) is less than the base rate of the series averaged over the same period. Portfolio yield for a series of certificates for any period is equal to the sum of the finance charge collections and other amounts treated as finance charge collections less total defaults for the series divided by the outstanding principal balance of the investor certificates of the series, or such other measure approved by one of the Rating Agencies. The base rate for a series of certificates for any period is the sum of (i) amounts payable to certificateholders of the series with respect to interest, (ii) servicing fees allocable to the series payable to the servicer, and (iii) any credit enhancement fee allocable to the series payable to a third party credit enhancer, divided by the outstanding principal balance of the investor certificates of the series, or such other measure approved by one of the Rating Agencies.

CC. CCA or Cash Collateral Account means that certain account established in the name of the trustee that serves as credit enhancement with respect to the investor certificates and holds cash and/or permitted investments (as defined below in Section III.KK.) which conform to applicable provisions of the pooling and servicing agreement.

DD. Group means a group of any number of series offered by the trust that share finance charge and/or principal collections in the manner described in the applicable prospectus or private placement memorandum.

EE. Ratings Effect means the reduction or withdrawal by a Rating Agency of its then current rating of the certificates held by any plan pursuant to this exemption.

FF. Principal Receivables Discount means, with respect to any account designated by the sponsor, the portion of the related principal receivables that represents a discount from the face value thereof and that is treated under the pooling and servicing agreement as finance charge receivables.

GG. Ratings Dependent Swap means an interest rate swap, or (if purchased by or on behalf of the trust) an interest rate cap contract, that is part of the structure of a series of certificates where the rating assigned by the Rating Agency to any senior class of certificates held by any plan is dependent on the terms and conditions of the swap and the rating of the swap counterparty, and if such certificate rating is not dependent on the existence of the swap and rating of the swap counterparty, such swap or cap shall be referred to as a "Non-Ratings Dependent Swap". With respect to a Non-Ratings Dependent Swap, each Rating Agency rating the certificates must confirm, as of the date of issuance of the certificates by the trust, that entering into an Eligible Swap with such counterparty will not affect the rating of the certificates.

HH. Eligible Swap means a Ratings Dependent or Non-Ratings Dependent Swap:

(1) which is denominated in U.S. Dollars;

(2) pursuant to which the trust pays or receives, on or immediately prior to the respective payment or distribution date for the senior class of certificates, a fixed rate of interest, or a floating rate of interest based on a publicly available index (e.g. LIBOR or the U.S. Federal Reserve's Cost of Funds Index (COFI)), with the trust receiving such payments on at least a quarterly basis and obligated to make separate payments no more frequently than the swap counterparty, with all simultaneous payments being netted;

(3) which has a notional amount that does not exceed either (i) the certificate balance of the class of certificates to which the swap relates, or (ii) the portion of the certificate balance of such class represented by receivables;

(4) which is not leveraged (i.e. payments are based on the applicable notional amount, the day count fractions, the fixed or floating rates designated in subparagraph (2) above, and the difference between the products thereof, calculated on a one to one ratio and not on a multiplier of such difference);

(5) which has a final termination date that is the earlier of the date on which the trust terminates or the related class of certificates is fully repaid; and

(6) which does not incorporate any provision which could cause a unilateral alteration in any provision described in subparagraphs (1) through (4) above without the consent of the trustee.

II. Eligible Swap Counterparty means a bank or other financial institution which has a rating, at the date of

issuance of the certificates by the trust, which is in one of the three highest long-term credit rating categories, or one of the two highest short-term credit rating categories, utilized by at least one of the Rating Agencies rating the certificates; provided that, if a swap counterparty is relying on its short-term rating to establish eligibility hereunder, such counterparty must either have a long-term rating in one of the three highest long-term rating categories or not have a long-term rating from the applicable Rating Agency, and provided further that if the senior class of certificates with which the swap is associated has a final maturity date of more than one year from the date of issuance of the certificates, and such swap is a Ratings Dependent Swap, the swap counterparty is required by the terms of the swap agreement to establish any collateralization or other arrangement satisfactory to the Rating Agencies in the event of a ratings downgrade of the swap counterparty.

JJ. Qualified Plan Investor means a plan investor or group of plan investors on whose behalf the decision to purchase certificates is made by an appropriate independent fiduciary that is qualified to analyze and understand the terms and conditions of any swap transaction used by the trust and the effect such swap would have upon the credit ratings of the certificates. For purposes of the exemption, such a fiduciary is either:

(1) *A qualified professional asset manager* (QPAM),[8] as defined under Part V(a) of PTE 84–14 (49 FR 9494, 9506, March 13, 1984);

(2) *An in-house asset manager* (INHAM),[9] as defined under Part IV(a) of PTE 96–23 (61 FR 15975, 15982, April 10, 1996); or

(3) A plan fiduciary with total assets under management of at least $100 million at the time of the acquisition of such certificates.

[8] PTE 84–14 provides a class exemption for transactions between a party in interest with respect to an employee benefit plan and an investment fund (including either a single customer or pooled separate account) in which the plan has an interest, and which is managed by a QPAM, provided certain conditions are met. QPAMs (e.g. banks, insurance companies, registered investment advisers with total client assets under management in excess of $50 million) are considered to be experienced investment managers for plan investors that are aware of their fiduciary duties under ERISA.

[9] PTE 96–23 permits various transactions involving employee benefit plans whose assets are managed by an INHAM, an entity which is generally a subsidiary of an employer sponsoring the plan which is a registered investment adviser with management and control of total assets attributable to plans maintained by the employer and its affiliates which are in excess of $50 million.

KK. *Permitted Investments means investments* that either (i) are direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by, the United States or any agency or instrumentality thereof, provided that such obligation is backed by the full faith and credit of the United States, or (ii) have been rated (or the obligor thereof has been rated) in one of the three highest generic rating categories by a Rating Agency; are described in the pooling and servicing agreement; and are permitted by the relevant Rating Agency(ies).

LL. *Excess Finance Charge Collections* means, as of any day funds are distributed from the trust, the amount by which the finance charge collections allocated to certificates of a series exceed the amount necessary to pay certificate interest, servicing fees and expenses, to satisfy cardholder defaults or charge-offs, and to reinstate credit support.

The Department notes that this exemption is included within the meaning of the term "Underwriter Exemption" as it is defined in Section V(h) of the Grant of the Class Exemption for Certain Transactions Involving Insurance Company General Accounts, which was published in the **Federal Register** on July 12, 1995 (see PTE 95–60, 60 FR 35925).

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption (the Proposal) published on January 27, 1998, at 63 FR 4038.

Written Comments and Modifications. The applicant (i.e. MBNA) submitted certain comments on the text of the Proposal.

With respect to issues of a substantive nature, the applicant suggested two revisions which are discussed below.

First, MBNA requests that the phrase "at the time of such acquisition" should be inserted immediately following the word "is" in the 13th line of Section II.A.(3) of the Proposal (63 FR at 4039, column 3). In this regard, Section II.A.(3) concerns minimum ratings for the certificates issued by a trust and the proviso contained therein requires certain minimum credit support for each Exempt Class of certificates. MBNA suggests that the proviso with respect to minimum credit support be changed to clarify that the five (5) percent minimum only needs to be present at the time of an acquisition of a certificate.

The Department believes that this modification is consistent with the requirements of Section II.A.(3) that the certificates acquired by a plan have received a rating at the time of acquisition that is in one of the high rating categories discussed therein. The Department notes that the conditions of this exemption are designed to ensure, among other things, that certain actions taken by the trust or the sponsor (i.e. MBNA) do not result in the certificates issued by the trust receiving a lower credit rating from the Rating Agencies than the then current rating of the certificates—i.e. a Ratings Effect. For example, Section II.A.(8) requires that confirmation must be received from the Rating Agencies that the issuance of any new series of certificates by the trust will not result in a Ratings Effect. Likewise, Sections I.C.(3) and II.A.(13) require that the addition of new receivables or designation of new accounts to the trust must meet terms and conditions which have been described in the prospectus or private placement memorandum for the certificates and have been approved by the Rating Agencies. The pooling and servicing agreements also require confirmations from the Rating Agencies that such actions will not result in a Ratings Effect. Therefore, the Department has made MBNA's suggested modification to the language of Section II.A.(3) with the understanding that any credit enhancements used by a trust to obtain a high rating for a particular class of certificates at the time such certificates are acquired by a plan should be sufficient to avoid any Ratings Effect on the certificates in the future, and that adverse changes to the level of minimum credit support required for an Exempt Class may have a Ratings Effect unless other arrangements satisfactory to the Rating Agencies are made.

Second, with respect to the definition of the term "Pay Out Event" contained in Section III.AA. of the Proposal, MBNA states that clause (5) of that definition does not describe a pay out event for MBNA's securitization transactions for credit card receivables. In this regard, Section III.AA. of the Proposal contains a nonexclusive list of seven events which may trigger an early payout to certificateholders. Clause (5) of the Proposal describes a Pay Out Event as follows:

"* * * if a class of investor certificates is in an Accumulation Period, the amount on deposit in the accumulation account in any month is less than the amount required to be on deposit therein."

However, MBNA states that a Pay Out Event does not occur with regard to the amount of principal accumulated each month in the accumulation account.

MBNA states further that Clause (6) of Section III.AA. of the Proposal expresses the operative requirement, i.e., Class A certificateholders must be repaid the principal amount of their investment by the expected maturity date. Thus, MBNA represents that the inclusion of Clause (5) in the Proposal, as described above, should be deleted.

The Department acknowledges the applicant's clarification and has deleted Clause (5) as it appeared in the definition of the term "Pay Out Event" in the Proposal. Thus, Section III.AA. of the Proposal has been renumbered to reflect this deletion.

In addition, the applicant submitted a number of comments that relate to what are described as certain language "glitches" in the Proposal. These are discussed below.

First, MBNA requests that the heading used in the Proposal be changed to reflect the fact that its headquarters is now located in Wilmington, Delaware (rather than Newark, Delaware).

Second, with respect to Section I.B.(1) of the Proposal relating to an obligor for receivables contained in the trust constituting 0.5 percent or less of the fair market value of the obligations or receivables contained in the aggregate undivided interest in the trust allocated to the certificates of a series, MBNA states that the language "* * * obligations or receivables contained in the * * *" is unnecessary and should be deleted from that subsection in order to be consistent with the description of such an obligor used in the definition of "Restricted Group" in Section III.L.(7).

Third, in Section I.B.(1)(v) of the Proposal, MBNA requests that the word "not" be changed to "no" in order to be consistent with the description in Section I.B.(1)(iv).

Fourth, MBNA requests that the word "and" be substituted for the comma (",") used in Section I.B.(2) of the Proposal.

Fifth, MBNA requests that the word "for" be substituted for the word "of" in the 8th line of Section I.C.(3) of the Proposal (see 63 FR at 4039, column 2).

Sixth, MBNA states that Section I.C.(3) and footnote 10 of the Proposal should be revised to reflect the change in Fitch's formal name to "Fitch IBCA, Inc."

Seventh, MBNA states that in Section I.C.(4), the cross reference to the definition of an "Economic Pay Out Event" should be changed from Section III.X. to Section III.BB.

Eighth, MBNA requests that the word "class" should be substituted for the word "series" in the 11th and 17th lines of Section II.A.(5) of the Proposal (see 63 FR at 4040, column 1).

Ninth, MBNA requests that the words "receivables in" be inserted between the words "of" and "newly" in lines 5–6 of Section II.A.(12) of the Proposal, as well as in lines 5–6 and 8 of Section II.A.(13) of the Proposal (see 63 FR at 4040, column 2).

Tenth, MBNA requests that the word "class" be substituted for the word "series" in line 1 of Section II.A.(14) of the Proposal and in Section II.A.(14)(c)(ii) therein (63 FR at 4040, columns 2 and 3).

Eleventh, MBNA requests that the word "class" be substituted for the word "series" in Section II.A.(15).

Twelfth, MBNA requests that the word "assets" be substituted for the word "receivables" in the 4th (but not the 6th) line of the definition of "Master Servicer" in Section III.E. of the Proposal (63 FR at 4041, column 3).

Thirteenth, MBNA requests that the words "senior class" be substituted for the word "series" in the 7th line of the definition of "Ratings Dependent Swap" in Section III.GG. of the Proposal (63 FR at 4043, column 1).

Fourteenth, MBNA requests that the words "senior class" be substituted for the word "series" in the 4th line of the definition of "Eligible Swap" in Section III.HH(2) of the Proposal (63 FR at 4043, column 2).

Fifthteenth, MBNA requests that the words "senior class" be substituted for the word "series" in the 18th line of the definition of "Eligible Swap Counterparty" in Section III.II. of the Proposal (63 FR at 4043, column 3).

The Department acknowledges each of these requested revisions to the Proposal and has so modified the language of the exemption contained herein.

Finally, the applicant's comments on the Proposal contained certain minor clarifications concerning the information included in the Summary of Facts and Representations for the Proposal. The Department acknowledges all of the clarifications made by MBNA to this information.

For further information regarding MBNA's comments or other matters discussed herein, interested persons are encouraged to obtain a copy of the exemption application file (No. D–10304) which is available in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

No other written comments, and no requests for a hearing, were received by the Department.

Accordingly, the Department has determined to grant the exemption as modified herein.

FOR FURTHER INFORMATION CONTACT: Mr. E. F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Citibank (South Dakota), N.A., Citibank (Nevada), N.A., and Affiliates Located in North Sioux Falls, South Dakota

[Prohibited Transaction Exemption No. 98–14; Application No. D–10313]

Exemption

Section I—Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the trust, the sponsor or an underwriter and an employee benefit plan subject to the Act or section 4975 of the Code (a plan) when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to Section I.A.(1) or (2).

Notwithstanding the foregoing, Section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan, as defined in Section III.K. below, by any person who has discretionary authority or renders investment advice with respect to the assets of the Excluded Plan that are invested in certificates.[10]

B. The restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between

[10] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

the trust, the sponsor or an underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to receivables contained in the trust constituting 0.5 percent or less of the fair market value of the aggregate undivided interest in the trust allocated to the certificates of a series, or (b) an affiliate of a person described in (a); if

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group, as defined in Section III.L., and at least 50 percent of the aggregate undivided interest in the trust allocated to the certificates of a series is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates of a series does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition;

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice is invested in certificates representing the aggregate undivided interest in a trust allocated to the certificates of a series and containing receivables sold or serviced by the same entity;[11] and

(v) Immediately after the acquisition of the certificates, not more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice is invested in certificates representing an interest in the trust, or trusts containing receivables sold or serviced by the same entity. For purposes of paragraphs B.(1)(iv) and B.(1)(v) only, an entity shall not be considered to service receivables contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that conditions set forth in Section I.B.(1)(i), (iii) through (v) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to Section I.B.(1) or (2).

C. The restrictions of sections 406(a), 406(b) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, including the reassignment to the sponsor of receivables, the removal from the trust of accounts previously designated to the trust, the changing of the underlying terms of accounts designated to the trust, the adding of new receivables to the trust, the designation of new accounts to the trust, the retention of a retained interest by the sponsor in the receivables, the exercise of the right to cause the commencement of amortization of the principal amount of the certificates, or the use of any eligible swap transactions, provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing agreement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust;[12]

(3) The addition of new receivables or designation of new accounts, or the removal of receivables or previously-designated accounts, meets the terms and conditions for such additions, designations or removals as are described in the prospectus or private placement memorandum for such certificates, which terms and conditions have been approved by Standard & Poor's Ratings Services, Moody's Investor Service, Inc., Duff & Phelps Credit Rating Co., or Fitch Investors Service, L.P., or their successors (collectively, the Rating Agencies), and does not result in the certificates receiving a lower credit rating from the Rating Agencies than the then current rating for the Certificates; and

(4) The series of which the certificates are a part will be subject to an Economic Early Amortization Event, which is set forth in the pooling and servicing agreement and described in the prospectus or private placement memorandum associated with the series, the occurrence of which will cause any Revolving Period, Controlled Amortization Period, or Accumulation Period applicable to the certificates to end, and principal collections to be applied to monthly payments of principal to, or accumulated for the account of, the certificateholders of such series until the earlier of: (i) Payment in full of the outstanding principal amount of such certificates of such series, or (ii) the series termination date specified in the prospectus or private placement memorandum.

Notwithstanding the foregoing, Section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act, or from the taxes imposed under section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(E) or (F) of the Code, for the receipt of a fee by the servicer of the trust, in connection with the servicing of the receivables and the operation of the trust, from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in Section III.S. below.

D. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by sections 4975(a) and (b) of the Code, by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transaction to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider as described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

Section II—General Conditions

A. The relief provided under Section I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as such terms would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

[11] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[12] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions. For purposes of this exemption, all references to "prospectus" include any related supplement thereto, and any documents incorporated by reference therein, pursuant to which certificates are offered to investors.

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is either: (i) in one of the two highest generic rating categories from any one of the Rating Agencies; or (ii) for certificates with a duration of one year or less, the highest short-term generic rating category from any one of the Rating Agencies; provided that, notwithstanding such ratings, this exemption shall apply to a particular class of certificates only if such class (an Exempt Class) is at the time of such acquisition part of a series in which credit support is provided to the Exempt Class through a senior-subordinated series structure or other form of third-party credit support which, at a minimum, represents five (5) percent of the outstanding principal balance of certificates issued for the Exempt Class, so that an investor in the Exempt Class will not bear the initial risk of loss;

(4) The trustee is not an affiliate of any other member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the consideration received by the sponsor as a consequence of the assignment of receivables (or interests therein) to the trust represents not more than the fair market value of such receivables (or interests); and the sum of all payments made to and retained by the servicer, that are allocable to the series of certificates purchased by a plan, represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith;

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission (SEC) under the Securities Act of 1933;

(7) The trustee of the trust is a substantial financial institution or trust company experienced in trust activities and is familiar with its duties, responsibilities, and liabilities as a fiduciary under the Act (i.e. ERISA). The trustee, as the legal owner of the receivables in the trust, enforces all the rights created in favor of certificateholders of such trust, including employee benefit plans subject to the Act;

(8) Prior to the issuance of any new series in the trust, confirmation must be received from the Rating Agencies that such issuance will not result in the reduction or withdrawal of the then current rating or ratings of the certificates held by any plan pursuant to this exemption;

(9) To protect against fraud, chargebacks or other dilution of receivables in the trust, the pooling and servicing agreement and the Rating Agencies require the sponsor to maintain a seller interest of not less than the greater of (i) 2 percent of the initial aggregate principal balance of investor certificates issued by the trust, or (ii) 7 percent of the outstanding aggregate principal balance of investor certificates issued by the trust;

(10) Each receivable added to the trust will be an eligible receivable, based on criteria of the Rating Agency and as specified in the pooling and servicing agreement. The pooling and servicing agreement requires that any change in the terms of any cardholder agreements also be made applicable to the comparable segment of Accounts owned or serviced by the sponsor which are part of the same program or have the same or substantially similar characteristics;

(11) The pooling and servicing agreement limits the number of the sponsor's newly originated accounts to be added to the trust, unless the Rating Agency otherwise affirmatively consents, to the following: (i) With respect to any three month period, 15 percent of the number of existing accounts designated to the trust as of the first day of such period, and (ii) with respect to any calendar year, 20 percent of the number of existing accounts designated to the trust as of the first day of such calendar year;

(12) The pooling and servicing agreement requires the sponsor to deliver an opinion of counsel semi-annually confirming the validity and perfection of each transfer of newly originated accounts to the trust;

(13) The pooling and servicing agreement requires the sponsor and the trustee to receive at specified quarterly intervals during the year, confirmation from a Rating Agency that the addition of all newly originated accounts added to the trust (during the three month period ending in the calendar month prior to such confirmation) will not have resulted in a Ratings Effect;

(14) If a particular series of certificates held by any plan involves a Ratings Dependent or Non-Ratings Dependent Swap entered into by the trust, then each particular swap transaction relating to such certificates:

(a) shall be an Eligible Swap;

(b) shall be with an Eligible Swap Counterparty;

(c) in the case of a Ratings Dependent Swap, shall include as an early amortization event, as specified in the pooling and servicing agreement, the withdrawal or reduction by any Rating Agency of the swap counterparty's credit rating below a level specified by the Rating Agency where the servicer (as agent for the trustee) has failed, for a specified period after such rating withdrawal or reduction, to meet its obligation under the pooling and servicing agreement to:

(i) obtain a replacement swap agreement with an Eligible Swap Counterparty which is acceptable to the Rating Agency and the terms of which are substantially the same as the current swap agreement (at which time the earlier swap agreement shall terminate); or

(ii) cause the swap counterparty to establish any collateralization or other arrangement satisfactory to the Rating Agency such that the then current rating by the Rating Agency of the particular class of certificates will not be withdrawn or reduced;

(d) in the case of a Non-Ratings Dependent Swap, shall provide that, if the credit rating of the swap counterparty is withdrawn or reduced below the lowest level specified in Section III.II. hereof, the servicer (as agent for the trustee) shall within a specified period after such rating withdrawal or reduction:

(i) obtain a replacement swap agreement with an Eligible Swap Counterparty, the terms of which are substantially the same as the current swap agreement (at which time the earlier swap agreement shall terminate); or

(ii) cause the swap counterparty to post collateral with the trustee of the trust in an amount equal to all payments owed by the counterparty if the swap transaction were terminated; or

(iii) terminate the swap agreement in accordance with its terms; and

(e) shall not require the trust to make any termination payments to the swap counterparty (other than a currently scheduled payment under the swap agreement) except from "Excess Finance Charge Collections" (as defined below in Section III.LL.) or other amounts that would otherwise be payable to the servicer or the seller; and

(15) Any class of certificates which entails one or more swap agreements entered into by the trust shall be sold only to Qualified Plan Investors.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Section I, if the provision in Section II.A.(6) above is not satisfied for the acquisition or holding by a plan of such certificates, provided that:

(1) Such condition is disclosed in the prospectus or private placement memorandum; and

(2) In the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees shall be required to make a written representation regarding compliance with the condition set forth in Section II.A.(6).

Section III—Definitions

For purposes of this exemption:

A. *Certificate* means

(1) A certificate:

(a) That represents a beneficial ownership interest in the assets of a trust;

(b) That entitles the holder to payments denominated as principal and interest, and/or other payments made in connection with the assets of such trust, either currently, or after a Revolving Period during which principal payments on assets in the trust are reinvested in new assets; or (2) A certificate denominated as a debt instrument that represents an interest in a financial asset securitization investment trust (FASIT) within the meaning of section 860L of the Code, and that is issued by and is an obligation of a trust;

which is sold upon initial issuance by an underwriter (as defined in Section III.C.) in an underwriting or private placement.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. *Trust* means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either

(a) Receivables (as defined in Section III.T.); or

(b) Participations in a pool of receivables (as defined in Section III.T.) where such beneficial ownership interests are not subordinated to any other interest in the same pool of receivables; [13]

(2) Property which has secured any of the assets described in Section III.B.(1); [14]

(3) Undistributed cash or permitted investments made therewith maturing no later than the next date on which distributions are to be made to certificateholders, except during a Revolving Period (as defined herein) when permitted investments are made until such cash can be reinvested in additional receivables described in paragraph (a) of this Section III.B.(1);

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any cash collateral accounts, insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements for any certificates, swap transactions, or under any yield supplement agreements,[15] yield maintenance agreements or similar arrangements; and

(5) Rights to receive interchange fees received by the sponsor as partial compensation for the sponsor's taking credit risk, absorbing fraud losses and funding receivables for a limited period prior to initial billing with respect to accounts designated to the trust.

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) The investment pool consists only of receivables of the type which have been included in other investment pools; (ii) certificates evidencing interests in such other investment pools have been rated in one of the two highest generic rating categories by at least one of the Rating Agencies for at least one year prior to the plan's acquisition of certificates pursuant to this exemption; and (iii) certificates evidencing an interest in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. *Underwriter* means an entity which has received an individual prohibited transaction exemption from the Department that provides relief for the operation of asset pool investment trusts that issue "asset-backed" pass-through securities to plans, that is similar in format and structure to this exemption (the Underwriter Exemptions); [16] any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such entity; and any member of an underwriting syndicate or selling group of which such firm or affiliated person described above is a manager or co-manager with respect to the certificates.

D. *Sponsor* means Citibank or an affiliate of Citibank that organizes a trust by transferring credit card receivables or interests therein to the trust in exchange for certificates.

E. *Master Servicer* means Citibank or an entity affiliated with Citibank that is a party to the pooling and servicing agreement relating to trust receivables and is fully responsible for servicing, directly or through subservicers, the receivables in the trust pursuant to the pooling and servicing agreement.

F. *Subservicer* means Citibank or an affiliate, or an entity unaffiliated with Citibank, which, under the supervision of and on behalf of the master servicer, services receivables contained in the trust, but is not a party to the pooling and servicing agreement.

G. *Servicer* means Citibank or an affiliate which services receivables contained in the trust, including the master servicer and any subservicer or their successors pursuant to the pooling and servicing agreement.

H. *Trustee* means an entity which is independent of Citibank and its affiliates and is the trustee of the trust. In the case of certificates which are denominated as debt instruments, "trustee" also means the trustee of the indenture trust.

I. *Insurer* means the insurer or guarantor of, provider of other credit support for, or other contractual counterparty of, a trust. Notwithstanding the foregoing, a swap counterparty is not an insurer, and a person is not an insurer solely because

[13] The Department notes that no relief would be available under the exemption if the participation interests held by the trust were subordinated to the rights and interests evidenced by other participation interests in the same pool of receivables.

[14] Citibank states that it is possible for credit card receivables to be secured by bank account balances or security interests in merchandise purchased with credit cards. Thus, the exemption should permit foreclosed property to be an eligible trust asset.

[15] In a series involving an accumulation period (as defined in Section III.AA), a yield supplement agreement may be used by the Trust to make up the difference between (i) the reinvestment yield on permitted investments, and (ii) the interest rate on the certificates of that series.

[16] For a listing of the Underwriter Exemptions, see the description provided in the text of the operative language of Prohibited Transaction Exemption (PTE) 97–34 (62 FR 39021, July 21, 1997).

it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. *Obligor* means any person, other than the insurer, that is obligated to make payments with respect to any receivable included in the trust.

K. *Excluded Plan* means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. *Restricted Group* with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Each swap counterparty;

(7) Any obligor with respect to receivables contained in the trust constituting more than 0.5 percent of the fair market value of the aggregate undivided interest in the trust allocated to the certificates of a series, determined on the date of the initial issuance of such series of certificates by the trust; or

(8) Any affiliate of a person described in Section III.L. (1)–(7).

M. *Affiliate* of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. *Control* means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will *be independent* of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. *Sale* includes the entrance into a forward delivery commitment (as defined in Section III.Q. below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. *Forward Delivery Commitment* means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. *Reasonable Compensation* has the same meaning as that term is defined in 29 CFR section 2550.408c–2.

S. *Qualified Administrative Fee* means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing with respect to the receivables;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement or described in all material respects in the prospectus or private placement memorandum provided to the plan before it purchases certificates issued by the trust; and

(4) The amount paid to investors in the trust is not reduced by the amount of any such fee waived by the servicer.

T. *Receivables* means secured or unsecured obligations of credit card holders which have arisen or arise in Accounts designated to a trust. Such obligations represent amounts charged by cardholders for merchandise and services and amounts advanced as cash advances, as well as periodic finance charges, annual membership fees, cash advance fees, late charges on amounts charged for merchandise and services and over-limit fees and fees of a similar nature designated by card issuers (other than a qualified administrative fee as defined in Section III.S. above).

U. *Accounts* are revolving credit card accounts serviced by Citibank or an affiliate, which were originated or purchased by Citibank or an affiliate, and are designated to a trust such that receivables arising in such accounts become assets of the trust.

V. *Pooling and Servicing Agreement* means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust and any supplement thereto pertaining to a particular series of certificates. In the case of certificates which are denominated as debt instruments, "pooling and servicing agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

W. *Early Amortization Event* means the events specified in the pooling and servicing agreement that result (in some instances without further affirmative action by any party) in an early amortization of the certificates, including: (1) The failure of the sponsor or the servicer (i) to make any payment or deposit required under the pooling and servicing agreement or supplement thereto within five (5) business days after such payment or deposit was required to be made, or (ii) to observe or perform any of its other covenants or agreements set forth in the pooling and servicing agreement or supplement thereto, which failure has a material adverse effect on investors and continues unremedied for 60 days; (2) a breach of any representation or warranty made by the sponsor or the servicer in the pooling and servicing agreement or supplement thereto that continues to be incorrect in any material respect for 60 days; (3) the occurrence of certain bankruptcy events relating to the sponsor or the servicer; (4) the failure by the sponsor to convey to the trust additional receivables to maintain the minimum seller interest that is required by the pooling and servicing agreement and the Rating Agencies; (5) the failure to pay in full amounts owing to investors on the expected maturity date; and (6) the Economic Early Amortization Event.

X. *Series* means an issuance of a class or various classes of certificates by the trust all on the same date pursuant to the same pooling and servicing agreement and any supplement thereto and restrictions therein.

Y. *Revolving Period* means a period of time, as specified in the pooling and servicing agreement, during which principal collections allocated to a series are reinvested in newly generated receivables.

Z. *Controlled Amortization Period* means a period of time specified in the pooling and servicing agreement during which a portion of the principal collections allocated to a series will commence to be paid to the certificateholders of such series in installments.

AA. Accumulation Period means a period of time specified in the pooling and servicing agreement during which a portion of the principal collections allocated to a series will be deposited in an account to be distributed to certificateholders in a lump sum on the expected maturity date.

BB. CCA or Cash Collateral Account means that certain account, established by the trustee, that serves as credit enhancement with respect to the investor certificates and consists of cash deposits and the proceeds of investments thereon, which investments are permitted investments, as defined below.

CC. Permitted Investments means investments which: (1) are direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by, the United States or any agency or instrumentality thereof, provided that such obligation is backed by the full faith and credit of the United States, or (2) have been rated (or the obligor has been rated) in one of the three highest generic rating categories by a Rating Agency; are described in the pooling and servicing agreement; and are permitted by the Rating Agency.

DD. Group means a group of any number of series offered by the trust that share finance charge and/or principal collections in the manner described in the prospectus.

EE. An Economic Early Amortization Event occurs automatically when finance charge collections averaged over three consecutive months are less than the total amount payable on the investor certificates, including (i) amounts payable to, or on behalf of, certificateholders, with respect to interest, defaults, and chargeoffs, (ii) servicing fees payable to the servicer, and (iii) any credit enhancement fee payable to the third-party credit enhancer and allocable to the certificateholders. With respect to a series to which an Accumulation Period (as defined above in Section III.AA.) applies, an additional Economic Early Amortization Event occurs when, for any time during the Accumulation Period, the yield on the receivables in the Trust is less than the weighted average of the certificate rates of all series included in a particular Group within the Trust.

FF. Ratings Effect means the reduction or withdrawal by a Rating Agency of its then current rating of the investor certificates of any outstanding series.

GG. Principal Receivables Discount means, with respect to any account designated by the sponsor, the portion of the related principal receivables that represents a discount from the face value thereof and that is treated under the pooling and servicing agreement as finance charge receivables.

HH. Eligible Swap means an interest rate swap, or (if purchased by or on behalf of the trust) an interest rate cap, that is part of the structure of a class of certificates:

(1) which is denominated in U.S. Dollars;

(2) pursuant to which the trust pays or receives on or immediately prior to the respective payment or distribution date for the class of certificates, a fixed rate of interest, or a floating rate of interest based on a publicly available index (*e.g.* LIBOR or the U.S. Federal Reserve's Cost of Funds Index (COFI)), with the trust receiving such payments on at least a quarterly basis and obligated to make separate payments no more frequently than the swap counterparty, with all simultaneous payments being netted;

(3) which has a notional amount that does not exceed either (i) the certificate balance of the class of certificates to which the swap relates, or (ii) the portion of the certificate balance of such class represented by receivables;

(4) which is not leveraged, (i.e. payments are based on the applicable notional amount, the day count fractions, the fixed or floating rates designated in (2) above, and the difference between the products thereof, calculated on a one to one ratio and not on a multiplier of such difference);

(5) which has a termination date that is the earlier of the date on which the trust terminates or the related class of certificates is fully repaid; and

(6) which does not incorporate any provision which could cause a unilateral alteration in a provision described in clauses (1) through (4) hereof without the consent of the trustee.

II. Eligible Swap Counterparty means a bank or other financial institution with a rating at the date of issuance of the certificates by the trust which is in one of the three highest long-term credit rating categories, or one of the two highest short-term credit rating categories, utilized by at least one of the Rating Agencies rating the certificates; provided that, if a swap counterparty is relying on its short-term rating to establish eligibility hereunder, such counterparty must either have a long-term rating in one of the three highest long-term rating categories or not have a long-term rating from the applicable Rating Agency, and provided further that if the class of certificates with which the swap is associated has a final maturity date of more than one year from the date of issuance of the certificates, and such swap is a Ratings Dependent Swap, the swap counterparty is required by the terms of the swap to establish any collateralization or other arrangement satisfactory to the Rating Agency in the event of a ratings downgrade of the swap counterparty.

JJ. Qualified Plan Investor means a plan investor or group of plan investors on whose behalf the decision to purchase certificates is made by an appropriate independent fiduciary that is qualified to analyze and understand the terms and conditions of any swap transaction used by the trust and the effect such swap would have upon the credit ratings of the certificates. For purposes of this exemption, such a fiduciary is either:

(1) a *qualified professional asset manager* (QPAM), as defined under Part V(a) of PTE 84–14 (49 FR 9494, 9506, March 13, 1984);[17]

(2) *an in-house asset manager* (INHAM), as defined under Part IV(a) of PTE 96–23 (61 FR 15975, 15982, April 10, 1996);[18] or

(3) a plan fiduciary with total assets under management of at least $100 million at the time of the acquisition of such certificates.

KK. Ratings Dependent Swap means an interest rate swap, or (if purchased by or on behalf of the trust) an interest rate cap contract, that is part of the structure of a series of certificates where the rating assigned by the Rating Agency to any senior class of certificates held by any plan is dependent on the terms and conditions of the swap and the rating of the swap counterparty, and if such certificate rating is not dependent on the existence of such swap and rating of the swap counterparty, such swap or cap shall be referred to as a "Non-Ratings Dependent Swap". With respect to a Non-Ratings Dependent Swap, each Rating Agency rating the certificates must confirm, as of the date of issuance of the certificates by the trust, that

[17] PTE 84–14 provides a class exemption for transactions between a party in interest with respect to an employee benefit plan and an investment fund (including either a single customer or pooled separate account) in which the plan has an interest, and which is managed by a QPAM, provided certain conditions are met. QPAMs (e.g. banks, insurance companies, registered investment advisers with total client assets under management in excess of $50 million) are considered to be experienced investment managers for plan investors that are aware of their fiduciary duties under ERISA.

[18] PTE 96–23 permits various transactions involving employee benefit plans whose assets are managed by an INHAM, an entity which is generally a subsidiary of an employer sponsoring the plan which is a registered investment adviser with management and control of total assets attributable to plans maintained by the employer and its affiliates which are in excess of $50 million.

entering into an Eligible Swap with such counterparty will not affect the rating of the certificates.

LL. Excess Finance Charge Collections means, as of any day funds are distributed from the trust, the amount by which the finance charge collections allocated to certificates of a series exceed the amount necessary to pay certificate interest, servicing fees and expenses, to satisfy cardholder defaults or charge-offs, and to reinstate credit support.

The Department notes that this exemption is included within the meaning of the term "Underwriter Exemption" as it is defined in Section V(h) of the Grant of the Class Exemption for Certain Transactions Involving Insurance Company General Accounts, which was published in the **Federal Register** on July 12, 1995 (see PTE 95–60, 60 FR 35925).

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption (the Proposal) published on January 27, 1998 at 63 FR 4052.

Written Comments and Modifications: The applicant (i.e. Citibank) submitted certain comments on the text of the Proposal.

First, Section II.A.(3) concerns minimum ratings for the certificates issued by a trust and the proviso contained therein requires certain minimum credit support for each Exempt Class of certificates. Citibank suggests that the proviso with respect to minimum credit support be changed to clarify that the five (5) percent minimum only needs to be present at the time of an acquisition of a certificate.

The Department believes that this modification is consistent with the requirements of Section II.A.(3) that the certificates acquired by a plan have received a rating at the time of acquisition that is in one of the high rating categories discussed therein. In this regard, the Department notes that the conditions of this exemption are designed to ensure, among other things, that certain actions taken by the trust or the trust sponsor (i.e. Citibank) do not result in the certificates issued by the trust receiving a lower credit rating from the Rating Agencies than the then current rating of the certificates—i.e. a Ratings Effect. For example, Section II.A.(8) requires that confirmation must be received from the Rating Agencies that the issuance of any new series of certificates by the trust will not result in a Ratings Effect. Likewise, Sections I.C.(3) and II.A.(13) require that the addition of new receivables or designation of new accounts to the trust must meet terms and conditions which have been described in the prospectus or private placement memorandum for the certificates and have been approved by the Rating Agencies. The pooling and servicing agreements also require confirmations from the Rating Agencies that such actions will not result in a Ratings Effect.[19] Therefore, the Department has made Citibank's suggested modification to the language of Section II.A.(3) with the understanding that any credit enhancements used by a trust to obtain a high rating for a particular class of certificates at the time such certificates are acquired by a plan should be sufficient to avoid any Ratings Effect on the certificates in the future, and that adverse changes to the level of minimum credit support required for an Exempt Class may have a Ratings Effect unless other arrangements satisfactory to the Rating Agencies are made.

Second, with respect to Section II.A.(14)(c) relating to Ratings Dependent Swaps, Section II.A.(14)(c)(ii) of the Proposal states that one of the options in the event of a credit ratings downgrade of the Eligible Swap Counterparty for such swap transactions is to "* * * cause the swap counterparty to establish any collateralization or other arrangement satisfactory to the Rating Agency such that the then current rating by the Rating Agency of the particular *series* of certificates will not be withdrawn or reduced." [emphasis added] Citibank suggests that since a swap transaction by a trust might relate to only one class of certificates in a series issued by the trust, it would be more precise to substitute the word "class" for "series" in Section II.A.(14)(c)(ii).

Similarly, Section II.A.(15) of the Proposal requires that "* * * [a]ny Series of certificates which entails one or more swap agreements entered into by the trust shall be sold only to Qualified Plan Investors." Citibank believes that it would be more precise to substitute the word "class" for "series" in Section II.A.(15).

Likewise, in Section III.HH. of the Proposal, the definition of "Eligible Swap" contains numerous references to a "series" of certificates to which the swap transaction relates. Citibank believes that it would be more precise for these references to be changed to a "class" of certificates.

The Department agrees with these suggestions and, accordingly, has modified the language of the final exemption.

Finally, with respect to the definition of the term "Early Amortization Event" contained in Section III.W. of the Proposal, Citibank notes that there is a nonexclusive list of seven events which may trigger an early amortization to certificateholders. The fifth event listed as an early amortization event is as follows:

"* * * if a class of investor certificates is in an Accumulation Period, the amount on deposit in the accumulation account in any month is less than the amount required to be on deposit therein."

Although such an event was previously described by Citibank as a possible early amortization "trigger", Citibank is now concerned that the inclusion of this "event" in the definition of the term "early amortization event" may be misleading to investors. In this regard, Citibank states that there is no amount required to be on deposit in the accumulation account in any particular month, other than that amount which is required to be in the account in the last month of the Accumulation Period. Any shortfall in the amount required to be in the accumulation account in the last month of an Accumulation Period would be an "early amortization event". Such an event was already included in the list contained in the definition of that term in the Proposal (see Section III.W.(6) of the Proposal). Thus, Citibank represents that the inclusion of the fifth event, as described above, is unnecessary and should be deleted.

The Department acknowledges the applicant's clarification and has deleted the fifth event described in the definition of the term "early amortization event" as used in the Proposal. Section III.W. of the final exemption has been renumbered to reflect this deletion.

No other written comments, and no requests for a hearing, were received by the Department.

Accordingly, the Department has determined to grant the exemption as modified herein.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

[19] See the discussion of a "Lump Sum Addition" of receivables to the trust in Paragraph 7 in the Summary of Facts and Representations included in the Proposal (63 FR at 4060). See also Footnote 30 (63 FR at 4061) regarding the satisfaction of certain conditions required by the Rating Agencies to avoid a Ratings Effect and judgments that must be made by Citibank that such additions, or any removals, of accounts will not adversely affect the timing or amount of payments to certificateholders (referred to in the Series prospectus as an "Adverse Effect").

Massachusetts Mutual Life Insurance Company (MassMutual), Located in Springfield, Massachusetts

[Prohibited Transaction Exemption 98–15; Exemption Application No. D–10436]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) The mergers of the following Connecticut Mutual Life Insurance Company (CML) separate investment accounts (SIAs), the assets of which include assets of employee benefit plans (the Plans), into the following Massachusetts Mutual Life Insurance Company (MassMutual) SIAs: CML Select into MassMutual SIA–A, CML Fixed Income into MassMutual SIA–E, CML Basis into MassMutual SIA–F, CML Money Market into MassMutual SIA–G, and CML Overseas into MassMutual SIA–I (the Merger Transactions); (2) the transfer of Plan assets from CML Dimensions and CML Converts, after termination of those SIAs, into MassMutual SIA–E and MassMutual SIA–A, respectively (the Termination Transfers); and (3) the transfer of Plan assets from CML Life Style Funds designated as CML Asset Allocation A, CML Asset Allocation B, and CML Asset Allocation C, after termination of those funds, into MassMutual SIA–BC, MassMutual SIA–BP, and MassMutual SIA–BA, respectively (the Life Style Transfers; the Termination Transfers and the Life Style Transfers are referred to collectively as the Transfer Transactions); provided the following conditions are met:

(A) At least 30 days prior to the effective date of each Merger and Transfer Transaction, MassMutual provides to a fiduciary of each Plan participating in the CML SIAs (the Plan Fiduciary) affected by the Transaction full written disclosure of information concerning the proposed Transaction and the affected MassMutual SIAs', including a current prospectus and a full and detailed written description of the fees charged by the affected MassMutual SIAs and the funds in which they invest, the differential between that fee level and the fee level applicable to the affected CML SIAs and the reasons why MassMutual believes that the investment is appropriate for the Plans. The notice will also inform the Plan Fiduciary of the proposed effective date of the Transaction;

(B) As part of the disclosure required under paragraph (A) of this exemption, MassMutual notifies the Plan Fiduciary in writing that instead of participating in the particular Merger or Transfer Transaction proposed by MassMutual, the Plan Fiduciary may direct that the assets of the Plan in the affected CML SIA may be transferred, without penalty, charge or adjustment, to any other available MassMutual SIA or liquidated, without penalty, charge or adjustment, for a cash payment to the Plan equal to the fair market value of the Plan's interest in the affected SIA in lieu of the Plan's participation in the proposed transaction;

(C) Upon completion of the Merger Transactions, the fair market value of the interests of each Plan participating in the MassMutual SIAs immediately following such Merger Transactions equals the fair market value of such Plan's interest in the affected CML SIAs immediately before the transactions;

(D) Upon completion of the Transfer Transactions, the fair market value of the interests of each Plan participating in the MassMutual SIAs immediately following such Transfer Transactions equals the fair market value of such Plan's interest in the affected CML SIAs immediately before the transaction;

(E) The assets of each of the Plans are invested in the same or similar investment type or asset class before and after the Merger and Transfer Transactions;

(F) The assets of the CML SIAs will be valued for purposes of the Merger and Transfer Transactions at the "independent current market price" within the meaning of Rule 17a–7 of the Securities and Exchange Commission under the Investment Company Act of 1940. The assets of the CML SIAs being merged or transferred and the assets of the MassMutual SIAs affected by the merger or transfer will be valued in a single valuation using the same methodology by the same custodian at the close of the same business day that the Merger and Transfer Transactions are effected;

(G) No later than forty five (45) days after the Merger and Transfer Transactions, each Plan Fiduciary will be provided a written confirmation of the Transactions which will include a statement of the number of units held by each Plan in each affected CML SIA, the unit value of each such CML SIA unit and the aggregate dollar value of such Plan's CML SIA units, determined immediately prior to the Transactions, as well as the number of units held by each Plan in each affected MassMutual SIA, the unit value of each such MassMutual SIA unit, and the aggregate dollar value of such Plan's MassMutual SIA units, determined immediately after the Transactions.

(H) Neither MassMutual nor any of its affiliates receives any fees or commissions in connection with the Merger and Transfer Transactions;

(I) The Plans pay no sales commissions or fees in connection with the Merger and Transfer Transactions;

(J) The Plans participating in the CML SIAs are not employee benefit plans sponsored or maintained by MassMutual or CML; and

(K) All assets involved in the transactions are securities for which market quotations are readily available, or cash.

For a more complete statement of the summary of facts and representations supporting the Department's decision to grant this exemption refer to the Notice of Proposed Exemption published on January 27, 1998 at 63 FR 4068.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Overland, Ordal, Thorson & Fennell Pulmonary Consultants, P.C. Profit Sharing Plan & Trust (the Plan) Located in Medford, Oregon

[Prohibited Transaction Exemption 98–15; Exemption Application No. D–10523]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale (the Sale) of a certain parcel of real property (the Property) by the individually directed account (the Account) in the Plan of Eric S. Overland, M.D. (Dr. Overland) to Dr. Overland, provided that the following conditions are met:

(a) The Sale is a one-time transaction for cash;

(b) The terms and conditions of the Sale are at least as favorable to the Account as those obtainable in an arm's length transaction with an unrelated party;

(c) The Account receives an amount equal to the average of the two updated appraisals of the Property as of the date of Sale; and

(d) The Account is not required to pay any commissions, costs or other expenses in connection with the Sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of the proposed exemption published on February 6, 1998, at 63 FR 6216.

Written Comments The Department received one written comment from the representative of the applicant. The comment pertains to the applicant's original submission of two appraisals of the Property, one for $90,000 and the other for $120,000. Because of the significant disparity between the appraisals, the Department determined that the average of the two, $105,000, most appropriately represented the fair market value of the Property. The commentator proposes that the applicant update both appraisals as of the transfer date and suggests that the fair market value of the Property should be the average of the two appraisals. The Department is of the view that in this instance, this method of valuation is appropriate and is hereby adopted for purposes of this exemption. Accordingly, the language of condition (c) of the exemption is hereby changed from "The Account receives the greater of the fair market value of the Property as of the date of sale or $105,000," to "The Account receives an amount equal to the average of the two updated appraisals of the Property as of the date of Sale."

FOR FURTHER INFORMATION CONTACT: Mr. James Scott Frazier of the Department, telephone (202) 219–8881. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 2nd day of April, 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 98–9048 Filed 4–6–98; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection using an application that is submitted to a Presidential library to request the use of space in the library for a privately sponsored activity. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before June 8, 1998 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (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 the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Application and Permit for Use of Space in Presidential Library and Grounds.

OMB number: 3095–0024.

Agency form number: NA Form 16011.

Type of review: Regular.

Affected public: Private organizations.

Estimated number of respondents: 1,000.

Estimated time per response: 20 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 334 hours.

Abstract: The information collection is prescribed by 36 CFR 1280.42. The application is submitted to a Presidential library to request the use of space in the library for a privately sponsored activity. NARA uses the information to determine whether use will meet the criteria in 36 CFR 1280.42 and to schedule the date.

Dated: March 30, 1998.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 98–9085 Filed 4–6–98; 8:45 am]

BILLING CODE 7515–01–P

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, April 14, 1998.

PLACE: NTSB Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

6743D Marine Accident Report—Fire on Board the Panamanian Passenger Ship Universe Explorer in the

Lynn Canal near Juneau, Alaska, July 27, 1996.

6984 Pipeline Special Investigation Report—Brittle-like Cracking in Plastic Pipe for Gas Service.

6986 Railroad Regional Briefs and Safety Recommendation letter to the Federal Railroad Administration.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

FOR MORE INFORMATION CONTACT: Rhonda Underwood (202) 314–6065.

Dated: April 3, 1998.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 98–9265 Filed 4–3–98; 3:13 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–454 and STN 50–455]

Commonwealth Edison Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–37 and NPF–66 issued to Commonwealth Edison Company (ComEd, the licensee) for operation of the Byron Station, Units 1 and 2, located in Ogle County, Illinois.

The proposed amendments would allow the licensee to defer the 10 CFR Part 50, Appendix J, Type A testing of the Byron, Unit 2, containment until the next refueling outage in 1999.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendments requested involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments 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 change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

An extension, by a maximum of 10 months, of the Type A test interval does not involve a change to any structures, systems, or components, does not affect reactor operations, is not an accident initiator, and does not change any existing safety analysis previously evaluated in the UFSAR. Therefore, there is no significant increase in the probability of an accident previously evaluated.

Several tables of UFSAR Chapter 15, "Accident Analyses," provide containment leak rate values used in assessing the consequences of accidents discussed in this chapter. Although an extension can increase the probability that an increase in containment leakage could go undetected for a maximum of 10 months the risk resulting from this proposed change is inconsequential as documented in NUREG–1493, "Performance-Based Containment Leakage Test Program". This document indicated that given the insensitivity of reactor risk to containment leakage rate and a small fraction of leakage paths are detected solely by Type A testing, increasing the time between integrated leak rate tests is possible with minimal impact on public risk. Further, industry experience presented in this document indicated that Type A testing has had insignificant impact on uncertainties involved with containment leak rates.

Based on risk information presented in NUREG–1493, the proposed change does not increase 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 proposed change does not alter the plant design, systems, components, or reactor operations, only the frequency of test performance. New conditions or parameters that contribute to the initiation of accidents would not be created as a result of this proposed change. The change does not involve new equipment and existing equipment does not have to be operated in a different manner, therefore there are no new failure modes to consider.

An extension, by a maximum of 10 months, of the Type A test interval as shown in NUREG–1493 has no impact on, nor contributes to the possibility of a new or different kind of accident as evaluated in the UFSAR. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

With the exception of this 10 month extension of the Type A test interval, the actual tests will not change. Quantitative risk studies documented in NUREG-1493 regarding extended testing intervals demonstrated that there was minimal impact on the public health and safety. Reducing the frequency and allowing for a greater test interval, as stated in the NUREG resulted in an "imperceptible" increase in risk to public safety. Further, a table in this NUREG regarding risk impacts due to a reduction in testing frequency illustrates that there was also minimal difference in risk to the public safety when the test frequency was relaxed.

The proposed change will not reduce the availability of systems and components associated with containment integrity that would be required to mitigate accident conditions nor are any containment leakage rates, parameters or accident assumptions affected by the proposed change.

The proposed change does not involve a significant reduction in a margin of safety, based on the above information.

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 amendments requested involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve 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 and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public

Document Room, 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 7, 1998, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses 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 at the local public document room located at the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron Illinois 61010. 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 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 amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendments requested involve no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments requested involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

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 Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, 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 amendments dated November 7, 1997, as supplemented March 24, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron Illinois 61010.

Dated at Rockville, Maryland, this 1st day of April, 1998.

For the Nuclear Regulatory Commission.

John B. Hickman,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–9039 Filed 4–6–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Review of a Revised & Expiring Information Collection: Form SF 2802 and SF 2802B

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) submitted to the Office of Management and Budget a request for review of the following revised and expiring information collections: The SF 2802, Application for Refund of Retirement Deductions (Civil Service Retirement System) and

SF 2802B, Current/Former Spouse's Notification of Application for Refund of Retirement Deductions. The OPM must have the SF 2802 completed and signed before paying a refund of retirement contributions from the Civil Service Retirement and Disability Fund. SF 2802B must be completed in those instances where there is a spouse or former spouse(s) who must be notified of the employee's intent to take a refund from the Fund.

OPM's 60 Day **Federal Register** Notice included the form RI 36–7, Marital Information Required of Refund Applicants; it is no longer needed because the SF 2802 includes the same information.

Approximately 32,100 SF 2802 forms are completed annually. We estimate it takes approximately 45 minutes to complete the form. The annual burden is 24,075 hours. Approximately 28,890 SF 2802B forms are processed annually. We estimate it takes approximately 15 minutes to complete this form. The annual burden is 7,223 hours. The total annual burden is 31,298 hours. Since the RI 36–7 is no longer needed, our annual burden decreased by 6,335 hours. The total number of applications continues to decrease under this program.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov

DATES: Comments on this proposal should be received on or before May 7, 1998.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349, Washington, DC 20415;

and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management & Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Budget & Administrative Services Division, (202) 606–0623.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–9060 Filed 4–6–98; 8:45 am]

BILLING CODE 6325–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Withholding Certificate for Railroad Retirement Monthly Annuity Payments.

(2) *Form(s) submitted:* RRB W–4P.

(3) *OMB Number:* 3220–0149.

(4) *Expiration date of current OMB clearance:* 5/31/1998.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 25,000.

(8) *Total annual responses:* 25,000.

(9) *Total annual reporting hours:* 1.

(10) *Collection description:* Under Pub. L. 98–76, railroad retirement beneficiaries' Tier II, dual vested and supplemental benefits are subject to income tax under private pension rules. Under Pub. L. 99–514, the non-social security equivalent portion of Tier I is also taxable under private pension rules. The collection obtains the information needed by the Railroad Retirement Board to implement the income tax withholding provisions.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 98–9033 Filed 4–6–98; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39806; File No. SR–CBOE–98–05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Disclaimers With Respect to the Use of an Index Value

March 25, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 9, 1998, as amended on March 16, 1998,[3] the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange hereby proposes to specifically identify Lipper Analytical Services, Inc. and Salomon Brothers, Inc. as entities entitled to the protection of the disclaimer set forth in Exchange Rule 24.14.

The text of the proposed rule change is available at the Office of the Secretary, CBOE 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, 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

[1] 15 U.S.C. 78(b)(1).

[2] 17 CFR 240.19b–4.

[3] On March 16, 1998, the CBOE filed Amendment No. 1 with the Commission. Amendment No. 1 requested that the Commission treat the filing as a "non-controversial" rule filing pursuant to Rule 19b–4(e)(6), 17 CFR 240.19b–4(e)(6). Amendment No. 1 also modified the proposed rule change to clarify that CBOE Rule 24.14 would apply to certain entities that were not "reporting authorities" under Exchange rules, and made technical changes. See Letter from Timothy Thompson, Senior Attorney, CBOE, to Joshua Kans, Attorney, Division of Market Regulation, Commission, dated March 13, 1998.

forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CBOE Rule 24.1(h) defines a "reporting authority" in respect of a particular index to mean the institution or reporting service designated by the Exchange as the official source for calculating the level of the index from the reported prices of the underlying securities that are the basis of the index and reporting such level. Currently, the Exchange has designated Lipper Analytical Services, Inc. as a reporting authority under Interpretation .01 to CBOE Rule 24.1 for the Lipper Analytical Services, Inc./Salomon Brothers Growth Fund Index and the Lipper Analytical Services, Inc./ Salomon Brothers Growth & Income Fund Index ("Lipper/Salomon Indexes").[4] CBOE Rule 24.14 sets forth disclaimers of liability applicable to designated reporting authorities. The Exchange is specifically identifying Lipper Analytical Services, Inc. and Salomon Brothers, Inc. as entities which are covered by the disclaimers set forth in CBOE Rule 24.24, *Disclaimers*, in respect of the Lipper/Salomon Indexes. Although Salomon Brothers, Inc. is not the designated reporting authority for the Lipper/Salomon Indexes, it nonetheless will be included as an entity to which the disclaimers of the Rule apply because of its part in designing the Index.

The proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5),[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from March 16, 1998, the date on which the filing was amended, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(e)(6) thereunder.[8]

At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.[9] 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. 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR–CBOE–98–05 and should be submitted by April 28, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9023 Filed 4–6–98; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3069; Amendment #2]

State of Georgia

In accordance with notices from the Federal Emergency Management Agency dated March 26 and 30, 1998, the above-numbered Declaration is hereby amended to include Bulloch, Charlton, Clinch, Glynn, and Wilkinson Counties in the State of Georgia as a disaster area due to damages caused by severe storms and flooding beginning on March 7, 1998 and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Baldwin and Echols in Georgia, and Columbia and Nassau in Florida may be filed until the specified date at the previously designated location. Any counties contiguous to the above-name primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is May 10, 1998 and for economic injury the termination date is December 11, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 31, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–9049 Filed 4–6–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Notice of a Meeting; Aviation

AGENCY: Federal Aviation Administration.

SUMMARY: Notice is hereby given of a meeting of the Aviation Security Advisory Committee.

DATES: The meeting will be held April 23, 1998, from 9:30 a.m. to 1:00 p.m.

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[4] The Exchange received approval from the Commission to list and trade options on the Lipper Analytical/Salomon Brothers Growth and Income Fund Indexes. Securities Exchange Act Release No. 39244 (October 15, 1997), 62 FR 55289 (October 23, 1997) (File No. SR–CBOE–97–25).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(6).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(e)(6).

[9] In reviewing these rules, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Avenue, SW., 10th floor, Mac Cracken Room, Washington, D.C. 20591, telephone 202–267–7622.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 11), notice is hereby given of a meeting of the Aviation Security Advisory Committee to be held April 23, 1998, at the Federal Aviation Administration, 800 Independence Avenue, SW., 10th floor, Mac Cracken Room, Washington, D.C. The agenda for the meeting will include: Vulnerability Assessments; Reports from Working Groups on Cargo, Public Education, Consultation, Employee Recognition and Utilization, Airport Categorization, and Universal Access System; and Progress of Civil Aviation Security Initiatives. The April 23, 1998, meeting is open to the public but attendance is limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the committee at any time. Persons wishing to present statements or obtain information should contact the Office of the Associate Administrator for Civil Aviation Security, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202–267–7622.

Issued in Washington, D.C., on April 1, 1998.

Cathal L. Flynn,

Associate Administrator for Civil Aviation Security.

[FR Doc. 98–9078 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Commercial Space Transportation Advisory Committee—Open Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Commercial Space Transportation Advisory Committee Open Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee (COMSTAC). The meeting will take place on Thursday, May 14, 1998, from 8:00 a.m. To 1:30 p.m. in Room 2230 of the Department of Transportation's Headquarters building at 400 Seventh Street, SW, in Washington, DC. This will be the twenty-seventh meeting of the COMSTAC.

The agenda for the meeting will include reports from the COMSTAC Working Groups; a legislative update on Congressional activities involving commercial space transportation; an activities report from FAA's Acting Associate Administrator for Commercial Space Transportation (formerly the Office of Commercial Space Transportation [60 FR 62762, December 7, 1995]); and other related topics. The meeting is open to the public; however, space is limited.

Meetings of the Technology and Innovation, Risk Management, and Launch Operations and Support Working Groups will be held on Wednesday, May 13, 1998. For specific information concerning the times and locations of these meetings, contact the Contact Person listed below.

Individuals who plan to attend and need special assistance, such as sign interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

FOR FURTHER INFORMATION, CONTACT: Brenda Parker (AST–200), Office of the Associate Administrator for Commercial Space Transportation (AST), 800 Independence Avenue SW, Room 331, Washington, DC 20591, telephone (202) 267–8308.

Dated: April 1, 1998.

Patricia G. Smith,

Acting Associate Administrator for Commercial Space Transportation.

[FR Doc. 98–9077 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of National Parks Overflights Working Group Meeting

ACTION: Notice of meeting.

SUMMARY: The National Park Service (NPS) and Federal Aviation Administration (FAA) announce that a meeting of the National Parks Overflights Working Group (NPOWG) will take place on April 14–15 in Denver, Colorado. This meeting will be open to the public. This notice serves to inform the public of the meeting dates for the working group.

DATES AND LOCATIONS: The NOPWG will meet April 14 beginning at 10:00 a.m., in conference rooms in the Doubletree Southeast Hotel, 13696 E. Iliff Place, Denver, Colorado, telephone: (303) 337–2800. The starting time for the meeting on April 15 will be announced at the April 14 meeting.

FOR FURTHER INFORMATION CONTACT: Carla Mattix, Office of the Solicitor, U.S. Department of the Interior, 1849 C St., NW, Washington, DC 20240, telephone: (202) 208–7959, or Linda Williams, Office of Rulemaking, Federal Aviation Administration, 800 Independence Ave., Washington, DC 20591, telephone: (202) 267–9685.

SUPPLEMENTARY INFORMATION:

Background

By notice in the **Federal Register** on May 22, 1997, the NPS and FAA announced the establishment of the NPOWG. The working group was established to recommend a notice of proposed rulemaking which would define the process to reduce or prevent the adverse effects of commercial sightseeing flights over the National Parks where deemed necessary. The working group held sessions from May through October, 1997. In December 1997, the NPOWG presented its concept paper to the NPS' Advisory Board and the FAA's Aviation Rulemaking Advisory Committee (ARAC). Both the ARAC and the Advisory Board approved the concept paper.

Following the approval of the concept paper, the NPOWG agreed to work with the NPS and FAA to develop a complete NPRM. The purpose of the meeting in Denver is to review a draft NPRM, which the agencies have provided to the NPOWG, and to complete work on that draft.

Meeting Protocol

The April 14–15 meeting will be open to the public. In keeping with the organizational protocols developed by the working group, the following rules apply: Only working group members (or their alternates when filling in for a member) will be seated at the negotiating table. Only they will be speaking from the floor during the negotiations without working group approval. However, any member may call upon another individual to elaborate on a relevant point, and the NPS and FAA advisors to the working group have the full right to the floor and may raise and address appropriate points. Any other person attending working group meetings may address the working group if time permits and may file statements with the working group for its consideration.

When completed, the NPRM will be published in the **Federal Register** for public comment. In addition, both agencies envision that public meetings will be held following that publication.

Issued in Washington, DC on April 2, 1998.

Joseph A. Hawkins,

Director of Rulemaking.

[FR Doc. 98–9113 Filed 4–3–98; 9:29 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3674]

Notice of Receipt of Petition for Decision that Nonconforming 1995–1997 BMW 5 Series Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1995–1997 BMW 5 Series passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1995–1997 BMW 5 Series passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 7, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 a.m. to 5 p.m.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Motors of Kingsville, Maryland ("J.K.") (Registered Importer 90–006) has petitioned NHTSA to decide whether 1995–1997 BMW 5 Series passenger cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 1995–1997 BMW 5 Series passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer, Bayerische Motoren Werk, A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1995–1997 BMW 5 Series passenger cars to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 1995–1997 BMW 5 Series passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1995–1997 BMW 5 Series passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

The petitioner states that non-U.S. certified 1995–1997 BMW 5 Series passenger cars comply with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: replacement of the single unit modular instrument cluster with a U.S.-model component that incorporates a different speedometer and all required markings.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamps and front sidemarker lights; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lights; (c) installation of U.S.-model high mounted stop light on all models that are not so equipped.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component or inscription of the required warning statement on models equipped with equivalent mirrors.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a seat belt warning buzzer, wired to the seat belt latch; (b) installation of U.S.-model driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts on models that are not so equipped. The petitioner states that the vehicles are equipped with combination lap and shoulder belts at all front and rear outboard seating positions that are self tensioning and released by means of a single red push button.

Standard No. 214 *Side Impact Protection:* installation of door bars on models that are not so equipped. The petitioner claims that the vehicles have been tested for compliance with the dynamic performance requirements of the standard.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR Part 565.

Additionally, the petitioner states that all vehicles will be inspected prior to importation to ensure that they meet the parts marking requirements of the Theft Prevention Standard at 49 CFR Part 541.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 1, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–8984 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3678]

Notice of Receipt of Petition for Decision That Nonconforming 1995–1997 BMW 3 Series Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1995–1997 BMW 3 Series passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1995–1997 BMW 3 Series passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 7, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 p.m.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Motors of Kingsville, Maryland ("J.K.") (Registered Importer 90–006) has petitioned NHTSA to decide whether 1995-1997 BMW 3 Series passenger cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 1995–1997 BMW 3 Series passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer, Bayerische Motoren Werk, A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1995–1997 BMW 3 Series passenger cars to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 1995–1997 BMW 3 Series passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1995–1997 BMW 3 Series passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence . . .*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

The petitioner states that non-U.S. certified 1995–1997 BMW 3 Series passenger cars comply with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: Replacement of the single unit modular instrument cluster with a U.S.-model component that incorporates a different speedometer and all required markings.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) Installation of U.S.-model headlamps and front sidemarker lights; (b) installation of U.S.-model taillamp assemblies which incorporate rear

sidemarker lights; (c) installation of U.S.-model high mounted stop light on all models that are not so equipped.

Standard No. 110 *Tire Selection and Rims*: Installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: Replacement of the passenger side rearview mirror with a U.S.-model component or inscription of the required warning statement on models equipped with equivalent mirrors.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* Installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a seat belt warning buzzer, wired to the seat belt latch; (b) installation of U.S.-model driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts on models that are not so equipped. The petitioner states that the vehicles are equipped with combination lap and shoulder belts at all front and rear outboard seating positions that are self tensioning and released by means of a single red push button.

Standard No. 214 *Side Impact Protection:* Installation of door bars on models that are not so equipped. The petitioner claims that the vehicles have been tested for compliance with the dynamic performance requirements of the standard.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR Part 565.

Additionally, the petitioner states that all vehicles will be inspected prior to importation to ensure that they meet the parts marking requirements of the Theft Prevention Standard at 49 CFR Part 541.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 1, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–8986 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3642]

RIN 2127–AB76

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment; Review: Center High Mounted Stop Lamps; Evaluation Report

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for comments on technical report.

SUMMARY: This notice announces the publication by NHTSA of a Technical Report concerning Safety Standard 108, Lamps, Reflective Devices, and Associated Equipment. The report's title is The Long-Term Effectiveness of Center High Mounted Stop Lamps in Passenger Cars and Light Trucks. It evaluates the rear-impact crash rates of current passenger cars and light trucks equipped with Center High Mounted Stop Lamps, and compares them to the rear-impact crash rates of similar vehicles without the lamps.

DATES: Comments must be received no later than August 5, 1998.

ADDRESSES:

Report: Interested people may obtain copies of the reports free of charge by sending a self-addressed mailing label to Publications Ordering and Distribution Services (NAD–51), National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

Comments: All comments should refer to the docket number of this notice and be submitted to: U.S. Department of Transportation Dockets, Room PL–401, Nassif Building, 400 Seventh Street, SW, Washington DC 20590. [Docket hours, 10:00 a.m.–5:00 p.m., Monday through Friday.]

FOR FURTHER INFORMATION CONTACT: Charles J. Kahane, Chief, Evaluation Division, Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW, Washington, DC 20590 (202–366–2560).

SUPPLEMENTARY INFORMATION: Safety Standard 108 (49 CFR 571.108) was amended to require Center High Mounted Stop Lamps (CHMSL) on all new passenger cars manufactured on or after September 1, 1985 for sale in the United States (48 FR 48235) and on all new light trucks (pickup trucks, vans and sport utility vehicles) manufactured on or after September 1, 1983 for sale in the United States (56 FR 16015). The purpose of CHMSL is to safeguard a car or light truck from being struck in the rear by another vehicle. When brakes are applied, the CHMSL warns drivers of following vehicles that they must slow down.

Pursuant to the Government Performance and Results Act of 1993 and Executive Order 12866 (58 FR 51735), NHTSA reviews existing regulations to determine if they are achieving policy goals. The agency has been evaluating the effectiveness, benefits and costs of the lamps since they became a requirement for new passenger cars. Two interim reports (52 FR 9609; 54 FR 32153) showed that the lamps were effective in 1986 and 1987, but recommended additional analyses to ascertain the long-term effect of CHMSL.

This report tracks the effectiveness of CHMSL, year by year, from 1986 through 1995. The statistical analyses are based on police-reported crash files from eight States. It was found that:

- The lamps were most effective in the early years. In 1987, CHMSL reduced rear impact crashes by 8.5 percent (confidence bounds 6.1 to 10.9 percent).
- Effectiveness declined in 1988 and 1989, but then leveled off. During 1989–95, CHMSL reduced rear impact crashes by 4.3 percent (confidence bounds 2.9 to 5.8 percent). This is the long-term effectiveness of the lamps.
- The effectiveness of CHMSL in light trucks is about the same as in passenger cars.
- At the long-term effectiveness level of 4.3 percent, when all cars and light trucks on the road have CHMSL, the lamps will prevent 92,000–137,000 police-reported crashes, 58,000–70,000 nonfatal injuries, and $655,000,000 (in 1994 dollars) in property damage per year.
- The annual consumer cost of CHMSL in cars and light trucks sold in the United States is close to $206,000,000 (in 1994 dollars).
- Even though the effectiveness of CHMSL has declined from its initial levels, the lamps are and will continue

to be highly cost-effective safety devices.

NHTSA welcomes public review of the technical report and invites the reviewers to submit comments about the data and the statistical methods used in the report. The agency is interested in learning of any additional data or information that could be used to expand or improve the analyses.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and 7 copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. (49 CFR Part 512).

All comments received before the close of business on the comment closing date will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested people continue to examine the docket for new material.

People desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 30111, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: April 2, 1998.

William H. Walsh,

Associate Administrator for Plans and Policy.

[FR Doc. 98–9069 Filed 4–6–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 560X)]

CSX Transportation, Inc.—Abandonment Exemption—In Logan County, WV

On March 18, 1998, CSX Transportation, Inc. (CSXT) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 0.72-mile portion of its Logan Subdivision, extending between milepost CMB–0.33 at Bandmill Junction and milepost CMB–1.05 near Melville, in Logan County, WV. The line traverses U.S. Postal Service Zip Codes 25649 and 25654 and includes the stations of Bandmill Junction and Melville.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by July 6, 1998.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than April 27, 1998. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 560X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001, and (2) Charles M. Rosenberger, 500 Water Street—J150, Jacksonville, FL 32202.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: March 31, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–8944 Filed 4–6–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Bahrain
Iraq
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Dated: April 1, 1998.

Philip West,

International Tax Counsel (Tax Policy).

[FR Doc. 98–9045 Filed 4–6–98; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Establishment of Dollar Coin Design Advisory Committee

Establishment of the Advisory Committee

This notice is published in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), and advises of the establishment of the Dollar Coin Design Advisory Committee. The Secretary of the Treasury has determined that the establishment of the Committee is in the public interest.

Purpose of the Advisory Committee

The Committee will consider design concepts for the obverse side of the new $1 coin and recommend to the Secretary of the Treasury a single such design concept.

FOR FURTHER INFORMATION CONTACT: The Office of Management is the organization within the Department of the Treasury that is sponsoring this Committee. For additional information, contact Nancy Tuck Provenzano, Office of Organizational Improvement, Office of the Assistant Secretary for Management and Chief Financial Officer, 1500 Pennsylvania Avenue, NW., Washington, DC 20220; telephone (202) 622–2214.

Nancy Tuck Provenzano,

Management Analyst, Office of Organizational Improvement.

[FR Doc. 98–8992 Filed 4–6–98; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–26]

Tariff-rate Quota for Calendar Year 1998, on Tuna Classifiable Under Subheading 1604.14.20, Harmonized Tariff Schedule of the United States (HTSUS)

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity for tuna for Calendar Year 1998.

SUMMARY: Each year the tariff-rate quota for tuna fish described in subheading 1604.14.20, HTSUS, is based on the United States canned tuna production for the preceding calendar year. This document sets forth the quota for calendar year 1998.

EFFECTIVE DATES: The 1998 tariff-rate quota is applicable to tuna fish entered, or withdrawn from warehouse, for consumption during the period January 1 through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Cynthia Porter, Chief, Quota, Import Operations, Trade Compliance Division, Office of Field Operations, U.S. Customs Service, Washington, D.C. 20229, (202) 927–5399.

SUPPLEMENTARY INFORMATION:

Background

It has now been determined that 30,535,027 kilograms of tuna may be entered for consumption or withdrawn from warehouse for consumption during the Calendar Year 1998, at the rate of 6 percent ad valorem under subheading 1604.14.20, HTSUS. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 percent ad valorem under subheading 1604.14.30 HTSUS.

Dated: April 2, 1998.

Connie J. Fenchel,

Acting Commissioner of Customs.

[FR Doc. 98–9036 Filed 4–6–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Office of Thrift Supervision, Department of Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Currently, the Office of Thrift Supervision within the Department of the Treasury is soliciting comments concerning the Annual Survey of Deposits; Deposit Balances by Office.

DATES: Written comments should be received on or before June 8, 1998 to be assured of consideration.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0003. These submissions may be hand delivered to 1700 G Street, NW. From 9 a.m. to 5 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755; or they may be sent by e-mail: public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments over 25 pages in length should be sent to FAX Number (202) 906–6956. Comments will be available for inspection at 1700 G Street, NW., from 9 a.m. until 4 p.m. on business days.

Copies of the Form with instructions are available for inspection at 1700 G Street, NW., from 9 a.m. until 4 p.m. on business days or from PubliFax, OTS' Fax-on-Demand system, at (202) 906–5660.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Kathleen Willard, Corporate Activities Division, Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6789.

SUPPLEMENTARY INFORMATION:

Title: Annual Survey of Deposits; Deposit Balances by Office.

OMB Number: 1550–0003.

Form Number: 248.

Abstract: This information collection provides data for each thrift office which is essential for OTS' analysis of market share of deposits. This analysis is part of the OTS approval process for mergers, acquisitions, and branching applications.

Current Actions: OTS is proposing to renew this information collection without revision.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or for profit.

Estimated Number of Respondents: 1204.

Estimated Time Per Respondent: 1 Hour Average.

Estimated Total Annual Burden Hours: 1204 Hours.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) 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, and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 31, 1998.

Catherine C.M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 98–9015 Filed 4–6–98; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

March 31, 1998.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the OTS Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

DATES: Written comments should be received on or before May 7, 1998 to be assured of consideration.

OMB Number: 1550–0078.

Form Number: Not Applicable.

Type of Review: Extension of a currently approved collection.

Title: Lending and Investment.

Description: OTS amended 12 CFR to conform it to changes made to parallel provisions by the Board of Governors of the Federal Reserve System's Regulation Z, Truth-in-Lending. Savings associations are permitted to either provide a statement that periodic rates may substanially increase or decrease (together with the maximum interest rate and payment based on a $10,000 loan amount) or a fifteen-year historical example of interest rates and payments based on a $10,000 loan amount.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 1238.

Estimated Burden Hours Per Respondent: 1,130 Hours Average.

Frequency of Response: 1.

Estimated Total Reporting Burden: 1,399,412 Hours.

Clearance Officer: Colleen M. Devine, (202) 906–6025, Office of Thrift Supervision, 1700 Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Catherine C. M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 98–9012 Filed 4–6–98; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

March 31, 1998.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the OTS Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

Dates: Written comments should be received on or before May 7, 1998 to be assured of consideration.

OMB Number: 1550–0075.

Form Number: Not Applicable.

Type of Review: Extension of a currently approved collection.

Title: Loans to Executive Officers, Directors, and Principal Shareholders of Savings Associations.

Description: The regulation requires savings associations to maintain detailed records of their extensions of credit to executive officers, directors and principal shareholders. The regulation also requires that savings associations report to OTS all loans to executives and disclose the amount of its extensions of credit following a written request from the public. Indebtedness incurred from correspondent banks must also be disclosed to the directors.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 1229.

Estimated Burden Hours Per Respondent: 11 Hours Average.

Frequency of Response: 4.

Estimated Total Reporting Burden: 13,519 Hours.

Clearance Officer: Colleen M. Devine, (202) 906–6025, Office of Thrift Supervision, 1700 Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Catherine C. M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 98–9013 Filed 4–6–98; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

March 31, 1998.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the OTS Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

Dates: Written comments should be received on or before May 7, 1998, to be assured of consideration.

OMB Number: 1550–0030.

Form Number: OTS Forms 1544 and 1561.

Type of Review: Extension of a currently approved collection.

Title: Application for Issuance of Subordinated Debt/Notice for Issuance of Subordinated Debt or Mandatorily Redeemable Preferred Stock.

Description: The information provided to the OTS is used to determine if the proposed issuance of securities will benefit the thrift institution or create an unreasonable risk to the Savings Association Insurance Fund.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 5.

Estimated Burden Hours Per Respondent: 45 Hours Average.

Frequency of Response: 1.

Estimated Total Reporting Burden: 228 Hours.

Clearance Officer: Colleen M. Devine, (202) 906–6025, Office of Thrift Supervision, 1700 Street, N. W., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and

Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Catherine C. M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 98–9014 Filed 4–6–98; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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